IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 070978/23

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

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

(3) REVISED.

DATE: 19/05/2026

SIGNATURE:

In the application of:

THE BODY CORPORATE OF LEISURE BAY	**Applicant**
and	
LESEGO L MORETLWE	**Respondent**

JUDGMENT

LABUSCHAGNE J

[1] The respondent is the owner of Unit 1[...] in the sectional title scheme known as Leisure Bay, Erasmusrand. By virtue of such ownership the respondent is a member of the Body Corporate of Leisure Bay, the applicant and is liable to pay levies on a monthly basis. The respondent fell into arrears and the applicant obtained a judgement in the Magistrates Court on 30 May 2022 for R46 150,52. Thereafter a payment arrangement

was entered into but the respondent, after making two payments, defaulted. The applicant then proceeded with sequestration proceedings.

[2] The applicant obtained a provisional order of sequestration on 13 November 2023 from Ceylon AJ with a return date of 14 March 2024. This return date was extended to 24 May 2024 and was again extended to 15 July 2024.

[3] When the respondent filed her answering affidavit, the applicant contends that it made an error by removing the matter from the roll on 15 July 2024, thereby causing the discharge of the rule nisi on or about 01 July 2024. An order confirming the lapsing was granted on 15 July 2024 by Holland-Muter J (in which the date is incorrectly reflected as 15 June 2024).

[4] The applicant now applies in terms of Rule 27(4) for the revival of the lapsed **rule nisi** which it had obtained in the sequestration proceedings of the respondent for non-payment of levies due and payable to the applicant.

[5] When the matter was called, the respondent appeared in person. She contended that she had made significant payments in July 2024 and that was the reason why the return date had lapsed. This contention does not bear scrutiny. The answering affidavit in the sequestration application was signed on 18 June 2024,t he notice to remove is dated 01 July 2024 and the rule was discharged on 15 Juloy 2024. There is no indication that the matter had been settled or that the payments made were the reason why the rule lapsed. I accept that the discharge of the rule was a clerical error on the part of the applicant.

[6] What is apparent is that the filing of the answering affidavit and the filing of the subsequent replying affidavit indicated that both parties intended the matter to proceed. I am satisfied therefore that there is a basis for approaching the court for the indulgence. However, there are considerations which militate against the granting of the revival of the **rule nisi.**

[7] The applicant is seeking an indulgence and must establish good cause for the revival of the rule nisi in terms of rule 27(4). Part of that onus is to establish that the respondent won't be prejudiced. It is this issue that moves me to decline the revival.

[8] The respondent has been paying an amount which she thought was more than adequate to cover the arrears. She contends that this was done because the outstanding amounts due by her were not disclosed to her. There is a degree of acrimony in the communication between the respondent and the applicant. I stood the matter down for two days in order to enable the parties to try and settle the matter, but this came to naught.

[9] The outstanding amount of the levies includes legal costs in enforcement proceedings which, according to the Rules of the Body Corporate, are for the account of the delinquent homeowner. Nevertheless, the amount in question has increased from the aforesaid judgment debt (Roughly R46 150) when the provisional order was granted to an amount in the region of R205 000.00.

[10] The respondent appears resolute in her attempts to save her family home and were the revival order to be granted, she would be deprived of her **locus standi** to do anything in this regard. She would not be in a position to negotiate a settlement with the applicant. She would not be able to pursue alternative sources of finance to meet her arrears. All of this, in circumstances where the outstanding amount is but a fraction of the value of properties within Leisure Bay. Claims by the applicant regularly appear in this court and although no specific value is attached to the property of the respondent, the court takes judicial notice thereof that the property value far exceed the amount due to the Body Corporate for outstanding levies.

[11] Sadly, the respondent is under the impression that pleas of financial pressure are a defence to an accumulating debt. She has raised the same defence to the revival application that she raised to the sequestration application.

[12] I am not satisfied that a revival order should be granted in these circumstances as it would unduly prejudice the respondent. The purpose of the revival application is to obtain an opposed motion hearing date, as a provisional order is a precursor to a sequestration. However, as both parties intended the proceedings to be finalised through affidavits that they have filed, the matter should proceed, nevertheless. The prejudice to the parties in respect of the finalisation of the sequestration proceedings can be cured. It relates to the regulation by the Court of its own affairs. The Court has wide powers under sec 173 of the Constitution to do so.

[13] The Registrar will be requested to enrol this matter on the next available opposed date which is 11 August 2026. It will be enrolled as an opposed sequestration application, despite the absence of a rule nisi returnable on that date.

[14] In the premises the following order is made:

1. It is declared that the **rule nisi** was discharged in error on 15 July 2024.

2. The application for the revival of the rule nisi is dismissed.

3. Ntwithstanding the aforesaiid , and in the interests of the administration of justice, the following order is made in terms of sec 173 of the Constitution to regulate the sequestration proceedings:

   3.1 The application for sequestration is postponed to the opposed roll of 11 August 2026, being the next available date, and the Registrar is directed to enrol the matter as an opposed sequestration for finalisation.

4. A copy of this order is to be provided to the Registrar forthwith.

5. The parties are directed to comply with the Uniform Rules and Practice Directives pertaining to filing of updated practice notes and Heads of Argument.

6. No order as to costs.

LABUSCHAGNE J

JUDGE OF THE HIGH COURT

APPEARANCES:

COUNSEL FOR APPLICANT	: ADV VORSTER
INSTRUCTED BY	: MAREE ATTORNEYS INC
IN-PERSON RESPONDENT	: LESEGO MORETLWE