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IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

Case No. 026212/2026

(1) REPORTABLE: ~~YES~~/NO

(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO

(3) REVISED

DATE: **23 March 2026**

SIGNATURE:

In the *Ex-Parte* application of:

**NTOMBENHLE CYNTHIA MARGARET AUGUSTA
LEKOTA**
(Identity Number: 5[...])

Applicant

For the appointment of a *curator ad litem* to:

MOSIUOA GERRARD PATRICK LEKOTA
(Identity Number: 4[...])

Patient

ADVOCATE LUZELLE ADAMS

Respondent

Coram: Millar J

Heard on: 6 March 2025

Delivered: 23 March 2026 - This judgment was handed down electronically by circulation to the parties' representatives by email, by being uploaded to the *CaseLines* system of the GD and by release to SAFLII. The date and time for hand-down is deemed to be 08H30 on 23 March 2026.

ORDER

It is Ordered:

- [1] The applicants' non-compliance with the Orders of Court concerning forms, service, and periods otherwise applicable be and is hereby condoned, and that this application be heard and adjudicated upon as an urgent application in terms of Uniform Rule 6(12).
- [2] It is declared that the now deceased Patient, MOSIUOA GERARD PATRICK LEKOTA, was of unsound mind and incapable of managing his own affairs from 25 May 2025 to the date of his death on 4 March 2026.
- [3] Advocate Adams is ordered to pay the costs of this application from 5 March 2026 on the scale as between attorney and client, which costs are to include the costs of counsel on scale C.
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JUDGMENT

MILLAR J

- [1] A person is perhaps most vulnerable when they reach an age where they become dependent upon others for the management of their day-to-day affairs. This is particularly so when spouses have spent a lifetime together and both reach this stage of life at the same time.
- [2] This application started as an in-camera *ex parte* application where the applicant, Mrs Lekota (75 years of age), sought the appointment of a *curator ad litem* for *inter alia* access to the medical records of her husband, Mr. Lekota (76 years of age). Mr. Lekota is now deceased but during his lifetime, was a person of prominence and known affectionately by the people of South Africa by the moniker “Terror”. This understandably accounts for why the application was brought on this basis.
- [3] On 10 February 2026, I granted an order *inter alia*, appointing curator ad litem (Mr. Du Preez) to obtain the medical records of Mr. Lekota from his treating doctor, Dr. Makasi. The order provided that he was to obtain the report in a sealed envelope which was to be handed to the court and that once the court had had an opportunity to consider the contents of the report, further directions would be given. I also ordered, for reasons that will become clear, that a copy of the order granted by me, was to be furnished by email to the respondent (Adv Adams). Pertinently, it was specifically ordered that:

“Neither the applicant, nor the patient, or Ms Adams, is permitted to disclose the existence of this application to any third party, save in the event where legal assistance is necessitated.”

- [4] The order of 10 February 2026 also provided that the remainder of the relief sought in the notice of motion, which was *inter alia* for a declaration regarding the ability of Mr. Lekota to manage his own affairs and for the appointment of a *curator bonis* was postponed to 12 February 2026.
- [5] The circumstances leading to the granting of the order of 10 February 2026, were briefly the following. Since approximately 2010 and notwithstanding that Mr. and Mrs Lekota had been married to each other in community of property since 17 April 1975, they had lived apart. Mr. Lekota had 4 adult children of which 3 survive. The 3 surviving adult children are Mr. Kotane Lekota (their son), Ms Palesa Lekota (their daughter) and Mr. Dennis Bloem (his son)-(not to be confused with the politician of the same name).
- [6] Mrs Lekota continued to live in Bloemfontein from whence the family hailed and Mr. Lekota lived in Gauteng. While living in Gauteng, Mr. Lekota was in a relationship with Adv Adams and a child, who is presently 16 years old (his minor son), was born of the relationship.
- [7] Of the relationship between Mr. Lekota and Adv Adams, Mrs Lekota stated that she had met Adv Adams several years before in Midrand where she was living with Mr. Lekota. Mr. Lekota introduced Adv Adams to Mrs Lekota as his “partner” and when she asked what this meant, he “*merely re-iterated that she is his partner, and stated that I am his wife.*” The relationship between the two women was characterized by Mrs Lekota as being one where they “*tolerated each other*”.
- [8] It is not in issue that from around 2018, the health of Mr. Lekota declined. In 2018, he suffered a stroke from which it appeared that he had recovered. Shortly thereafter, he was diagnosed with and treated for prostate cancer. He was throughout, visited by his eldest son Mr. Kotane Lekota. On 25 April 2025, he underwent a knee operation.

- [9] The knee operation was successful and on 26 April 2025, he was discharged from hospital. The day after his discharge from hospital, it was reported that Mr. Lekota was not feeling well and that since his discharge from hospital, he had been disoriented and unwell.
- [10] He suffered a stroke later that day and was re-admitted to hospital where he was placed into intensive care. Mrs Lekota knew Adv Adams and Mr. Lekota's sister, Ms Buthelezi, were on speaking terms and so she called her to find out how he was. Ms Buthelezi informed her that Adv Adams had not told her about the turn for the worse in Mr. Lekota's health. He remained hospitalized until July 2025 when he was discharged into a step-down facility.
- [11] Mrs Lekota decided to visit Mr. Lekota for his birthday on 13 August 2025 and it was then that she found out that he was no longer in the step-down facility but had returned to the home he shared with Adv Adams.
- [12] Adv Adams informed his son, Mr. Kotane Lekota that he had not been making any recovery at the step-down facility and that that was the reason he had been discharged from there and had been taken back home.
- [13] It remains unknown, who made the decision to discharge Mr. Lekota at this time. It was not made by Mrs Lekota or by any of his children. Mrs Lekota described what she found when she visited him for his birthday:

"At his residence, the patient was bedridden, and I could see that he was not in a good condition. Amongst others, the patient struggled to speak, and appeared not to be lucid. The patient was being attended by two nurses, a day and a night nurse. He was monitored constantly. It was evident that the medical care was necessary".

[14] Unfortunately, Mrs Lekota was unable to have any meaningful discussion with Mr. Lekota. In January 2026 when Mrs Lekota again decided to visit him, she found that his condition had improved. He was able to get out of bed unassisted, walk around and was able to speak to her. He appeared lucid to her.

[15] It was on this occasion that for the first time, Mrs Lekota was able to discuss their financial affairs and the obligations of their communal estate. The issues discussed included:

“Our medical aid membership with Parmed Medical Aid. This discussion was necessary seeing as I (a) need to undergo a procedure to treat an eye condition I had developed and (b) was advised by my general practitioner to seek treatment for a potential diabetic condition.

The financial position of our common estate. I was not appraised of the financial position at the time and felt that it was a discussion that was long overdue. The financial aspects was always left to the patient [Mr. Lekota] to administer.”

[16] It was during this discussion that Mrs Lekota’s concerns were realized. In this regard, she said:

“Concerning the medical aid, it came as a complete shock to me that the patient [Mr. Lekota] in fact was not aware of the status of the medical aid. He did not know if it was still active and if so, who was making payment of the monthly contributions.

I raised the monthly financial contribution made to me by the patient amounting to R5 000.00 (Five Thousand Rand) that the patient [Mr. Lekota] had religiously paid me for a considerable period, since approximately 2024 and up until September or October 2025, after the patient had returned home from the step-down facility. The patient could not provide me with an explanation as to why the

payments had ceased, nor could he remember or recall and past payments made. I found this extremely odd and worrisome.

I enquired about the patient's financial affairs, and who the patient's financial advisor(s) were who could assist me with the information I needed. The patient informed me that he does not know who his broker or financial advisor is or what the status of his bank accounts were, nor what the usernames and passwords are. The patient instructed me to attend to the bank and request the information I needed from the bank. This also made no sense to me. Even if it was possible to approach the bank without the patient, the bank would not know who the patient's broker or financial advisor is and would not have intricate knowledge of the patient's financial affairs."

- [17] Mrs Lekota formed the view that Mr. Lekota was neither conducting nor aware of the status of his own financial affairs. On 24 January 2026, she again went to visit him. During this visit, while she was speaking to Mr. Lekota, he indicated that he was unhappy with the fact that she and Adv Adams were not on speaking terms.

- [18] Adv Adams was called to join the discussion. It was at this stage that Mr. Lekota confused Adv Adams with the mothers of his other children and told her that *"I must remember that Ms Adams was with him on Robben Island and that she supported him during his incarceration."* It was clear to Mrs Lekota at this stage that he was clearly confused because Adv Adams had not even been born at the time of his incarceration on Robben Island.

- [19] It was at this stage that Mrs Lekota's concerns came to the afore. Since she and Mr. Lekota were married in community of property, all property in both his name and her name forms part of the joint estate. Additionally, there is a Trust of which she and Mr. Lekota are both Trustees and which owns property but in respect of which, since Mr. Lekota was in the state of health that he was, could

not be properly managed. Added to this, were her concerns regarding her medical aid and the various bank accounts and investments held by Mr. Lekota but about which she was unable to obtain any meaningful information from him.

- [20] On 27 January 2026, Mrs Lekota and Mr. Kotane Lekota accompanied Mr. Lekota and Adv Adams to a consultation with Dr Z Makasi (a neurologist). Dr Makasi met only with Mr. Lekota and not with the others who had accompanied him. When the consultation was concluded, Dr Makasi informed both Mrs Lekota and Adv Adams that a written consent would have to be furnished by Mr. Lekota before any report on his condition would be furnished. This was in respect of both Mrs Lekota and Adv Adams.
- [21] Mr. Lekota gave the written consent although with some difficulty. In this regard, Mrs Lekota observed that he had *“extreme difficulties writing his own name”, “could not remember his identity number”, “did not include her given names but rather wrote “Manthabiseng Lekota” – the traditional name given to her by his family when they had first been married. While Mr. Lekota correctly recorded Mrs Lekota as his wife, he had difficulty “writing Ms Adam’s name and surname and had to be assisted by Ms Adams”. He also incorrectly referred to Adv Adams as his wife, which she was not.*
- [22] The written consent having been given to Dr Makasi, all those present were informed that a report would be prepared and would be available for collection the following day. On 28 January 2026 when Mrs Lekota and Mr. Kotane Lekota attended at Dr Makasi’s rooms to collect the report, they were informed by the receptionist that the written consent had been withdrawn. This, they were informed, had apparently occurred when Mr. Lekota and Adv Adams and returned to Dr Makasi’s rooms late the previous afternoon and had spoken to Dr Makasi in private.

- [23] Mrs Lekota attempted to discuss the withdrawal of the consent with Dr Makasi but was only able to speak to her on 30 January 2026. It was during this conversation that she was informed that the consent had indeed been withdrawn and that due to “*client confidentiality*” the report would not be furnished.
- [24] It was at this juncture that Mrs Lekota sought legal advice, and an urgent application was brought. I formed the view, having regard to what was set out in the application, that an order should be granted appointing curator ad litem to obtain primarily, the report of Dr Makasi. The report would be pivotal in the determination of the application.
- [25] However, without the report and based only upon the affidavit of Mrs Lekota and the confirmatory affidavits, I was loathe to grant any order which went beyond determining whether there was any basis for the declaration sought that Mr. Lekota was of unsound mind and incapable of managing his own affairs. I was also mindful of the position of Adv Adams and the minor son. It is for this reason that I granted the order that I did on 10 February 2026.
- [26] After appointment, Mr. Du Preez, with what was reported to be some difficulty, was able to obtain the report of Dr Makasi. I do not intend to deal with this aspect in any detail suffice to state that Dr Makasi attempted to obstruct Mr. Du Preez in obtaining the report. Mr. Du Preez and Mr. Retief who assisted him are to be commended for their diligence. Had they not, what subsequently emerged may well have remained hidden from sight.
- [27] In her report of 10 February 2026, Dr Makasi recorded that Mr. Lekota had been her patient since 25 May 2025 and that:
- [27.1] In respect of her consultation with him on 14 October 2025:

“A consultation and clinical examination of Mr. Lekota occurred on Tuesday 14 October 2025, he was seen for the first time after being discharged from the sub-acute facility and during his consultation, it was noted that Mr. Lekota had significantly improved neurologically and physically from the day of his discharge at Morningside Medi-Clinic. However, he primarily remained dependent upon other persons for physical and neurological (cognitive) activities of daily functioning. This remains as the sequelae of his condition mentioned above”. [My underlining].

[27.2] In respect of her consultation with him on 27 January 2026:

“Mr. Lekota was showing stability as of the previous consultation. However, his cognitive function remained a concern. He struggled doing basic neurological mental exam (MMSE) and he scored very low, especially in concentration, memory recall as well as higher order functioning test (MMSE = 20/30) which is significant. On general physical examination he was found to be severely jaundiced with other associating symptoms indicating liver failure.” [My underlining].

[28] When the application was called again on 12 February 2026, Adv Adams had been notified and brought an application to intervene in the proceedings. This was not opposed. All the parties who were before the court were at that stage, aware of the health and cognitive status of Mr. Lekota. In consequence of discussions between the parties, an order of court was made, by agreement, which provided *inter alia* for the following:

[28.1] The extension of the appointment of Mr. Du Preez as *curator ad litem* to investigate and report finally to the court on whether a *curator bonis* and *curator ad personam* should finally be appointed to Mr. Lekota.

- [28.2] The granting of authority to Mr. Du Preez, as part of his investigation, to obtain access to all of Mr. Lekota's hospital, medical and financial records.
- [28.3] The granting of authority to Mr. Du Preez to take such steps as are necessary to represent Mr. Lekota and to engage medical experts, if necessary and to approach the court by way of urgency should circumstances require it. (This order was necessitated by what had been reported as a 'turn for the worse' and re-hospitalization of Mr. Lekota).
- [28.4] The appointment of Mr. Kotane Lekota as an interim *curator bonis* with the authority to ensure that the welfare of the minor son was protected; and
- [28.5] the appointment of both Mr. Kotane Lekota and Adv Adams as joint interim *curators as personam* with the powers to jointly make medical decisions, provided however that decisions relating to daily living would be made by Adv Adams alone once Mr. Lekota returned home.
- [29] On 27 February 2026, Mr. Du Preez filed his report. He was able to obtain various additional medical reports which fortified the conclusions drawn by Dr Makasi that Mr. Lekota was not able to manage his own affairs. Her opinion was shared by:
- [29.1] Ms R Du Plessis (a clinical and neuropsychologist) who examined Mr. Lekota on 26 February 2026 while he was in the intensive care

unit at hospital, reviewed all the medical documents which were available and concluded that he *“Has required the appointment of a curator bonis and curator ad personam since May 2025”*. This was her opinion having examined him shortly before his passing.

[29.2] Dr R Gurnell (a specialist neurosurgeon) who considered all the medical information and documentation and concluded in a report dated 23 February 2026 that *“The clinical findings substantiate a lack of capacity to manage his own legal and financial affairs, necessitating protective measures from May 2025.”*

[29.3] Dr F Williams (the hospital general manager of the Morningside Medi-Clinic) who was aware of the state of health of Mr. Lekota and in a letter of 10 February 2026, stated that *“It is the opinion of the medical practitioners that he is not in a mental state suitable to him making medical decisions regarding his best interests.”*

[30] On 3 March 2026, Mr. Kotane Lekota filed his first interim *curator bonis* report. In it, he recorded, that he had been unsuccessful in arranging a meeting with Adv Adams. A proposal had been made on 16 February 2026, for a meeting between the three curators to address matters relating to their appointment. A comprehensive written agenda was sent to Adv Adams by the attorneys acting for Mrs Lekota proposing that a meeting be held on 18 February 2026 at 10h00 at Mr. Du Preez’s chamber. The proposed meeting would have included everybody as well as their legal representatives.

[31] On 17 February 2026, the legal representatives acting for Adv Adams responded and indicated:

"We confirm that we will attend the proposed meeting. Our client is presently unavailable to attend but has provided us with full instructions and authority to engage on her behalf."

- [32] The letter then went on to set out what was said to be the various needs of the minor son, who was now at school in the United Kingdom. It was also recorded that:

"We further record that our client has temporarily vacated the immovable property while the patient remains hospitalized. This step was taken purely in light of the present circumstances and does not constitute an abandonment of her position, residence or responsibilities."

- [33] On the same day, Ms Lekota's attorney responded asserting that a meeting should take place and requesting three alternative dates and times when the meeting could take place with Adv Adams present. The response was:

"Our client has considered the position and confirms that she is not available to attend a meeting in person."

- [34] A meeting was subsequently held on 18 February 2026, which was attended by Ms Adam's attorney but not by her. Requests for information were made at that meeting by both the *curator ad litem* and the interim *curator bonis* to enable them to carry out their functions and properly report to this court. The attendance of Ms Adam's attorney at the meeting was nothing more than "lip service". His undertaking to obtain instructions and revert to requests was clearly tactical. This is apparent from his response when he was pressed for responses. Some examples of this tactical approach were set out in a letter of 19 February 2026, by Ms Adam's attorneys, in which it was stated:

“We place on record that no personal undertaking was given by the writer, nor was any binding undertaking furnished on behalf of our client in the terms alleged in our correspondence.

During the meeting, it was expressly stated that we would obtain instructions from our client in relation to the requests raised and revert accordingly. That statement cannot reasonably or lawfully be construed as an undertaking to secure access to property, to provide banking credentials, or to facilitate disclosure of confidential financial information.”

- [35] In context, the interim curator bonis had requested access to the banking accounts of Mr. Lekota. The response to this request was:

“Our client was previously granted access to certain banking facilities by virtue of a lawful Power of Attorney granted by the Patient. She is neither authorised nor obliged to disclose banking login credentials, PINs, passwords or security information to third parties. Such disclosure would be improper and potentially unlawful.”

- [36] Needless to say, Mr. Kotane Lekota was surprised at the response. Further efforts were made to obtain comprehensive information and documentation. None of these elicited any response until 27 February 2026, when Adv Adams’ attorney addressed a letter requesting payment of the minor son’s school fees.

- [37] Investigation into the financial affairs of Mr. Lekota by the interim *curator bonis* revealed that in respect of one bank account, which had debit orders on it, there were no funds in it since 10 January 2026 and the debit orders were dishonored. He also obtained a bank statement from Mr. Lekota’s current account from which the following was ascertained:

- [37.1] Payments were made in the aggregate sum of R600 000.00 over the period 5 March 2025 to 2 February 2026 from Mr. Lekota's account to Ms Adam's account with the narration of "*joint household payments*".
- [37.2] Payments were made over the period 2 April 2024 to 12 February 2026 in the aggregate sum of R1 084 725.00 to Adv. Adams.
- [38] From the time Adv Adams was notified of the application on 11 February 2026 and the order by agreement was granted on 12 February 2026, the following transactions occurred on Mr. Lekota's current account at the instance of Adv Adams:
- [38.1] At 14h28, the sum of R250 000.00 was transferred to her attorneys of record.
- [38.2] At 14h34, the sum of R150 000.00 was transferred to Adv Adam's property company.
- [39] All these payments were made contemporaneously while Adv Adams knew an application for the appointment of a curator ad litem had been made and that the court was seized with not only the application for the appointment of both the *curator ad litem* but also an interim *curator bonis*. The inference is irresistible that having agreed to the order that was made on 12 February 2026, Adv Adams emptied Mr. Lekota's bank account, presumably while the parties were negotiating in good faith at court.
- [40] Unfortunately, on 4 March 2026, having never recovered, Mr. Lekota passed away in hospital. On 5 March 2026, the attorneys acting for Mrs Lekota addressed a letter to Adv Adam's attorneys informing them that they were

aware of the payment of R250 000.00 made from the bank account of Mr. Lekota to themselves on 12 February 2026.

- [41] Having regard to the facts of the matter, it being common cause that Mr. Lekota neither knew nor consented to the payment and that Adv Adams was aware of the extant curatorship proceedings, demand was made for the money to be held in trust alternatively to be paid into Mrs Lekota's attorneys trust account.
- [42] No response was received to this letter, with the result that on 5 March 2026, an amended notice of motion was filed wherein an order was sought for a declarator that Mr. Lekota was of unsound mind and incapable of managing his own affairs from 25 May 2025 to the date of his death. The application was set down for hearing on 6 March 2026 and was served on Adv Adams' attorney. The application was accompanied by a supplementary affidavit setting out and corroborating the steps taken, information ascertained and events since the granting of the order, by agreement, on 12 February 2026.
- [43] This was opposed by Adv Adams, who filed an affidavit in response to the supplementary affidavit. For reasons best known to herself, the answering affidavit did not deal at all with any of the allegations made with regards to the mental state of Mr. Lekota from 25 May 2025 to his date of death. Pertinently and of some concern, is that the affidavit also did not deal with the failure of the part of Adv Adams to co-operate with the *curator ad litem* and interim *curator bonis* or with the unexplained transfers from the current bank account on 12 February 2026 which left that account depleted.
- [44] The answering affidavit and indeed the argument presented at the hearing of the application, dealt only with the procedure that had been followed. Accordingly, the averments made by Mrs Lekota, Mr. Du Preez and Mr. Kotane Lekota as set out above, all stand unchallenged. It was argued that since Mr.

Lekota was now deceased, the curatorship proceedings had become moot and for that reason alone, this court ought to have dismissed the application.

- [45] The highwater mark of the argument, was that it would be *“inappropriate for this Honourable Court to determine issues that were not the purpose of the proceedings and which may have implications for the administration of the deceased estate and parties who are not presently before the Court.”*
- [46] This argument is to my mind, fallacious, self-serving and entirely contrived. The application when launched originally, was brought not only for the purpose of determining whether Mr. Lekota was of sound mind and capable of managing his own affairs, but also by Mrs Lekota in asserting her right to maintenance and support from her husband, her right to ensure access to medical aid, that had been provided to her by her husband and also, perhaps most importantly, to ascertain what the status was in respect of a joint – estate in which she held an undivided half share.
- [47] The thrust of Mrs Lekota’s concern and this is readily apparent from what is set out above, is that the management of the joint estate, while it may have vested in Mr. Lekota, himself the holder of an undivided half share, certainly never vested at all in Adv Adams and yet she exercised control over it in circumstances where Mrs Lekota had neither consented nor had any knowledge as to what she did or did not do.
- [48] It is not unsurprising that the report of Dr Makasi was withheld. From the report it is unequivocal that Dr Makasi was of the view that Mr. Lekota’s cognitive functioning, from the time she first saw him on 25 May 2025, was not and did not improve to a point where he was able to manage his own affairs.
- [49] This was the position on 27 January 2026 and it inexplicable why, Dr Makasi, knowing that Mr. Lekota was unable to manage his affairs, and having been

introduced to his wife and having received a written consent, would then acquiesce to the withdrawal of that consent by a man, who she did not regard as cognitively competent to do so.

- [50] On a conspectus of what occurred surrounding the giving and withdrawal of the consent and the subsequent revelation in the report of Dr Makasi, I am in no doubt that Adv Adams, who lived with Mr. Lekota knew he was unable to manage his affairs, at least from 25 May 2025. Adv Adams is a legal practitioner and must have been aware on 25 May 2025 that no authority given to her by him was any longer of any legal force or effect. Any actions taken by her would at best have been as a *negotiorum gestor* but would have excluded her self-interest. This is not what occurred.
- [51] It is furthermore confounding that besides continuing to operate on the accounts in the joint estate, she failed to inform Mrs Lekota of her access and operations but rather chose to act in a manner to obstruct the revelation of the true situation. Adv Adams had the opportunity to take the court into her confidence and to explain the payments to herself over the course of the period from 25 May 2025 up to 12 February 2026 but was advertant in her failure to do so.
- [52] This is not a matter that has become moot. The day-to-day maintenance and welfare of Mrs Lekota lay at the heart of the proceedings when they were commenced and neither diminished through the course of those proceedings nor extinguished even in consequence of the death of Mr. Lekota.
- [53] The death of Mr. Lekota could never have provided a respite for Adv Adams in having to account for her actions with regards to the joint estate. The withdrawal of money and emptying of Mr. Lekota's current account on 12 February 2026 required explanation. None has been furnished.

- [54] Besides the estate of Mr. Lekota and his heirs, the right of Mrs Lekota to her undivided half share in the joint estate remains unaffected. Adv Adams is required to account for the withdrawals from Mr. Lekota's bank account. She knew, as a legal practitioner, that any power of attorney or authority (none of which was placed before this Court) that he may have given to her had lapsed as soon as Dr Makasi had found he was cognitively impaired on 25 May 2025.
- [55] The explanation given by her attorney in the letter of 17 February 2026 regarding a possible breach of confidentiality as a reason for not giving the interim curator bonis the information he needed to take control of the estate, when she had agreed to his appointment, is in my view disgraceful and indicative of an attempt to obstruct the interim *curator bonis* in the discharge of his duties.
- [56] While this application may have started as one to obtain access to the medical records of the administrator of the joint estate, it was always one in respect of which Mrs Lekota sought to assert her own rights, to her undivided share in her joint estate.
- [57] When the application for the declaratory order was brought, it was brought on the basis that no order for costs would be sought if it was unopposed but that if opposed a punitive order for costs would be sought. Up to the granting of the order on 12 February 2026, the parties had agreed that the costs would be costs in the joint estate.
- [58] Since the declarator was opposed, costs will follow the result. I am satisfied that having regard to the conduct of Adv Adams, a punitive order for costs is warranted in this matter. Given the nature and importance of this case to Mrs Lekota, it is appropriate that the costs of counsel be awarded on scale C.

- [59] Before making the order that I intend to make, something needs to be said about the conduct of certain professional persons involved in this matter.
- [60] Firstly, the conduct of Dr Makasi that I have set out above, is inexplicable to me and in the circumstances, Mrs Lekota's attorneys are directed to deliver a complete set of the papers in this case, and in particular Mr. Du Preez's interim report to the Health Professions Council of South Africa so that they may consider her conduct.
- [61] Secondly, the conduct of Advocate Adams is a matter of grave concern. The concern is particularly regarding the transfer of funds from Mr. Lekota's account while she was negotiating the court order, by agreement and then her subsequent refusal to co-operate with the *curator ad litem* and interim *curator bonis*. Mrs Lekota's attorneys are directed to deliver a copy of this judgment to the Legal Practice Council Gauteng and to the Johannesburg Society of Advocates.
- [62] Thirdly, the failure of Advocate Adams' attorneys to respond to the request that the money unlawfully paid into their trust account from the account of Mr. Lekota on 12 February 2026 be held in trust alternatively their failure to make repayment of that amount into the trust account of Mrs Lekota's attorney be referred to the Legal Practice Council Gauteng by Mrs Lekota's attorneys. A copy of this judgment is also to be delivered to the Legal Practitioners Fidelity Fund.
- [63] In the circumstances, it is ordered that:
- [62.1] The applicants' non-compliance with the Orders of Court concerning forms, service, and periods otherwise applicable be and is hereby

condoned, and that this application be heard and adjudicated upon as an urgent application in terms of Uniform Rule 6(12).

[62.2] It is declared that the now deceased Patient, MOSIUOA GERARD PATRICK LEKOTA, was of unsound mind and incapable of managing his own affairs from 25 May 2025 to the date of his death on 4 March 2026.

[62.3] Advocate Adams is ordered to pay the costs of this application from 5 March 2026 on the scale as between attorney and client, which costs are to include the costs of counsel on scale C.

A MILLAR

**JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA**

HEARD ON: 6 MARCH 2026

JUDGMENT DELIVERED ON: 23 MARCH 2026

COUNSEL FOR THE APPLICANT: ADV. R VAN SCHALKWYK
INSTRUCTED BY: GOODES & CO ATTORNEYS
REFERENCE: MR. GOODES

COUNSEL FOR THE RESPONDENT: MR. SIPHUMA

INSTRUCTED BY:

MNYENGEZA ATTORNEYS

REFERENCE:

MR. MNYENGEZA