



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case No:215354/25

(1) REPORTABLE: **NO**
(2) OF INTEREST TO OTHER JUDGES: **NO**

(3) REVISED: **YES**

DATE 29 APRIL 2026

SIGNATURE

In the matter between:

TSHINAKAHO CYNTHIA RAMANUGU

Applicant

and

REGIONALD NZAMA MATHEBULA
REGISTRAR OF DEEDS, PRETORIA

First Respondent
Second Respondent

NEUKIRCHER J:

1] This is an urgent application for the rescission of an order granted by Goosen

AJ on 7 April 2026 in the urgent Family Court. The order was granted, without appearance by the applicant (although she had filed answering papers), as follows:

- “1. ...
2. The Second Respondent¹ is hereby directed and authorized to forthwith uplift and cancel Caveat I – 310/2025I, which was noted against the title deed of the immovable property described as **UNIT 3[...] P[...], A[...] ESTATE, THE REEDS, PRETORIA** (“the Property”).
3. The sale and registration of transfer of the Property referred to in paragraph 2 above for the sum of R1,350,000.00 is authorized to proceed immediately and/or any other subsequent sale thereof.
4. The Sheriff of the High Court is hereby authorized and directed, in terms of Clause 5 of the Court Order under Case No GP/PTA/RC/2443/2018, to sign any and all necessary conveyancing documentation, Offers to Purchase, and transfer documents on behalf of the First Respondent, dispensing with any need for her cooperation.
5. That all costs associated with the Sheriff’s involvement, as contemplated in prayer 4 above, shall be borne by the First Respondent.
6. The First Respondent is ordered to pay the costs of the application, as well as the costs of the main application, on a punitive attorney and client scale C.”

2] I must remark in passing that once attorney and client costs are ordered, it is unnecessary to set the scale at which those costs must be taxed – they are automatically taxed on the punitive scale by virtue of the order. It is only when party and party costs are ordered that it is necessary for the court to state the scale on which those costs must be taxed. The reason for this is that the default position is that costs are taxed on Scale A unless the court orders otherwise.

¹ The Registrar of Deeds

3] The facts of this application are not contentious. It is common cause that the present first respondent (RNM) launched an urgent application and set it down for hearing on 31 March 2026. The present applicant's (TCM) attorney appeared on that date and sought leave to file TCM's answering affidavit. As a result, the urgent application was postponed *sine die* and TCM was ordered to pay the punitive costs of that postponement.

4] RNM's attorney then filed a notice of set down for 7 April 2026 for the urgent Family Court. It is common cause that this was emailed to TCM's attorney. It is common cause that it was not served on the Registrar of Deeds. It is lastly common cause that on 7 April 2026, although TCM had previously filed her answering affidavit, there was no appearance for her and the order was granted as sought. As I do not have a transcript of those proceedings, and there is no *ex tempore* judgment, I make no further comment.

5] According to TCM's attorney, the order came to his attention on 9 April 2026 when he accessed CaseLines to upload TCM's served documents. He then saw the order of 7 April 2026. He then went through his inbox emails and saw that the replying affidavit had been emailed to him on 1 April 2026. Another perusal of CaseLines showed that a notice of set down had been uploaded. This he eventually found in his "spam" folder. He also found in that "spam" folder heads of argument that had been emailed to him on 2 April 2026.

6] This is therefore the reason that the notice of set down had not come to his attention in time and it also explains why there was no appearance for TCM on 7 April 2026.

7] There is certainly something to be said about the attorney's failure to check his emails, including his spam folder, daily (if not more often than that) as this entire application could have been avoided had he simply done so.

8] Be that as it may, what is more concerning is an issue that was only raised in reply. Whilst this method of litigation is to be deprecated, an issue was raised which has proven to be dispositive of the rescission application: as it turns out, there is no proof of service of either the main application or the notice of set down of that application² on the Registrar of Deeds. The Registrar of Deeds was not merely cited as an interested party in the main application – relief was sought against it. It was therefore imperative that the application be served on it.

9] RNM's counsel addressed me on this issue and although he "seemed to recall" serving on the Registrar of Deeds, he conceded that there was no proof of that service uploaded to CaseLines.

10] This means that at the time the main application was heard on 7 April 2026, the papers were not in order. I am of the view that had this issue been brought to the attention of court at that time, the order would not have been granted as the service

² Which was raised by TCM

is a material aspect. As a result, I find that the order was therefore erroneously sought and erroneously granted within the meaning of Rule 42(1)(a).

11] Given that I am of the view that the order was erroneously sought and erroneously granted, it is not necessary for TCM to show “good cause”³.

12] However, in my view, TCM has litigated in a less than satisfactory manner. Firstly, her delay in filing her answering affidavit in the main application caused a delay in those proceedings. Secondly, her attorney’s negligence in checking his emails does not excuse her.⁴ Thirdly, the way she has litigated this rescission application leaves much to be desired. I intend to show my displeasure by making an appropriate order for costs.

ORDER

1. The order granted by Goosen AJ on 7 April 2026 is rescinded and set aside.
2. The applicant (TCM) is ordered to pay the first respondent’s (RNM) costs of the rescission application on the attorney and client scale.

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

³ Bakoven Ltd v GJ Howes (Pty) Ltd 1992 (2) SA 466 (E). Topol and Others v LD Group Management Services (Pty) Ltd 1988 (1) SA 639 (W)

⁴ De Wet and Others v Western Bank 1977 (4) SA 770 (T); Topol and Others (supra)

This judgment was prepared and authored by the judge whose name is reflected and is handed down electronically by circulation to the parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 29 April 2026.

For the Applicant	:	Mr Mekwa
Instructed by	:	Mekwa & Associates Attorneys
For the First Respondent	:	Mr Baloyi
Instructed by	:	Baloyi Ntsako Attorneys Inc
Matter heard on	:	23 April 2026
Judgment date	:	29 April 2026