



**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG**

Not Reportable

Case no: 2720/2024

In the matter between:

PATRICIA SPOONER

APPLICANT

and

PURPLE RAIN PROPERTIES 428 (PTY) LTD FIRST RESPONDENT

and

**FREDERIK JOHANNES VAN TONDER (JUNIOR) FIRST
INTERVENING PARTY**

and

ANÉ VAN TONDER SECOND INTERVENING PARTY

Coram: PETERSEN ADJP

Heard: 06 March 2026

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives via email, and uploaded to CaseLines. The date and time for handing down are deemed to be 10h00 on 09 April 2026.

Summary: Eviction — Intervention — Rule 10 of the Uniform Rules of Court — Direct and substantial interest — Applicant for intervention residing on farm with alleged personal consent of owner and named as beneficiary in owner's will has a direct and substantial interest in eviction proceedings — Beneficiary of a

different property under the same will does not — Application for intervention partially granted — First Intervening Party joined as second respondent — Application by Second Intervening Party dismissed — Matter postponed sine die for filing of further affidavits.

JUDGMENT

PETERSEN ADJP:

Introduction

[1] This is an interlocutory application in which Frederik Johannes van Tonder (Junior) and Ané van Tonder seek leave to intervene in eviction proceedings brought by the applicant, Patricia Spooner, against the first respondent, Purple Rain Properties 428 (Pty) Ltd ('Purple Rain'). The applicant opposes the intervention. The first respondent supports the application.

Background

[2] The applicant is the registered owner of two farms, Portion 2 of the Farm Zeekoeqat 331 and Portion 5 of the Farm Kareebosch 90 ('the properties'). Purple Rain is in possession of the properties and conducts farming operations thereon. The main application seeks its eviction, following the alleged cancellation of written lease agreements.

[3] Mr van Tonder Junior has resided on the Kareebosch farm since approximately 2015, in a house constructed on the property by Purple Rain. He avers that his occupation has at all times been with the applicant's knowledge and express consent, and that the two families developed a close personal relationship over the years. The applicant executed a will on 15 June 2015 bequeathing the properties to him. Ms. Ané van Tonder is a beneficiary under the same will, but

her bequest relates to the applicant's townhouse in Lichtenburg, a property separate from and unrelated to the present proceedings.

The legal framework

[4] Rule 10 of the Uniform Rules of Court permits any person with a direct and substantial interest in any proceedings to intervene as a party. The governing test is whether the applicant for intervention holds a legal interest in the subject matter of the litigation that would be prejudicially affected by the court's order, such that the applicant could not adequately protect that interest in other proceedings.¹ A mere financial or commercial interest in the outcome is insufficient.

[5] The Constitutional Court added an important dimension in *Klaase and Another v Van der Merwe NO and Others*,² particularly in the context of eviction. At paragraphs [146] to [153], the Constitutional Court emphasized that the joinder of all persons with a direct and substantial interest in eviction proceedings is not a procedural formality but a fundamental requirement of fairness. At paragraphs [148] and [152], the Constitutional Court stated:

‘[148] The joinder of all persons who have a direct and substantial interest in the proceedings is not merely a procedural technicality. It is a fundamental requirement of fairness. A court should not be asked to issue an order that may affect a person's right to occupy property without that person being allowed to be heard.

...

[152] In the context of eviction proceedings, the consequences of an order are particularly grave. Displacement from one's home engages the constitutional values of dignity and equality, and the right to access adequate housing under s 26 of the Constitution. It is therefore imperative that all persons whose occupational rights may be terminated by a court order are joined to the

¹*United Watch & Diamond Co (Pty) Ltd v Disa Hotels Ltd* 1972 (4) SA 409 (C) at 415C–H; *Henri Viljoen (Pty) Ltd v Awerbuch Brothers* 1953 (2) SA 151 (O).

²*Klaase and Another v Van der Merwe NO and Others* 2016 (6) SA 131 (CC).

proceedings, so that they may advance their own case and protect their own interests.’

[6] The Constitutional Court held that a person with an independent right to occupy, even a disputed one, has a direct and substantial interest in eviction proceedings. Whether such a right is established is a matter for adjudication on the merits; for purposes of joinder, it suffices that the person alleges facts which, if true, would establish it.

Application to the facts

[7] Turning first to Mr. van Tonder Junior. It is common cause that he resides on the Kareebosch property. His occupation is not disputed as a present fact. What is in issue is its legal character. He alleges occupation with the applicant’s personal consent, independent of Purple Rain’s occupancy under the lease. If that is so, he may hold rights distinct from those of Purple Rain, rights that may attract the protection of the Extension of Security of Tenure Act 62 of 1997.

[8] His personal interest acquires further content from the bequest in his favour. The transcript of a conversation on 08 July 2021, forming part of the papers in the main application, contains repeated references by Mr van Tonder Senior, the director of Purple Rain, to the shared understanding that ‘*die plaas gaan na Frikkie toe gaan*’ — ‘the farm is going to Frikkie’. The applicant’s response, ‘*Ja, maar...*’ — ‘Yes, but...’, is not a denial. It is consistent with a shared understanding that Mr van Tonder Junior held a personal and prospective interest in the property. Read with the will of 15 June 2015, this discloses an interest that is personal to him and qualitatively distinct from Purple Rain’s corporate and contractual interest.

[9] Were the eviction order granted without his participation, Mr. van Tonder Junior would be displaced from his home, and his ability to assert any personal right to occupy thereafter would be severely compromised. The purpose of

joinder is to ensure that all parties who may be affected by an order are before the court so that they may be heard and their interests considered. To proceed in his absence would risk granting relief that extinguishes rights he has had no opportunity to advance.

[10] The *Klaase* judgment leads inexorably to the same conclusion. Mr. van Tonder Junior faces potential eviction from his home. This circumstance directly engages the constitutional values of dignity and equality, and the right of access to adequate housing under s 26 of the Constitution. His interest is moreover qualitatively different from, and more compelling than, that of Purple Rain, a corporate entity. Purple Rain cannot adequately represent this distinct, constitutionally infused personal interest. Mr. van Tonder Junior has a direct and substantial interest in the proceedings. His application for intervention must accordingly succeed.

[11] Ms. Ané van Tonder's position is materially different. Her bequest under the applicant's will relates to the townhouse in Lichtenburg, a property not the subject of these proceedings. She has no occupational interest in either farm, neither residing on them nor asserting any right to do so. The outcome of the eviction application does not directly affect her, nor does it touch the validity or operative effect of the will. Whatever testamentary right she may ultimately enjoy, it is not a legal interest that would be prejudicially affected by the specific relief sought here. The *Klaase* principle affords her no assistance, for she is not at risk of eviction in these proceedings. Her application for intervention therefore cannot succeed.

Procedural consequences of joinder

[12] The joinder of Mr. van Tonder Junior as the second respondent substantially alters the procedural posture of the matter. The pleadings in the main application were closed before his joinder. He has had no opportunity to place his

version before the court. Elementary fairness requires that he be afforded that opportunity before the main application proceeds against him. A postponement is therefore necessary, together with directions regulating the filing of further affidavits.

[13] In the interests of justice and to avoid a piecemeal approach to the litigation, the matter should be postponed *sine die*. Mr. Van Tonder Junior, for all intents and purposes, having been joined to the application (‘now the second respondent’), must deliver his answering affidavit within a fixed period. Thereafter, the applicant may, if so advised, deliver a replying affidavit. Only once this process is complete will the matter be ripe for further case management and, where necessary, referral to oral evidence or trial.

Costs

[14] Mr. van Tonder Junior has been substantially successful in his application. He should not bear the costs he incurred in pursuing it, but as the outcome of the main application remains undecided, an order that his costs be costs in the main application is appropriate. Ms. Ané van Tonder’s application has been dismissed. Given the personal nature of her interest and the basis on which she came to court, no order as to costs against her is warranted. The costs occasioned by the postponement shall similarly be costs in the main application.

Order

[15] The following order is made:

1. The application by Frederik Johannes van Tonder (Junior) to intervene in these proceedings is granted; and he is accordingly joined as the second respondent in the main application.

2. The second respondent (Frederik Johannes van Tonder Junior) is directed to deliver his answering affidavit within 30 (thirty) days of the date of this order.
3. The applicant is directed to deliver its replying affidavit, if any, within 15 (fifteen) days of receipt of the second respondent's answering affidavit.
4. The application by Ané van Tonder to intervene is dismissed, with no order as to costs.
5. The costs of the intervention application and consequent postponement of the application shall be costs in the main application.
6. The main application is postponed sine die.
7. Upon compliance with either of paragraphs 2 or 3, any of the parties may apply to the Registrar of this Court for a date of set down of the main application on the Opposed Motion Roll.
8. The costs occasioned by the postponement shall be costs in the main application.



A H PETERSEN

**ACTING DEPUTY JUDGE PRESIDENT OF THE HIGH COURT OF
SOUTH AFRICA**

NORTH WEST DIVISION, MAHIKENG

Appearances:

For the applicant: Adv D H Wijnbeek
Instructed by Uys Matyeka Schwartz Attorneys
c/o Maree and Maree Attorneys
Mafikeng

For the first respondent: Adv H P van Nieuwenhuizen
Instructed by Bosman and Bosman Attorneys
c/o Labuschagne Attorneys
Mafikeng

**For the first and second
intervening parties:** Adv J Neveling
Instructed by Oelofse Attorneys
Mafikeng