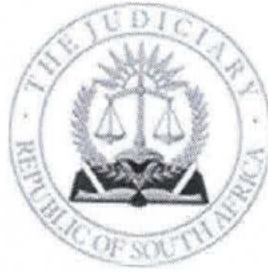


REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, JOHANNESBURG

Case Number: 121954/2024

|                   |                                                                                                |
|-------------------|------------------------------------------------------------------------------------------------|
| (1)               | REPORTABLE: <b>NO</b>                                                                          |
| (2)               | OF INTEREST TO OTHER JUDGES: <b>NO</b>                                                         |
| (3)               | REVISED: <b>NO</b>                                                                             |
| <br>              |                                                                                                |
| 12/2/2026<br>DATE | <br>SIGNATURE |

**HEKPOORT RESIDENTS ASSOCIATION**

Applicant

and

**MOGALE CITY LOCAL MUNICIPALITY**

First Respondent

**MOGALE CITY LOCAL MUNICIPALITY  
ECONOMIC DEVELOPMENT SERVICE DEPARTMENT**

Second Respondent

**MOGALE CITY LOCAL MUNICIPALITY  
DEVELOPMENT PLANNING DIVISION**

Third Respondent

**MOGALE CITY LOCAL MUNICIPALITY  
SETTLEMENT AND REAL ESTATE**

Fourth Respondent

**THE GAUTENG DEPARTMENT OF AGRICULTURE  
AND RURAL DEVELOPMENT**

Fifth Respondent

**THE DEPARTMENT OF WATER AFFAIRS AND SANITATION**

Sixth Respondent

This Judgment was handed down electronically and by circulation to the parties' legal representative by way of email and shall be uploaded on CaseLines. The date of the hand down is deemed to be on the 10 FEBRUARY 2026.

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## **JUDGMENT**

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**MAKUME J:**

### *Introduction*

- [1] In this matter, the applicant seeks an order, interdicting the first, second, third and fourth respondents, from proceeding with the construction of residential developments in the area of Hekpoort, known as Dr Sefularo Village and the Vogelzang project, pending them furnishing the applicant with certain documents, reports and permits from certain departments, including approved building plans, and environmental impact studies and others.

### *The parties*

- [2] The applicant's founding affidavit is deposed to by one Grant Michael Pickett, who says that he is a member of the Hekpoort Residents Association, which has a membership of 78 people, and that he has been duly authorised to depose to the affidavit on behalf of the 78 members. He alluded to the fact that a resolution to that effect was signed by a majority of the members, and that a copy of that resolution will be made available to the court on the date of hearing.
- [3] In paragraph 3.2, Mr Pickett said that in the resolution, he has not set out the names and physical addresses of most of the 78 members because of violence and conflict within the Hekpoort community. He, Mr Pickett, concludes by saying that should it be necessary to have more details about the people who signed the resolution, then, they will be willing to cooperate with the court.
- [4] It is worth noting that no such resolution was handed up in court, nor was it uploaded on CaseLines. The applicant was represented by an attorney, Christopher Bean, at the hearing and he made no attempt to address the failure

to hand up the purported resolution, authorising him to launch this application. I have serious doubts if there is such a resolution. Mr Bean also did not proof to hand up the names of the 78 members of the association. This is his application in his personal capacity, as a resident businessman who has been plying his trade as a plumber in that area for 25 years.

- [5] The first respondent is the Mogale City Local Municipality, established in terms of section 12 (1), read with section 14 (2) of the Municipal Structures Act.<sup>1</sup> The second, third, and fourth respondents are functional divisions within the municipality, each of them responsible for specified roles within the municipality.
- [6] The fifth respondent is a provincial government structure responsible for agricultural and rural departments. It is answerable to the Gauteng Provincial Government. The sixth respondent is a department answerable to the National Department of Water Affairs.
- [7] I have already indicated that Mr Pickett has not produced any resolution supporting his averment that he is acting on behalf of the applicant. However, this court accepts that he is probably seeking to assert his rights in terms of section 38 of the Constitution of the Republic of South Africa, which reads as follows:

“Anyone listed in this section has the right to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights. The persons who may approach a court are -

- (a) anyone acting in their own interest;
- (b) anyone acting on behalf of another person who cannot act in their own name;
- (c) anyone acting as a member of, or in the interest of, a group or class of persons;

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<sup>1</sup> Act 117 of 1998.

(d) anyone acting in the public interest; and

(e) an association acting in the interest of its members.”

- [8] Mr Pickett, in his affidavit, sets out succinctly what the purpose of this application is. It is to obtain an interdict against the first to fifth respondents, prohibiting them from proceeding with the construction of the residential and town planning development in Hekpoort, more specifically known as Dr Sefularo and Vogelzang project, pending full compliance with the relevant permits.
- [9] I set out first the correspondence leading up to this application, which is not in dispute.
- [10] On 7 June 2011, Mogale City Local Municipality published a notice in terms of section 108 of the Town Planning and Township Ordinance 15 of 1986,<sup>2</sup> in which it informed the public and all interested parties that it intended to establish a township to be known as Dr Sefularo Village over part of portion 1 of the farm Vogelzang 429SQ.
- [11] Members of the public or any other interested parties were invited to lodge objection, if any, within a period of 28 days. There is no evidence of any party having made any representation or lodged any objection. The notice also refers to only one development, not two, as stated in the applicant's notice of motion.
- [12] On 28 May 2012, the fifth respondent granted the municipality environmental authorisation for the proposed township establishment to be known as Dr Sefularo on the farm Vogelzang.
- [13] On the 21 November 2012, Mogale City granted the developers, namely; Urban Dynamic Regional Planners, land use rights to proceed with the development and erection of structures over the Vogelzang property. It is not clear if any objections were received from the Hekpoort Residential Association.

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<sup>2</sup> Town Planning and Township Ordinance 15 of 1986 as amended by Proclamation No. 1 of 1992 and Proclamation N. R. 161 of 1994.

- [14] On the 12 August 2024, Messrs Christopher Bean Attorneys addressed a letter to the Department of Planning, Krugersdorp Municipality, asking many questions and querying the wisdom of establishing low-cost housing near and in the vicinity of the farming community of Hekpoort.
- [15] Amongst the questions asked by the attorney are the following:
- a. How many low-cost housing agricultural projects are planned for the future in the haven of Hekpoort?
  - b. When were the Sefularo projects approved?
  - c. Who approved them and on what scientific or professional basis were these projects considered?
  - d. Why is there secrecy and no publicity about this project for comment by the community?
- [16] There are many other questions and statements being posed, which I do not deem necessary to repeat in this judgment. The long and short of the questions is that the Hekpoort haven, as the attorney describes it, does not want to have low-cost housing established in their vicinity.
- [17] What is strange is that this letter is addressed to the municipality 12 years after the project had been approved by the local and provincial government structures.

*Applicant's case*

- [18] The applicant's case at its bare minimum is that the respondents should discontinue with the housing development until they shall have had access to certain information from the respondents. They seek interdictory relief against an organ of state.

### *The respondents' case*

- [19] The respondents' case is that the relief being sought by the applicant is not only non-suited, in that the applicant has not satisfied the requirements for an interdict. Secondly, that the respondents, being organs of state, their conduct can only be challenged by way of judicial review proceedings in terms of section 6 of the Promotion of Administrative Justice Act<sup>3</sup> (PAJA).

### *Discussion*

- [20] The founding affidavit, read together with the letters of demand, addressed to the municipality, questioned the decision taken by the municipality to have a low-cost housing project in and around Hekpoort.
- [21] The founding affidavit is replete with insinuations that the municipality is responsible for the mushrooming squatter areas in and around Hekpoort and that as a result, the businesses of Hekpoort, which comprises mostly of guest houses and tourist attractions is being threatened. Mr Pickett mentions the issue of rising criminal activities in the area. All these issues have nothing to do with whether the municipality took a good or wrong decision to establish a township in that area.
- [22] Section 152 of the Constitution of the Republic of South Africa enjoins the municipality to provide basic municipal services to persons within its constituency, that includes provision of housing and promotion of social and economic development.
- [23] When Mogale City Council took a decision to establish the Dr Sefularo Village, it did so as a result of an imperative to alleviate homelessness. Some of the people who have settled in the squatters or informal settlement are people who have been evicted by the various farmers of Hekpoort for one reason or another. It is, accordingly, nonsensical of the applicant to make spurious

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<sup>3</sup> Act 3 of 2000.

statements that, it is the municipality that has been dumping refugees and unemployed people in that area.

- [24] Mogale City, in taking a decision in the year 2011 took an administrative action, which can only be challenged through a review process in terms of section 6 of PAJA, not on an interdict. The decision taken by Mogale City in the year 2011 remains in full force and effect until it shall have been reviewed and set aside in terms of PAJA. This court is not sitting as a court of review. There is, in my view, no proper and lawful challenge against the decision taken by the municipality in the year 2011.
- [25] The next difficulty that the applicant has in this matter is, his failure to meet the requirements of interdictory relief. From a reading of the applicant's papers, the interdictory relief being sought is not only in relation to the exercise of the municipality's exercise of its statutory power, but also its constitutional powers. Such relief can only be granted if an applicant proves and demonstrates exceptional circumstances as set out by the Constitutional Court in *National Treasury and Others v Opposition to Urban Tolling Alliance*.<sup>4</sup> The applicant has failed to demonstrate any exceptional circumstances.
- [26] Lastly, the applicant has failed to deal with the requirements of a mandamus. It is trite law that a mandamus or interdict is a remedy against the effect of an unlawful action that has taken place. The notice of motion seeks an interim order, pending an order directing the municipality to make available to the applicant certain documents and information. It is not seeking to review the decision taken to establish Dr Sefularo Villages. Such an order does not exist in respect of the public bodies like the municipality.
- [27] The applicant must establish prima facie right and show that irreparable harm is likely to result if the remedy is not granted, further that the balance of convenience is in favour of granting the remedy, and that there is no other satisfactory remedy available. In this matter, the applicant seeks a mandamus,

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<sup>4</sup> [2012] ZACC 18; 2012 (11) BCLR 1148 (CC); 2012 (6) SA 223 (CC).

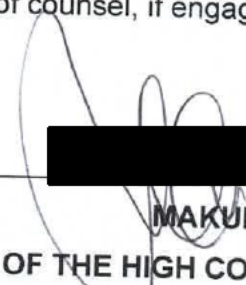
so that certain information be furnished to him. The information and documents that the applicant requires could and should have been requested in terms of section 11 of the Promotion of Access to Information Act<sup>5</sup> (PAIA). The applicant was clearly ill-advised to embark on a fishing expedition in order to formulate his claim.

- [28] This court is satisfied that the application is without merit and is simply an abuse of the court process. The applicant has, without any reason, decided to bring up this application to stop a legitimate government project, which seeks to alleviate homelessness in and around Hekpoort. Having said that, I am also satisfied that an appropriate costs order should be granted on dismissal of this application.

*Order*

- [29] In the premise, the following order is made:

- a. The application is dismissed.
- b. The applicant is ordered to pay the respondents' costs on a party and party scale, on Scale B, which shall include cost of counsel, if engaged.

  
[REDACTED]  
MAKUME J  
JUDGE OF THE HIGH COURT  
JOHANNESBURG

Date of Hearing: 28 January 2026

Date of Judgment: 12 February 2026

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<sup>5</sup> Act 2 of 2000.

**Appearances:**

For the Applicant: Mr. C. Bean

Instructed by: Christopher Bean Attorneys

For the Respondents: Adv R.A. Ramuhlala