



**IN THE HIGH COURT OF SOUTH AFRICA  
FREE STATE DIVISION, BLOEMFONTEIN**

**Not reportable**

Case no: 2814/2025

In the matter between:

**OPPERMANSGRONDE COMMUNAL  
PROPERTY ASSOCIATION**

**APPLICANT**

and

**RUBEN CLASSEN**

**FIRST RESPONDENT**

**BRADLEY NIEWENHUIZEN**

**SECOND RESPONDENT**

**GEORGE ADAMS**

**THIRD RESPONDENT**

**JAMES ARENDS**

**FOURTH RESPONDENT**

**ETTIENE CLASSEN**

**FIFTH RESPONDENT**

**MURIEL DE KOKER**

**SIXTH RESPONDENT**

**MARTHA PLAATJIES**

**SEVENTH RESPONDENT**

**CHAMEEL LEMMETJIES**

**EIGHTH RESPONDENT**

**HANSIE SNYERS**

**NINTH RESPONDENT**

**KEITH MEYER**

**TENTH RESPONDENT**

**STEWART ARENDS**

**ELEVENTH RESPONDENT**

**LENARD ONTONG**

**TWELFTH RESPONDENT**

|                    |                        |
|--------------------|------------------------|
| LEGRANIE JOSEPH    | THIRTEENTH RESPONDENT  |
| LAWRENCE JULIES    | FOURTEENTH RESPONDENT  |
| RUDOLPH SMITH      | FIFTEENTH RESPONDENT   |
| WAYNE CARELSE      | SIXTEENTH RESPONDENT   |
| WERNER LEMMETJIES  | SEVENTEENTH RESPONDENT |
| ISAK MOTSABI       | EIGHTEENTH RESPONDENT  |
| PIETER OLIVIER     | NINETEENTH RESPONDENT  |
| VICTOR VAN HEERDEN | TWENTIETH RESPONDENT   |

**Neutral citation:** *Oppermansgronde Communal Property Association v Ruben Classen & Others* (2814/2025) [2026] ZAFSHC 80 (2 March 2026)

**Coram:** CHESIWE J

**Heard:** 11 September 2025

**Delivered:** This judgment was handed down electronically by circulation to the parties' representatives by email and released to SAFLII. The date and time for hand-down is deemed to be 13h00 on 2 March 2026.

**Summary:** Rule *nisi* – confirmation of interim order – interdict – protest action – threats of violence – damage to property – right to peaceful assembly – Constitution of the Republic of South Africa, 1996 – *locus standi*.

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## ORDER

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- 1 The rule *nisi* issued on 6 June 2025 is confirmed.
  - 2 The costs to be paid by the respondents, jointly and severally, the one paying the other to be absolved.
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## JUDGMENT

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**Chesiwe J**

### Introduction

[1] This is an opposed application on the return date of an interim order that was granted on 6 June 2025. The application was initially an urgent on 6 June 2025, in which the applicant sought to interdict the respondents from committing acts of disruption, threats of violence, destroying of the applicant's property and intimidation. The matter was again before court on the opposed roll of 11 September 2025. The relief sought by the applicant in the opposed application is listed in paragraphs 1, 2, 3, and 4 of the notice of motion and will not be repeated herein.

### Background

[2] The applicant is the owner of approximately 38 000 hectares of farmland in Oppermansgronde, in the Free State Province. The applicant concluded a written lease agreements with some of its members for farming activities. Some of the respondents who are not members of the applicant started to conduct farming activities on the applicant's land unlawfully. On 20 May 2025, correspondence was sent through to the attorneys of the applicant about the unlawful farming activities including a request for a meeting to resolve the dispute between the applicant and the respondents.

[3] On 29 May 2025, the respondents protested outside the business premises of the applicant at Kamp 89, Stofdam, Oppermansgronde 9987, known as "Die Sand". During the protesting, the respondents damaged property, damaged the locks and fences, broke down and took down the notification board and assaulted some of the

applicant's employees, specifically Mr Samuel Lemmetjies (Mr Lemmetjies). The first and fifth respondents jumped over the security fence to continue with their threats against Mr Lemmetjies and Ms Saliza de Koker. The police were called to intervene in order to stop the respondents from destroying the property further, and the threats against the employees of the applicant. The applicant then launched an urgent application which was heard on 6 June 2025, with a return date of 17 July 2025.

[4] On 17 July 2025, the matter was further postponed to 11 September 2025 and the rule *nisi* was extended to the same date. The court further ordered that the second to forth respondents and sixth to twentieth respondents (the respondents) file their answering affidavit on or before 21 August 2025. The rule *nisi* was confirmed against the first and fifth respondents. On 11 September 2025, the matter proceeded on the opposed roll. The respondents filed their answering affidavits and all parties filed their written heads of argument as per the court's directives.

### **Issue**

[5] The issue for determination is whether the rule *nisi* granted on 6 June 2025 should be discharged or confirmed.

### **Submissions**

[6] Counsel on behalf of the applicant submitted in oral argument that it is common cause that there is infighting in the association due to members who are not in good standing being terminated. Further that, the respondents want to portray their protesting as a constitutional right, whereas the respondents threatened to kill the committee members. Moreover, counsel submitted that the respondents are not prohibited from lawful protesting however, are prohibited from damaging property, threatening and intimidating members of the association.

[7] Counsel on behalf of the respondents submitted that the applicant is abusing the courts to frustrate the respondents from exercising their constitutional right to protest. Further that, the threats to kill the committee members is a constitutional right and made reference to the matter of *AfriForum v Economic Freedom Fighters and*

*Others (AfriForum)*.<sup>1</sup> Moreover, that there is no evidence of these threats except for the photos that were attached to the application. Additionally, counsel submitted that only two of the respondents were identified and that the tenth, fifteenth and sixteenth respondents were not present, but have been cited. Additionally, counsel challenged the authority of the deponent to act as a litigant in this matter, including the unsigned affidavits that were filed on the respondents.

[8] I pause to mention that, the issue of the unsigned confirmatory affidavit was resolved as the signed copy was filed in the court file. Thus, that issue does not need to be dealt with any further. However, the respondents challenged the authority of the deponent, Mr Clint Louis Barnes (Mr Barnes) in that he did not have the authority to litigate on behalf of the applicant to which counsel for the applicant submitted that the issue of lack of *locus standi* isn't even a none starter. In the notice of motion, the applicant included the founding affidavit of Mr Barnes, which stated as follows: 'I am the applicant's chairperson and it has duly authorised me to launch these proceedings on its behalf.'

[9] The respondents filed a rule 7(1) notice disputing the authority of the deponent, to which the applicant responded and filed its power of attorney that Kramer Wiehmann Inc acts on its behalf including the special resolution, which states: 'Die OGEV Komitee hee hierme die reg an hul prokeruirs by Kramer Wiehmann en die voorsitter, Mnr. C L Barnes om enige aksie te neem hetsy regs suviel. . . '.

[10] Based on the above, I am inclined to agree with counsel on behalf of the applicant that the dispute of lack of *locus standi* is a none starter. The applicant has submitted evidence before this Court that the entity had resolved to institute proceedings and that these are instituted at its instance<sup>2</sup> and that it is being represented by the deponent and the attorneys. The applicant has provided sufficient evidence that the deponent had the authority.

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<sup>1</sup> *AfriForum v Economic Freedom Fighters and Others* [2024] ZASCA 82; [2024] 3 All SA 319 (SCA); 2024 (10) BCLR 1275 (SCA); 2024 (6) SA 1 (SCA).

<sup>2</sup> *Mall (Cape) (Pty) Ltd v Merino Ko-operasie BPK* 1957 (2) SA 347 (C) at 351H.

[11] The respondents on their own version in the answering affidavit stated that, Mr Barnes is the chairman of the applicant as he was the successor of his father and held this position for a long time. Thus, the respondents' plea of lack of *locus standi* cannot stand and ought to be dismissed. The inference drawn is that the respondents recognise the deponent as the chairperson of the association and has the authority to litigate. Urgency in terms of rule 6(12) was already granted on 6 June 2025 and will not be dealt with, save to mention that in applications of this nature, the judge may dispense with the forms and service as provided.

*rule nisi* – legal principles

[12] The *rule nisi* that was granted as an interim order, called upon the respondents to show cause why the provisional order ought not be confirmed. The said order was served on the respondents by the sheriff with a return date of 17 July 2025. On the said date, the *rule nisi* was extended to 11 September 2025 to grant the respondents an opportunity to file their answering affidavit on or before 7 August 2025 and the applicant to file its reply on or before 21 August 2025. A *rule nisi* is premised on the acceptance that the interests of justice require the balancing of rights of the applicant/s and the respondent/s and to ensure that the protection of the applicant/s does not prejudice the respondent/s' interest as well.

[13] In *National Director of Public Prosecutions v Mohammed N O and Others*,<sup>3</sup> the court held as follows:

'[28] Our common law has recognised both the great importance of the *audi* rule as well as the need for flexibility, in circumstances where a rigid application of the rule would defeat the very rights sought to be enforced or protected. In such circumstances, the court issues a *rule nisi* calling on the interested parties to appear in court on a certain fixed date to advance reasons why the rule should not be made final, and at the same time orders that the *rule nisi* should act immediately as a temporary order, pending the return day. This practice has been recognised by the South African courts for over a century.'

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<sup>3</sup> *National Director of Public Prosecutions v Mohammed N O and Others* [2003] ZACC 4; 2003 (1) SACR 561; 2003 (5) BCLR 476; 2003 (4) SA 1 (CC).

[14] The respondents had an opportunity through their answering affidavit and denied the allegations raised against them of threats to kill and intimidation of the applicant's members in good standing. At paragraph 24 of the answering affidavit, the following is noted:

'...It was never our intention nor plan to enter the premises. We had all agreed to remain outside for a short duration or until the deponent confirms a meeting with us.'

[15] Ad paragraph 10.4, the response thereof is as follows:

'25.2 it is admitted that the first and fifth respondents jumped over the locked gate, but only them and nobody else. ...

25.3 ...They were there for a very brief time and jumped back again.'

However, the applicant in its founding affidavit, paints a different picture. The applicant states that the first respondent threatened Mr Lemmetjies by picking up a brick and pretended to throw it in direction and uttered that Mr Lemmetjies will be *sorted out*. Moreover, attached to the applicant's application are annexures, one of which is a photo depicting a placard with an inscription: '*Kill the committee. Kill the puppet system freedom is coming*'. The other, is a photo of the damage to the gate. Further to that, the respondents' action, on the day was intervened by a police officer, Lure Groenewald, who attempted to mediate the dispute between the parties. It is clear that, had the police not intervened in this instance, the damage to property and the protesting could have gotten out of hand. It has duly been seen on the news that often at times when people protest, property is damaged.

[16] The respondents' counsel in oral argument as already stated above, submitted that the inscription of the placard: '*Kill the committee*' is freedom of expression and is similar to the matter of *AfriForum*. However, this matter is distinguishable from the current matter as it falls under hate speech and a threat to kill is thus not comparable. The court takes cognisance of s 17 of the Constitution of the Republic of South Africa, 1996, which in regard to assembly, demonstration, picket and petition provides as follows:

'Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.'

[17] Nowhere does the above-mentioned section of the Constitution reference threats or damaging of property. Section 16 of the constitution which deals with freedom of expression does not extend to incitement of imminent violence. Mr Lemmetjies cannot be faulted for fearing a brick being thrown at him by the first respondent albeit in pretence and with the chanting, signing and walling threatening messages. This was sufficient for the applicant to approach the court on an urgent basis.

[18] It is indeed common cause between the parties that there has been infighting for years. The dispute could have been resolved through other means and not through threats and violence. The respondents should not have made threats in order for the applicant to agree to a meeting.

### **Conclusion**

[19] The respondents were called upon to show good cause as to why the order should not be made final. In their opposing affidavit, the respondents simply denied these allegations and mentioned that the alleged threats and intimidation could have been resolved through a criminal case. The respondents in this case went beyond the right to a peaceful and unarmed protest, the right that is protected under s 17 of the Constitution. The respondents even went further with the damaged property and acts of threats and violence. In my view, the respondents have failed to show good cause as to why the order should not be confirmed.

### **Costs**

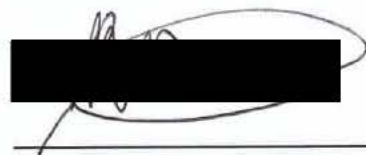
[20] The general rule is that costs follow the successful party. The respondents' conduct caused the applicant to approach the court. And in the absence of a meeting, a clout of threats and intimidation, the applicant would not have approached the court on an urgent basis. Thus, this warrants that the respondents pay the costs jointly and severally.

### **Order**

[21] Accordingly, the following order is made:

- 1 The rule *nisi* issued on 6 June 2025 is confirmed.

2 The costs to be paid by the respondents, jointly and severally, the one paying the other to be absolved.

A handwritten signature in black ink, which appears to be "S Chesiwe", is written over a solid black rectangular redaction box. The signature is fluid and cursive.

**S CHESIWE**  
**JUDGE OF THE HIGH COURT**

**Appearances**

For the appellant:

Instructed by:

S Grobler SC

Kramer Weihmann Incorporated,  
Bloemfontein

For the respondents:

Instructed by:

C M D Rawson

UFS Law Clinic,  
Bloemfontein.