

**REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

Reportable: No
Of Interest to other Judges: No

19 November 2025 Vally J

CASE NO: 2025-137575

In the matter between

**J N Sentsho & 105 Others
(as listed in Annexure A)**

1st to 106 Applicants

**S Phiri and 118 Others
(as listed in Annexure B)**

107th to 226th Applicants

and

**Germiston Phase 2 Housing Company (Pty) Ltd
t/a Ekurhuleni Housing Company
(Registration Number 2000/007937/07)**

1st Respondent

Ekurhuleni Metropolitan Municipality

2nd Respondent

In re:

**Germiston Phase 2 Housing Company (Pty) Ltd
t/a Ekurhuleni Housing Company
(Registration Number 2000/007937/07)**

Applicant

**J N Sentsho & 105 Others
(as listed in Annexure A)**

1st to 106th Respondents

**Any Further Unlawful Occupiers of the
Units identified in Annexure A**

107th Respondent

**S Phiri and 118 Others
(as listed in Annexure B)**

108th to 257th Respondents

**Any Further Unlawful Occupiers of the
Units identified in Annexure B**

258th Respondent

**Any Further Unlawful Occupiers of the
Units identified in Annexure B**

259th Respondents

Ekurhuleni Metropolitan Municipality

260th Respondent

Msikinya, Asanda

261st Respondent

Nemakonde, Robert

262nd Respondent

Judgment

Vally J

Introduction

[1] Before me is an application brought urgently for the reconsideration of an order issued by me on 23 September 2025 in the urgent court (the order). The application was brought in terms of s 5 of the Prevention of the Illegal Eviction for and Unlawful Occupation of Land Act, 1988 (PIE) as well as Rule 6(12) of the Uniform Rules of Court (Rules). The parties, for convenience sake, shall be referred to as they were cited in the main application which resulted in the order being issued. This reconsideration application is brought in terms of rule 6(12)(c) of the Rules.

[2] The order was issued without hearing the respondents. Some of the respondents though present in Court chose to remain silent when the matter was called. They refused to engage the Court when asked if they wished to oppose the application or say something. The order reads as follows:

- 1 The forms and service provided for in the rules is dispensed with and the matter is heard as one of urgency.
2. The order for interim eviction, under the above case number, dated 2 September 2025 ("order"), is stayed subject to the following:

- 2.1 each individual occupier, who intends to pursue a reconsideration of the order, is to deliver an affidavit, setting out the grounds for the reconsideration of the order, on or before 6 October 2025.
- 2.2 attorney Shumani F [Silamulele], is to set down the reconsideration application for hearing, on 14 October 2025, and serve a notice of set down on the respondents [a reference to the EHCO and others] on or before 9 October 2025.
3. In the event that paragraphs 2.1 and 2.2 are not complied with, the stay granted in paragraph 2 shall lapse.
4. The stay granted in paragraph 2 above shall, subject to compliance with paragraphs 2.1 to 2.2 above remain operative until 14 October 2025, whereafter same shall lapse.'

[3] It is necessary to read this order together with an order issued on 2 September 2025. That order was also granted by myself. It reads:

1. Pending the finalisation of proceedings in terms of s 4 of the Prevention of Illegal Eviction for and Unlawful Occupation of Land Act, 1988 (PIE), the 1st to 259 Respondents, and all those occupying the property by, through or under them (collectively 'the occupiers') are evicted from the properties known as Airport Pari Phase 1, described as Erf 5[...] Airport Park Extension 2, Registration Division I.R., Gauteng situate at C[...] E[...] and G[...] Streets, Germiston, 1401 and Airport Park Phase 2, described as Erven 6[...] and 6[...] Airport Park Extension 2, Registration Division I.R., Gauteng situate at Corner End and Joubert Streets, Germiston, 1401 ('the properties')
2. The occupiers are ordered and directed to vacate the properties within 14 days of this order.
3. In the event that the occupiers do not vacate the properties in terms of paragraph 2 above, the sheriff of the court, and/or his lawfully

appointed deputy, is authorised and directed to evict the occupiers from the properties.

4. The 261st and 262nd Respondents in particular, and the occupiers in general, are ordered and directed immediately to comply with the order of Honourable Wepener J of 11 October 2022, annexed hereto as “**A**”.
5. The sheriff of the court, and/or his/her lawfully appointed deputy, is authorised and directed to approach the South African Police Department for any assistance s/he may deem necessary and appropriate in the execution/enforcement of any order of court.
6. The form and contents of the draft notice in terms of section 4(2) of PIE (‘the section 4(2) notice’), annexed hereto as “**B**”, is authorised by this court in anticipation of Part “C” of this application.
7. The registrar of the court is authorised and directed to insert the hearing date in respect of part “C” of the application in the body of the s 4(2) notice, and to endorse such s 4(2) notice prior to service thereof.
8. The occupiers and the 261st and 262nd Respondents are to pay the costs of parts “A” and “B” of this application, jointly and severally, the one paying the other to be absolved.’

[4] Some of the respondents affected by the order have chosen to bring this application for a reconsideration of the order. These respondents can be categorised into two groups: one group consisting of 71 respondents represented by a firm of attorneys, Silamulela Attorneys (represented respondents), and another group consisting of 60 individuals who are self-represented (unrepresented respondents). The group represented by Silulemela filed a notice of motion together with a founding affidavit deposed to by one of them, together with a confirmatory affidavit deposed to by each of them. The applicant resists the application.

[5] As mentioned, this application is brought in terms of s 5 of the PIE Act. Section 5(1) which is of particular relevance reads:

‘5 Urgent proceedings for eviction

(1) Notwithstanding the provisions of section 4, the owner or person in charge of land may institute urgent proceedings for the eviction of an unlawful occupier of that land pending the outcome of proceedings for a final order, and the court may grant such an order if it is satisfied that-

- (a) there is a real and imminent danger of substantial injury or damage to any person or property if the unlawful occupier is not forthwith evicted from the land;
- (b) the likely hardship to the owner or any other affected person if an order for eviction is not granted, exceeds the likely hardship to the unlawful occupier against whom the order is sought, if an order for eviction is granted; and
- (c) there is no other effective remedy available.’

[6] Each unrepresented respondent filed an affidavit. Save for the fact that each of them provided a very brief account of his/her personal circumstances they all denied that they had vandalised the unit each of them and their families reside in. As for their personal circumstances, they each said s/he is unemployed and has nowhere else to go. All of them do not deny failing to pay the rental for over five years. At the same time, each one admits to being indebted to the applicant for a considerable amount of money because of the non-payment of her/his rental obligation. Each one denies that the non-payment is a result of a joint decision to boycott the payment of any rental. Some were willing to admit that they believe that the applicant should transfer ownership of the properties to them, and they all admit having stopped paying at about the same time. They all say they cannot afford the rental.

[7] The represented respondents did not put up any evidence about their personal circumstances, nor did they say anything about the considerable debt each one of them has accumulated for not paying rent since about 2020. They raised concerns about the process adopted by the applicant in

coming to court. They decided to challenge the application on mainly legal grounds. These are:

- a. First, the applicant has failed to satisfy the test for urgency and as such the order should be reconsidered; the order of 2 September 2025 set aside, and the matter should be struck from the roll.
- b. Second, the applicant has failed to show that it is in danger of suffering imminent harm and therefore fails to meet a peremptory requirement in terms of s 5(1)(a) of the PIE Act. Hence the order should be reconsidered and replaced with one saying that the application is dismissed.
- c. Third, the applicant has an alternative remedy in terms of s 4 of the PIE Act and therefore the application ought to have failed in order to overcome the hurdle placed upon it by s 5(1)(c) of the PIE Act.

[8] All three claims are, as I show below, without merit. But first it needs to be said that the court has a very wide discretion when attending to an application brought in terms of rule 6(12)(c) for reconsideration of its order. Factors that are relevant here are (i) the reasons for the absence of the party against whom the order was granted, (ii) the nature of the order granted, (iii) the period during which it has remained operative, (iv) the convenience of the parties, (v) whether imbalance or injustice has resulted, and (vi) whether alternative remedies are available to the party seeking the reconsideration.¹

[9] None of the respondents have furnished an explanation for their absence from court when the matter was called on 2 September 2025. In fact, some of them were present but chose to remain anonymous as well as silent when the application was called and was being considered. These respondents at the very least wilfully disregarded the proceedings and therefore the reconsideration remedy does not avail them. As for the others, as none of them explained their absence, the Court is no wiser as to whether they wilfully absented themselves from the hearing. It is for them to at the very least put up some credible evidence to show they did not. For this reason

¹ *The Fonarun Naree: Afgri Grai Marketing (Pty) Ltd v Trustees, Copenship Bulkers A/S (In Liquidation)* 2008 (3) SA 110 (SCA), para 10. Erasmus Superior Court Practice Vol 2, D1-89 and the cases there cited.

alone, the application for reconsideration should be dismissed with costs. However, given that they stand to be evicted from their homes, albeit temporarily, I held it to be prudent to allow them to present the merits of their case.

[10] The represented respondents challenged the applicant's case on the merits by raising only legal issues. They put up no evidence of their own. They said that the applicant should have brought the application as soon as the respondents failed to pay their rent which was around 2020 or anytime thereafter. It should not have waited until August 2025 which is when it brought the application. By waiting, it allowed the situation to develop into an emergency – one that could have been averted.

[11] It is true the applicant could have brought the application earlier. But that does not detract from the other equally if not more important fact that the respondents continued to breach their contract all this time, and as a result exacerbated the applicant's difficulties to the point its very existence is now in peril. They continued to live for free. In other words, they benefited handsomely, while the applicant failed to take advantage of the legal recourse available to it. In the meantime, the applicant suffered significant financial and other harm. It put up credible evidence to show that the respondents are in arrears to the tune of some R77m rands, and that as a result it cannot continue with its operations at all, nor can it protect its property as it is financially ruined. Granting a temporary interdict and allowing it to restore its financial health by preventing any further losses incurred as a result of the non-payment of the rental is the only remedy available to it. The urgent need for a remedy is certainly there, especially since all the respondents (represented and unrepresented) accept that the applicant is owed such a large sum of money because of their actions. The applicant also put up credible evidence to show that recently it endured a violent protest from the respondents. Save to put up a bare denial, the respondents did not meet this evidence. The applicant further showed that it has lost all control of the properties. Its agents cannot enter the property without armed guards. In one instance even the armed guards were

incapable of protecting the property as the violence that was threatened was so great that the armed guards had to retreat.

[12] Furthermore, it bears remembering that the requirement for urgency is set out in s 5 of the PIE Act.² These requirements are stringent, even more stringent than catered for in rule 6(12)(a).³ Stringent as they are, I am satisfied that the applicant has met them. The urgency was certainly not self-created. The applicant was entitled to call for the Court's urgent attention. The latest events have made the situation intolerable. These are:

- a. The provision of social housing has been placed at great peril by the conduct of the respondents. The applicant is not a commercial entity motivated by the need or desire to maximise the profit earned by owning the properties rented to the respondents. The non-payment of the rents by all the represented and unrepresented respondents has placed its very existence in peril. As it stands now it has already suffered great harm – loss of the unpaid rents – and unless the interim eviction of the respondents is granted it stands to suffer harm that is final and permanent. Not only will it cease to exist, but the social housing plans it envisaged will have to be jettisoned. In fact, its experience is a deterrence to any government or non-governmental agency that wishes to tackle the housing crisis in the country by adopting its model of providing social housing. Thus, while it suffered great harm and is at peril of suffering permanent final harm, there is also harm to the general public interest.
- b. Many of the individual flats have been hijacked by persons who do not have any contractual relationship with the applicant, or sold by the persons who hold the lease with the applicant.

² *HL Hall Properties (Pty) Ltd v Alliance Church and Others* ([2025] 2 ALL SA 451 (MM)), See also *Shankie Investments NO 85 (Pty) Ltd and Another v Ndimba and Others* 2015 (2) SA 610 (GJ)

³ *Residents of Joe Slovo Community, Western Cape v Thubelisha Homes and Others (Centre on Housing Rights and Evictions and Another, Amici Curiae)* 2010 (3) SA 454 (CC) para [90]

- c. Many of the respondents have let the flats they are entitled to occupy to third persons, despite being precluded from doing so in terms of their contract with the applicant, and are collecting rents from these persons while refusing to meet their rental obligation to the applicant.
- d. None of the employees, security personnel or contractors engaged by the applicant is able to attend at any of the properties without fear of being physically and possibly fatally harmed. These persons have been threatened, harassed, intimidated and subjected to violence. Officials can only attend if accompanied by armed guards.
- e. As a result, the applicant is unable to perform an audit of all the people that occupy the flats. It, therefore, has no knowledge of, control over or relationship with many of the occupants of its properties.

[13] Ignoring all of the above the represented respondents claim that the applicant has failed to show that it suffers imminent harm if the interim eviction order is not granted. Based on what is said in the preceding paragraph, I hold that the represented respondents' assertion, namely that the applicant has not met the threshold of proving imminent harm, is entirely without foundation.

[14] While claiming that they will be rendered homeless by the grant of the order the respondents – both represented and unrepresented - put up no detailed evidence to support their *ipse dixit*. Each of them simply expects their *ipse dixit* to be accepted without more, and to trump all the evidence put up by the applicant as to why they should be temporarily evicted. They also say that if the eviction order is not granted, they will continue to live in the respective flats they occupy rent-free. This *status quo* will, they admit, continue until they are evicted, for even if they wish to pay their rents they cannot do so. As for the arrears, while they admit they are liable for these, they expect the applicant to write these off.

[15] Finally, the represented respondents suggest that the applicant has an alternative remedy in terms of s 4 of the PIE Act. That remedy is catered for in Part C of the application. The applicant still intends to pursue that remedy. Section 5 of the PIE Act is a special remedy that is separate from the one catered for in s 4. The latter cannot be an alternative to the former. The claim to the contrary is legally untenable. It would mean that the remedy allowed for in terms of s 5 can never avail a party as that party is granted a remedy in terms of s 4. This simply cannot be a logical interpretation of the two sections read together. In sum, I am satisfied that the applicant has shown that the likely hardship it stands to suffer exceeds the likely hardship of the respondents. To mitigate the hardship of the respondents the order of eviction granted on 23 September 2025 will be amended to grant them two months to find alternative accommodation. There is no reason why they should not be able to do so in this period.

[16] The application for reconsideration is to be dismissed.

[17] There is no order as to costs.

Order

[18] The following order is made:

- 1 The reconsideration application is dismissed.
- 2 Pending the finalisation of proceedings in terms of s 4 of the Prevention of Illegal Eviction for and Unlawful Occupation of Land Act, 1988 (PIE), the respondents listed in Annexure “**A**” and Annexure “**B**” to this order, and all those occupying the property by, through or under them (collectively ‘the occupiers’) are evicted from the properties known as Airport Pari Phase 1, described as Erf 5[...] Airport Park Extension 2, Registration Division I.R., Gauteng situate at Corner End and Galway Streets, Germiston, 1401 and Airport Park Phase 2, described as Erven 6[...] and 6[...] Airport Park Extension 2, Registration Division I.R., Gauteng situate at C[...] E[...] and J[...] Streets, Germiston, 1401 (‘the properties’).
- 3 The occupiers are ordered and directed to vacate the properties on or before 15 January 2026.

- 4 In the event that the occupiers do not vacate the properties in terms of paragraph 4 above, the sheriff of the court, and/or his lawfully appointed deputy, is authorised and directed to evict the occupiers from the properties.
- 5 The 261st and 262nd Respondents in particular, and the occupiers in general, are ordered and directed immediately to comply with the order of Wepener J of 11 October 2022, annexed hereto as “C”.
- 6 The sheriff of the court, and/or his/her lawfully appointed deputy, is authorised and directed to approach the South African Police Department for any assistance s/he may deem necessary and appropriate in the execution/enforcement of any order of court.
- 7 The 163rd respondent occupying unit 190, namely Selina Mosude, and the 193rd respondent occupying unit 226, namely Constance Kgopane Tsime, do not need to vacate the properties and the applicant shall not to evict them.
- 8 The form and contents of the draft notice in terms of section 4(2) of PIE (‘the section 4(2) notice’), annexed hereto as “D”, is authorised by this Court in anticipation of Part “C” of this application.
- 9 The registrar of the Court is authorised and directed to insert the hearing date in respect of part “C” of the application in the body of the s 4(2) notice, and to endorse such s 4(2) notice prior to service thereof.
- 10 Each party is to pay its own costs.

VALLY J
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

Appearances

Dates of hearing:	10 - 14 November 2025
Date of judgment:	19 November 2025

For the Applicant:

Instructed by:

For the represented Respondents:

Instructed by:

Adv C van der Merwe

Vermaak Marshall Wellbeloved Inc

Adv MJ Kleyn

Silalemela Attorneys