



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
JUDGMENT

Not Reportable

Case no: 899/2024

In the matter between:

GROUNDSWELL DEVELOPMENTS AFRICA (PTY) LTD **FIRST APPLICANT**

JEAN PIERRE NORTJE **SECOND APPLICANT**

HORIZON GROUP (PTY) LTD **THIRD APPLICANT**

and

CATHERINE JUDY BROWN **RESPONDENT**

Neutral citation: *Groundswell Developments Africa (Pty) Ltd and Others v Brown*
(899/2024) [2025] ZASCA 201 (22 December 2025)

Coram: PETSE, MBHA and DLODLO AJJA

Heard: Disposed of without the hearing of oral argument.

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email, publication on the Supreme Court of Appeal website and released to SAFLII. The date and time for hand-down of the judgment is deemed to be 11h00 on 22 December 2025.

Summary: Reconsideration of provisional order of Court awarding costs on a punitive scale – no basis established for variation of such costs order – provisional order confirmed.

ORDER

On reconsideration of paragraph 2 of the order of this Court awarding costs against the second applicant on a punitive scale.

1 Reconsideration of paragraph 2 of this Court's order made on 12 November 2025 is refused.

2 The second applicant is liable for the respondent's costs associated with this reconsideration on a party and party scale.

SUPPLEMENTARY JUDGMENT

Mbha AJA (Petse and Dlodlo AJJA concurring):

[1] On 12 November 2025 this Court delivered its judgment in an application for reconsideration referred to it by the President pursuant to s 17(2)(f) of the Superior Courts Act.¹ In terms of which the application was dismissed with costs on an attorney and client scale.

[2] In so far as the costs order is concerned, this Court directed, in terms of paragraph 3 of its order, that unless the second applicant indicated to the Registrar of this Court in writing within ten days of the date of its order that he wishes the scale of costs to be reconsidered and varied, he must file an affidavit in which he shows cause why that should be done.

[3] The second applicant has accordingly filed written submissions to persuade this Court as to why a punitive costs order is inappropriate and should therefore not have been made. However, for the most part the second applicant's submissions were

¹ Superior Courts Act 10 of 2013.

no more than a rehearsal of the arguments he advanced at the hearing of the main reconsideration application. He has said less about why the punitive costs order is not appropriate in the context of the facts of this case. For her part, the respondent has also filed an opposing affidavit in support of the provisional punitive costs order previously made.

[4] Having considered all the submissions made both against and in support of the punitive costs order in the context of the factual findings made in the main judgment, I am not at all persuaded that the second applicant has shown that the punitive costs order against him is not justified. On the contrary, I remain convinced that the second applicant's conduct was unconscionable and that the respondent was the victim of his egregious scheme.

[5] In these circumstances, the provisional punitive costs order against the second applicant as set out in paragraph 3 of this Court's order of 12 November 2025 is now made final with the result that it shall henceforth operate with immediate effect.

[6] In the result the following order is made:

1 Reconsideration of paragraph 2 of this Court's order made on 12 November 2025 is refused.

2 The second applicant is liable for the respondent's costs associated with this reconsideration on a party and party scale.

B H MBHA
ACTING JUDGE OF APPEAL

Representatives

For the first and third applicants: Non

For the second applicant: In person

For the respondent: Jordaan and Ferreira Inc, Cape Town
Horn and Van Rensburg Attorneys, Bloemfontein.