IN THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL DIVISION, PIETERMARITZBURG

Appeal case no: AR198/2024

In the matter between:

GENCY TRADING CC **APPELLANT**

and

MAGNACORP 485 CC **RESPONDENT**

ORDER

On appeal from: KwaZulu-Natal Division, Pietermaritzburg (**Shoba AJ** sitting as a court of first instance)

1. The appeal is upheld with no order as to costs.

2. The order made by the court *a quo* is set aside, and it is replaced with the following order: The application is dismissed. The applicant is ordered to pay costs of the application on party and party scale C'

JUDGMENT

Delivered:

Mngadi J (**Chithi J and D. Pillay AJ** concurring)

[1] The appellant with leave of the court *a quo* appeals against the whole Judgment and Amended Order of the court *a quo* (Shoba AJ).

[2] The appellant applied for an eviction of the respondent from premises, namely, erf [….] Kokstad (the property). The respondent resisted the application. The court *a quo* granted an order in a way staying the eviction application pending determination of some issues. I will later refer to the order. The appellant is Gency Trading CC, a Close Corporation. The respondent is Magnacorp 485 CC a Close Corporation.

[3] The parties on 28 May 2018 concluded a written sale agreement (sale agreement). The terms of the sale agreement (attached to the founding affidavit) were the following. The appellant sold the property to the respondent at at a purchase price of R3 500 000.00 excluding VAT (schedule I). The sale agreement stipulated that R2 250 000.00 of the purchase price had been paid in that it had been lodged with the agents as directed by the Seller and is to be paid to the Seller by the Agents or Conveyancers (as the case may be) and are authorized and directed to deposit such monies in their names (clause schedule I (a)). The balance of R1,250 000.00 to be lodged with the Agents by the Purchaser in cash, or shall be secured by such Bank, or other guarantees as are reasonably acceptable to the Seller, to be paid against registration on or before 30 May 2018 (clause schedule 1(b)). The property was sold voetstoots (clause 5). Possession shall be given by the Seller to the Purchaser on registration of transfer from which date the risk and the benefit in and to the property shall pass to the Purchaser (clause 6). The Seller shall give vacant occupation to the Purchaser on the date specified in Item G of the Schedule (clause7). Occupation is to be given by the Seller at 12 noon on Date of registration (clause schedule G). The Purchaser shall pay to the Seller as and by way of occupation rental with effect from the date mentioned in Item G of the Schedule to date of registration of transfer, both days inclusive, the sum of R25 000.00 reduced pro-rata for a period of not less than a calendar month. Such amount shall be payable monthly in advance on the first day of every month and in the event of the Purchaser taking occupation during the month, the payment shall be paid on the day prior to occupation being taken, in the event the occupation extends beyond a calendar year such occupational (rental) shall be increased by 8% (clause 7(b)). From the date of vacant occupation, the Purchaser shall be liable to pay the Seller a

pro-rata portion of the Municipal rates (clause 8). The transfer of the property shall be effected by the Conveyancers appointed by the Seller and shall be proceeded with as soon as reasonable possible after*, inter alia*, the purchaser has fulfilled its obligations under Item I of the Schedule and has furnished the required guarantees, if any; the Purchaser has paid the costs referred to in Clause 17 (clause 9). (Clause 17 provides that all expenses of and incidental to the preparation and registration of the documents of Transfer, Bond, including transfer and Stamp Duty, and or VAT thereon, are to be borne by the Purchaser. The documents relating to the transfer shall be prepared and registered by the Seller's Conveyancers whose estimated costs of transfer and bond registration shall be paid by the Purchaser on request) and Signature by the Purchaser of all necessary bond and transfer documents and the provision by the Purchaser of all necessary information for the purposes of transfer and any bond to be passed by the Purchaser which the Purchaser shall be obliged to do within seven(7) days after being called upon in writing so to do by the said Conveyancers (clause 9). From date of vacant occupation, the Purchaser shall be liable to pay to the Seller a pro-rata portion of the Municipal rates (clause 9). The Seller undertakes to pay to the Municipality all debts relating to the property hereby sold before registration of transfer and to deliver to the Conveyancer when called upon to do so, a water and electricity account confirming that no monies are outstanding in respect of the property sold. The Seller hereby irrevocably authorizes and instructs the Conveyancers to deduct from the proceeds payable to the Seller on registration of transfer all and any amounts owing to the Municipality and to settle such debt with the Municipality on registration of transfer (clause 25). In the event of any amount of the purchase price interest and/or other charges remaining unpaid or in the event of any obligations for which the Purchaser is liable herein remaining unfulfilled for a period of 5 (five) days of written notice to the Purchaser by/or on behalf of the Seller, calling upon him to make such payment and/or fulfill such obligations, the Seller shall have the option of either enforcing in Law the terms of the Contract or cancelling the Contract and re-entering into possession of the property without further notice to the Purchaser, and in the event of the Seller cancelling the Contract and retaking possession of the property, any and all improvements made to the property herein shall become the property of the Seller without compensation to the Purchaser and any payment made on account of the purchase price and/or interest shall be forfeited by the Purchaser to the Seller without prejudice to the Seller's rights to recover any damages however incurred as the result of such cancellation. In accounting to the Seller for the purchase price or any portion thereof, the Conveyancers are hereby irrevocably instructed and authorized by the parties to deduct the commission payable to the estate agent as provided for in clause 12. Any extension or extensions of time granted for fulfilment of any of the terms of this agreement or other indulgencies or concessions granted shall not prejudice any rights of the Seller under this Agreement. On the other hand , if the Seller breaches any of his obligations under this agreement and fails to remedy such within a period of 5 (five) days of receipt of the date of a written notice addressed by the Purchaser to him, calling upon him to remedy his breach, the Purchaser shall have the option of either enforcing this contract or cancelling the agreement and claiming such damages as the Purchaser may have suffered(clause 13).

[4] The parties agreed that the respondent took occupation of the premises on 1 January 2016, and that the respondent paid the initial amount of R2 250 000.00 of the purchase price of the property as agreed.

[5] The appellant in the founding affidavit stated that the respondent failed to pay the balance of the purchase price of R1 250 000.00. Numerous letters were sent demonstrating many of the further problems that occurred in the matter, particularly detailing the respondent's breaches which confirms why the transfer has not proceeded. A letter dated 23 September 2020 pointed out that an amount of R1 250 000.00 was to be paid or secured by way of guarantee by 30 May 2018, it pointed out that occupational rental was to be paid in the amount of R25 000.00 per month, and pointed out that there were utilities that had been outstanding in respect of the property as at 17 October 2020 for which the respondent was liable in terms of the sale agreement in the amount of R133 219.56. It was demanded that the respondent make payment of R1 250 000. 00 as well as the outstanding utility charges within five days from which the applicant failing which the applicant will avail itself of its rights. The respondent did not remedy the breach. On 5 November 2020 a letter of cancellation was issued. It pointed out that the previous demand had not been complied with and consequently the sale agreement was cancelled, and the respondent was requested to vacate the premises.

[6] The appellant, further, stated that as a matter of precaution again on 16 March 2021 a new letter of demand was sent to the respondent as he remained in occupation but was still not paying what they were supposed to be paying. Again,

and after the purchase price was not paid, he confirms that the agreement was in fact cancelled in a letter dated 13 May 2021. The reason for this is that it appeared after the cancellation, the respondent approached its financial adviser who requested a meeting. Furthermore, this was after amount of R500 000.00 and R300 000.00 were deposited into the Trust despite the actual cancellation of the agreement.

[7] The appellant stated that on 30 June 2021 it was pointed out that there were still arrears in respect of rentals and utilities in the amount of R92 923.60. A further letter dated 6 August 2021 was sent demanding that the respondent vacate the premises.

[8] The appellant contended that even if the respondent had complied with the agreement, the claim for transfer would have arisen in three years from conclusion of the agreement being 23 May 2018, the right to claim transfer would have prescribed by 22 May 2021. The appellant is the owner of the property. The respondent's occupation was pursuant to a sale agreement, which sale agreement was breached by the respondent and thereafter cancelled, even if the agreement was not cancelled it would have in any event by now prescribed. Consequently, the respondent is in unlawful occupation of the premises.

[9] The respondent in the answering affidavit stated as follows. The respondent has been in occupation of the property since 1 January 2016. The property is in a farm held through two title deeds in extent approximately 42 hectares. There existed two dwellings, namely, a main house and a stone building. A B & B business was

conducted on the main building, and the stone building was rented out. Over time the respondent has undertaken substantial development at the property. The improvements are estimated at R6 710 000.00 to be claimed in an action to be constructed within thirty (30) days, and as a result the respondent has an improvement *lien* on the property.

[10] The respondent stated that since the agreement was concluded in May 2018, he accepts that the respondents right to claim transfer of the property has prescribed. The issue of cancellation of the agreement is in dispute. The appellant has not tendered repayment of the money paid which precludes the appellant to seek the respondent's eviction. The monthly occupational rent is not in arrears. It tenders payment of R450 000.00 the balance of the purchase price. The appellant, in reply, stated that the *lien* has not been evidenced in the papers. There is no proof of payment, there are no qualifications as to the type of *lien* involved, there is no explanation or allegation whether the alleged improvements increased the value of the property. Clause 13 of the sale agreement provides that in the event of breach by the purchaser, and the seller cancelling and retaking possession of the property any and all improvements made to the property herein shall become the property of the seller without compensation to the purchaser and any payments made on account of the purchase price and /or interest shall be forfeited by the purchase to the seller without prejudice to the seller's rights to recover damages however incurred as a result of such cancellation.

[11] The appellant stated the payment of R500 000.00 and R300 000 00 were made approximately in January and April 2021 nearly three years after the sale agreement was concluded. The appellant disputed that the payments for occupational rent were up to date stating that occupational rent charges were off set against the funds paid in January and of April 2021.

[12] The appellant contends that the failure to repay or tender to repay the purchase price is not a defence to an eviction application. The appellant states erf 9[...], the property, is only 1.4 hectares in size. The area surrounding it is owned by the Trust, and it is 10 hectares, this could explain why the respondent has been carrying out construction on property it has nothing to do with it. In any event, pretty much of the development was done on the property before the date of sale agreement, and even if there was a *lien* it would have prescribed.

[13] The appellant stated that it denies that R3 050 000.00 was paid towards the purchase price. There is a considerable amount of occupational interest not paid during the period in question. It admits payments of R500 000.00 and R300 000.00 respectively, but it denies that they were towards the purchase price. It disputes that the sum of R450 000.00 is the balance outstanding to the purchase price.

[14] Shoba AJ found the following to be common cause; that the appellant is the lawful owner of the property; that a written agreement of sale was concluded on 23 May 2018; that the respondent has been in occupation of the property since 1 January 2016; that the respondent initially paid an amount of R2 250 000.00 towards

the purchase price; and that the respondent made two other payments of R500 000.00 and R300 000.00.

[15] Shoba AJ, as an issue for determination stated the following: Whether the cancellation of the written agreement of sale by the appellant is valid. In the event it is found that there has been a valid cancellation of the agreement what is an appropriate remedy for both parties given public policy concerns involving, inter alia, the respondent's allegations that it holds an improvement lien, and further that the appellant is obliged to repay the purchase price should it seek to enforce its cancellation of the agreement. In the event that one or more of the above issues are found in favour of the appellant, whether or not the appellant is nevertheless precluded from claiming eviction at this stage , *inter alia*, due to the deficiencies in the appellant's papers and considerations of prejudice which arise from appellant pursuing application proceedings as opposed to action proceedings; whether or not the proceedings should be stayed or dismissed and the lawfulness of the respondents possession of the property'.

[16] The court *a quo* then considered agreements alleged to be *contra bonos mores*; contractual terms that are against public policy. It found that cancellation of the contract by the appellant was valid and the issue that remained was whether the appellant was entitled to an eviction of the respondent from the property. But before it could do so, it stated that it had to determine whether the terms of the cancellation are against public policy. This, in my view, is with respect, confusing the issue. Once it is found that cancellation is valid the issue cannot be revisited by enquiring whether cancellation is against public policy. If cancellation is valid in that it is based on material breach of the contract, it cannot be against public policy.

[17] The court *a quo*, in my view, did not confine itself in the manner the parties pleaded the matter. The respondent resisted the application by challenging cancellation of the sale agreement and tendering payment of the balance of the purchase price against transfer to it of the property. Secondly, it relied on an improvement *lien* that even if it is found that the contract has been cancelled it was entitled to remain in possession of the property until it has been compensated for the improvements made to the property. Thirdly, the respondent contended that cancellation of a contract creating reciprocal obligations is effective only if accompanied by the return of what has been performed in terms of the contract, which the appellant failed to do. This contention is based on the following authority; namely; *Botha and Another v Rich NO and Others* 2014 (4) SA 124 (CC) par [43] the court held: '… This is an instance of the principle of reciprocity. The other side of the coin is that the party from whom performance is claimed may raise the failure of counter-performance as a defence. This defence is well known as the exception of a non-performed contract (*exception non adimpleti contractus*). In bilateral contracts the obligations of the parties are *prima facie* reciprocal. For the principle to operate the obligations of the parties must be reciprocal in the sense that performance of the one cannot be enforced without performance of the other'. The court in *Botha* also stated on cancellation of a contract a tender for repayment must be made and where there is reliance on a forfeiture clause in the agreement, it needs to be determined whether the forfeiture does not constitute a disproportionate penalty that falls to be equitably reduced in terms of the Conventional Penalties Act 5 of 1962 Section 3. The question of forfeiture and restitution must be dealt with together with the question of cancellation. In *Abrahams and Others v De Wet (Appeal)* (A249/2024) [2025] ZAWCHC 187 (30

April 2025) at par 19 & 20 the court held: 'The key question is not whether the *Placaeten* apply but whether the appellants have a valid enrichment *lien.* In principle, a *lien* holder does not acquire an independent cause of action against the owner of the property over which such *lien* is asserted. The *lien* is dependent on the existence of an underlying enrichment claim. To rely on a *lien*, the appellants need to prove the following: 1. Lawful possession of property. 2.That the expenses incurred were necessary or useful for the improvement of the property. 3.The actual expenses incurred and extent and the extent of the respondents' enrichment. 4.That there was no contractual arrangement between the parties in respect of the expenses.' *(references omitted)* A *bona fide* purchaser is entitled to recover useful expenses and to exercise a *lien* over the property until paid, and for necessary expenses a claim for reimbursements for expenditure of money or material on the preservation of property, the amount limited to the amount by which the value of the property has been increased or the amount of the expenses incurred, whichever is the lesser. The court has a wide discretion. See *Rhoode v De Kock and Another* (45/12) [2012] ZASCA 179;2013 (3) SA 123 (SCA); [2013] 2 All SA 389 (SCA) (29 November 2012) parag 14 & 15. On the authority of *Botha* set out above, par 23 of *Rhoode* might no longer be the correct legal position.

[18] The appellant in its founding affidavit did not allege the failure to pay occupational rental as a further ground for cancellation of the contract and ground for eviction. Further, the appellant did not in its founding papers refer to a forfeiture of the purchase price paid. It is trite that a party cannot make its case in reply. It matters not that the appellant attached a copy of a contract with a term of a contract dealing with forfeiture of part of the purchase price paid on cancellation of the contract. The issue raised by the respondent that the sale agreement created

reciprocal obligations on cancellation performance rendered must returned had merit, and it was not addressed by the court *a quo*. The appellant was entitled to receive payments for occupational rent and payments towards settling the balance of the purchase. These payments were for different purposes and had to be kept and accounted for separately. The appellant in terms of the contract had no right to allocate monies as it wished. The payments made towards the purchase price reduced the balance of the purchase price. It now stands at R450 000.00. The appellant by allocating payments meant for the purchase price to occupational rent resulted in the appellant not to be able to issue a correct breach notice as stipulated in the sale agreement without which the respondent could not be placed *in mora* and the sale agreement could not be cancelled. The result is that the tender of the payment of the balance of the purchase price against the transfer of the property remains extant and the appellant is not entitled to ignore it. See *Kragga Kamma Estates CC and Another v Flanagan* 1995 (2) SA 367 (A) p374.

[19] The court *a quo* initially on 14 December 2023 made the following order: 'The application to give effect to the conditions of cancellation of the agreement (inter alia) eviction and forfeiture of the purchase price) is stayed until the determination of the respondent's action for payment in respect of the improvements carried out by the respondent a the immovable property, which shall be instituted within 60 days from the date of this order. 2. Costs reserved'. On 21 December 2023 the above order was amended, replaced with an order adjourning the eviction application pending the outcome of an action to be instituted by the Respondent.(*amended order not part of the papers*) These orders were not part of the relief sought by the appellant and although alluded to by the respondent in the answering affidavit, the respondent did

not file a counter application. The genesis of these orders is the conflating by the court *a quo* of the issues for determination. The court was seized with an eviction application. If the respondent showed that at that time the eviction could not be granted, the court was required to dismiss the application. The dismissal merely means that once the appellant has dealt with the issues that resulted in the court refusing to grant the eviction, it can re-institute a new eviction application against the respondent.

[20] The order is vague and impractical. It does not answer the following questions. Is the sale contract extant or is it cancelled. If cancelled, does the respondent remain liable for the occupational interest or not. What is the position about the part of the purchase price paid, is it refundable or not. If the respondent does not institute an action what will happen. If the respondent institutes an action and it fails what will happen relating to purchase price paid, the liability for occupational interest. Does it mean once the claim for improvement is finalized, the application for eviction must resume and proceed but the improvement *lien* serves as security for an improvement claim. Is it not that eviction precedes determination of an improvement claim but where there is a *lien* execution of eviction is suspended.

[21] The claim by the appellant that the sale agreement had prescribed and it could not be enforced even if it had not been cancelled is without merit. The contract remained extant it is only that the respondent to enforce it needed to tender the performance due by him. Similarly, remarks by the respondent that since the contract was concluded in May 2018 the right to claim transfer against payment of

the balance of the purchase price prescribed three years from that date is meritless. In fact, it contradicts his challenge to the cancellation of the contract, and since it relates to a legal conclusion it can be ignored.

[22] The respondent in the answering affidavit raised the reliance on a *lien* as one of the grounds to resist eviction. The appellant does not deny that improvements were made by the respondent during his possession of the property although suggesting that improvements were effected on a neighboring property, which is a strange contention. The appellant obviously does not admit the nature and extent of the improvements and whether they increased the value of the property or not.

[23] The appellant relies on the letter dated 23 September 2020 as breach notice. The letter refers to alternative arrangements having been made for the payment of the outstanding balance without specifying what were those 'alternative arrangements. It then states that the respondent is placed in breach of clause 13 of the sale agreement, states that it is given 5(five) days from the date of receipt hereof to remedy such breach by effecting payment of the full outstanding amount being the sum of R1 250 000.00 together with arrear occupational interest and electricity charges in the sum of R133 219.56 payable to the Seller's banking account as previously provided to you, failing which, the seller shall have the option of either enforcing or cancellation of the agreement.

[24] The payment of the balance of the purchase price was payable against registration of transfer. The respondent before placed on breach it was required that

it be advised that the appellant was ready to attend to the registration of transfer and that the balance of the purchase price and the specified costs and expenses be paid not later than the specified date. It is clear that reliance on the date 30 May 2018 stipulated in the sale agreement had fallen away. The sale agreement provided that the balance of the purchase price be lodged with agents either in cash or by means of a bank guarantee. It was not for the seller to unilaterally change the terms and conditions of the payment of the purchase price. There was no provision in the sale agreement that the respondent needed to pay the balance of the purchase price and at the same time ensure that there was no arrears in the occupational rental. The letter fails to state the amount of the arrear occupational interest required to be paid, which rendered it void for vagueness.

[25] The appellant, despite having issued notice of breach on 23 September 2020, it was only on 5 November 2020 when it purported to cancel the sale agreement, when it issued a notice of cancellation of the contract. The delay meant that the appellant had excused the breach and the failure to remedy it. This is consistent with appellant issuing subsequent breach notices on 16 March 2021, 13 May 2021 and 30 June 2021. In addition, post 23 September 2020, it accepted payments towards payment of the purchase price stated above, and called for compliance with the sale agreement even after the purported cancellation. As a result, the reliance on abandoned notice of breach dated 23 September 2020 is misplaced. The act of cancellation must be clear and unambiguous. See *Nel v Cloete* 1972 (2) SA 150(A) at 159 H; *Datacolour International (Pty) Ltd v Intermarket (Pty) Ltd* [2001] All SA 58 581 (A); 2001 (2) SA 284 (SCA) par 29; *Kragga* p373 & p375.

[26] The question of the existence of the improvement *lien* only arises if it is found that the contract has been cancelled. The appellant as stated above conceded that the respondent made improvements on the property. The nature of the improvement are such that it appeared they increased the value of the property. It is conceded that the respondent from 1 January 2016 was in *bona fide* possession of the property. The improvements were made to the property whilst the respondent was the *bona fide* possessor of the property. Clause 13 only purported to entitle the appellant to all improvements made to the property after May 2018 without payment of compensation. The respondent's *lien* on improvements made prior to May 2018 is not affected by clause 13 because they were made before the conclusion of the contract. The issue of prescription can only be determined once it is raised in the pleadings wherein the improvement action is dealt with. The respondent is only required to show that it has a claim to be compensated for improvements made to the property. It will be when an action has been instituted wherein, he will be required to prove his claim. Even if the respondent has established that it has a claim for improvements, the court has a discretion whether to let him exercise a *lien* over the property until compensated or not. The court in the exercise of the discretion would consider all the relevant factors, including the fact when the action when it is heard it might be found that the respondent's claim is defeated by the term of the contract that no claim for improvements is sustainable against the Seller, (if that term is upheld); the consequences of letting the respondent continue being in possession of the property with no contract between the parties; prejudice to the Seller; whether the Purchaser was refunded the purchase price in particular if a substantial portion of the purchase has been paid; whether whilst the Purchaser

remains in possession of the property any occupational rental shall be paid; the financial position of the Seller to pay improvement claim if it is sustained against him; the benefit to the Purchaser in remaining in possession of the property.

[27] The respondent has not sought to counter-appeal the order made by the court *a quo*. The court *a quo* held that to order the respondent to vacate the property before the value of its improvement *lien* is adjudicated upon will be tantamount to denying the Constitutional right that everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or where appropriate another independent and impartial tribunal or forum. I am, with respect, unable to follow this reasoning. The court *a quo* was seized with the issue to decide whether to refuse the eviction application in that the respondent was entitled to remain in possession of the property in terms of the improvement *lien*. Even if evicted, the respondent is entitled to institute an improvement claim against the appellant. The decision the court *a quo* arrived at can only be as a result that it conflated the issues that needed to be determined, and it cannot be supported.

[28] The appellant as part of the relief did not seek an order for forfeiture of the payments made by the respondent towards the purchase price. It did not in the notice of breach nor in any manner when it cancelled the contract convey to the respondent that it regarded the money paid towards the purchase price as forfeited. A purported cancellation that does not deal with refund or repayment of performance made in terms of a reciprocal contract is invalid. The appellant in clear and unequivocal terms, when it was ready to attend to the registration of transfer of the

property, did not call upon the respondent as required in the contract to pay balance of the purchase price in cash or provide guarantee for the payment thereof and to pay the expenses and charges for which it was liable. It also failed to place the respondent in breach and act in terms of the notice of breach, and it relied as a cause of action on a breach it had either waived, excused or abandoned. Lastly, it failed when it opted to cancel the contract to tender return of the performance rendered by the respondent or to give lawful justification for failing to do so which rendered the purported cancellation invalid.

[29] The court *a quo* ought to have found that the appellant failed to prove cancellation of the contract, which is equivalent to absolution from the instance, and dismiss the application. The costs to follow the result. The appellant in substance has not succeeded on appeal as its application ought to have been dismissed. It is therefore not entitled to costs on appeal. The main reason for pursuing the appeal as advised by Mr. Tucker counsel for the appellant during oral arguments was the nature of the order made by the court *a quo* at the instance of the respondent and the factual findings made which would be binding on the parties. The respondents' counsel, Mr. Stuart in oral argument, did not support the findings made by the court *a quo,* fairly conceding that the respondent is not asking for costs of appeal, it asked that the appeal be removed from the roll. In our view this would not have done justice to the matter. The appeal ought to succeed.

[28] It is ordered as follows:

1 The appeal is upheld with no order as to costs.

2. The order made by the court *a quo* is set aside, and it is replaced with the following order: The application is dismissed. The applicant is ordered to pay costs of the application on party and party scale

Mngadi J

I agree.

Chithi J

I agree

D. Pillay AJ

APPEARANCES

Case Number:	AR 1718/2022P
For the Appellant:	MC Tucker
Instructed	De Wet Leitch Hands
Inc.	BALLITO
For the Respondent:	M Stuart
Instructed by:	DMI Attorneys
	MORNINGSIDE
Heard on:	31 October 02025
Judgment delivered on:	02 December 2026