IN THE HIGH COURT OF SOUTH AFRICA

NORTH WEST DIVISION, MAHIKENG

Reportable

Case No: UM126/2022

In the matter between:

RUSTENBURG PLATINUM MINES LIMITED **APPLICANT**

and

DANIEL MANOKO LESOJANE **RESPONDENT**

In re:

DANIEL MANOKO LESOJANE **APPLICANT**

and

RUSTENBURG PLATINUM MINES LIMITED **FIRST RESPONDENT**

RUSTENBURG LOCAL MUNICIPALITY SECOND RESPONDENT

Coram: Masike AJ
Date Heard: 27 March 2026

Judgment is handed down electronically by distribution to the parties' legal representatives by e-mail, and released to SAFLII. The date that the judgment is deemed to be handed down is **10 JUNE 2026** at **10h00**.

Summary: Motion Proceedings – Rule 30(1) application – proceedings in the High Court before a Judge sought to be reviewed under Uniform Rule 53 of the Uniform Rules of Court (URC) – Rule 30 application to set aside Rule 53 application of proceedings in High Court before a Judge as an irregular proceeding – Service by way of email requirements for service to be proper and effective

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JUDGMENT

MASIKE AJ

Introduction

[1] Before me is an interlocutory application under Rule 30(1) of the Uniform Rules of Court ('URC') to set aside, as an irregular proceeding, an application under Rule 53 of the URC. The applicant further prays for an order directing the respondent to pay the costs of this application on a party-and-party scale, scale 'C'.

[2] The application is opposed by the respondent; the respondent appeared in this Court in person at the hearing on 6 February 2026 and 27 March 2026. This

Court postponed the application from 6 February 2026 to 27 March 2026 to allow the respondent to secure the services of a legal representative. The respondent was advised to approach the North West University Law Clinic, the North West Bar Association, or the Legal Practice Council for assistance in appointing a *pro bono* attorney or *pro bono* counsel to assist the respondent in presenting his argument in opposing this application. On 27 March 2026, at the hearing of this application, the respondent told this Court that he was ready to proceed, even though he had not secured the services of a legal representative.

Factual Background

[3] The applicant in this application is Rustenburg Platinum Mines Limited, a limited liability public company duly registered in terms of the company laws of South Africa under registration number 1913/003380/06, with its principal place of business and registered address at 1[...] O[...] Road, Rosebank, Johannesburg. The respondent is Mr Daniel Monoko Lesojane, a male entrepreneur currently residing at 1[...] R[...] Street, Oos-Einde, Rustenburg.

[4] This application has its genesis in an application under case number UM44/2022. In that application, the applicant before this Court was the applicant and the respondent before this Court was the first respondent. There were six other respondents in that application. Those six respondents do not feature in the application before this Court.

[5] In the application under case number UM44/2022, the applicant sought, amongst others, interdictory relief against the respondent, from purporting to sell to any person any immovable property, or portions of such immovable property owned by the applicant. The applicant sought further interdictory relief interdicting the respondents in that application from entering the immovable property described as portions 67, 69, 70, 71, 73, 82, 83, 85, and 86 of the Farm

Waterval 303 JQ ('the property'). The property is owned by the applicant. It is the property that the applicant sought an order interdicting the respondent from purporting to sell to any person, any portion thereof or entering.

[6] The application under case number UM44/2022, served before Leeuw Judge President (as she then was) on 10 March 2022, and a *rule nisi* was granted with its return date 22 July 2022. It is alleged in the founding affidavit in support of the application before this Court, deposed to by Corné John Lewis, that the order dated 10 March 2022 was served on the respondent. The respondent, in his answering affidavit, has not taken issue with this allegation.

[7] Despite the respondent having been served with a copy of the order under case number UM44/2022, the respondent proceeded to enter into the property and, together with certain other individuals, commenced to erect structures on the property. It is alleged in the founding affidavit of the applicant that attempts were made to discuss the terms of the order under case number UM44/2022 with the respondent. It is alleged that, despite these attempts, the respondent and those accompanying him continued to remain on the property and to erect structures there.

[8] In June 2022, an urgent contempt of court application was launched against the respondent, seeking an order committing the respondent to jail for failing to comply with the order under case number UM44/2022. That application served before my brother, Petersen J (as he then was), and on 21 June 2022, the court found the respondent guilty of contempt of the court order of 10 March 2022. The court sentenced the respondent to thirty days' imprisonment. The respondent was committed to jail as per the order.

[9] On 21 July 2022, the applicant was granted an order directing the demolition and removal of the structures erected on the property and the eviction of the persons present there. That application was under case number UM126/2022 and served before Hendricks Deputy Judge President ('DJP') (as he then was). On 14 October 2022, the respondent filed an application for the rescission of the judgment granted by the court on 21 July 2022 in case number UM126/2022. The respondent contended that the order granted on 21 July 2022 in case number UM126/2022 was erroneously issued, as he did not receive notice of the application because he was in jail at the time.

[10] The applicant opposed the rescission application. The application for rescission of judgment, served before Reid J, on 30 January 2025, was dismissed. The respondent on 7 May 2025 brought an application under Rule 53 of the URC, seeking to review the order dismissing the rescission application on the basis, amongst others, that there were procedural irregularities in that application. On 21 May 2025, the applicant served a notice titled 'FIRST RESPONDENT'S NOTICE IN TERMS OF RULE 30'. From the reading of the notice in terms of Rule 30, it is obvious to this Court that this was a notice in terms of Rule 30(2)(b) of the URC.

[11] The notice stated the applicant's complaint regarding the Rule 53 application. The notice, in terms of Rule 30, further warned the respondent that the applicant would bring an application to set aside the Rule 53 application as an irregular step if the respondent did not remove the cause of complaint within 10 days of service of the notice. The respondent failed to reply to the notice. On 11 June 2025, the applicant served the Rule 30 application on the respondent by way of email. The respondent has opposed the application and filed an answering affidavit to the affidavit in support of the application of the Rule 30 application.

[12] In the answering affidavit of the respondent, the respondent contends that the Rule 53 application has been brought on the grounds, amongst others, of judicial bias, gross irregularity, procedural unfairness, and reliance on inadmissible evidence by the presiding Judge in the application for rescission of judgment. It is contended by the respondent that the Rule 30 application seeks to pre-empt the outcome of the Rule 53 application. Various grounds were raised by the respondent in opposing the Rule 30 application. The reasons advanced for the opposition are the following: (a) the application is premature and legally unsustainable. It is contended by the respondent that the interlocutory Rule 30 application ought not to be entertained until the Rule 53 application has been adjudicated. (b) absence of urgency or exceptional circumstances, (c) prejudice to the applicant, the respondent contended that if the relief sought in the Rule 30 application were granted, it would cause irreparable prejudice to his rights, it would undermine his constitutional rights to a fair hearing and access to court. It would further circumvent the pending review process.

[13] It is further contended by the respondent that (d) the record is incomplete or missing. Any interim relief granted in the face of an incomplete or unavailable record would amount to a grave injustice, (e) misrepresentation regarding service of notice. It is contended by the respondent that the applicant did not serve him with the notice to remove the cause of complaint, (f) mischaracterisation of the review application, (g) unlawful electronic service, the respondent contended that he never consented to electronic service and that as a result the service was irregular, invalid and prejudicial to him, (h) irrelevant and repetitive allegations, (i) unsubstantiated allegations, this relates to the allegations made against the respondent that he sold land on the property of the applicant, the respondent contends that the land contains over two hundred

graves, many predating the discovery of platinum in Rustenburg in 1924. The respondent further contended that he was in prison when the legal notices were placed 18 kilometres from his residence. I understood this to refer to the application for eviction notices, which formed part of the eviction application the respondent sought to have rescinded.

[14] The applicant filed its replying affidavit. Because the issues raised in the answering affidavit were akin to an argumentative point of law, the applicant in reply denied the allegations raised in (a) to (d), (f), and (h), as stated herein above and indicated further legal argument would be advanced at the hearing of the application before the court in support of the denial. Insofar as it relates to (e), the applicant attached proof of service of the notice to oppose the Rule 53 application and proof of service of the Rule 30 notice, which was purportedly served on the respondent by way of email at the email address m[...].

[15] Insofar as it relates to (g), the applicant contended that the respondent, in its notice of opposition, gave consent for the filing of notices electronically. Insofar as it relates to (i), the applicant stated that the dispute raised by the respondent was considered by the court, and it does not constitute a defence to the Rule 30 application before this Court. It was lastly contended by the applicant that proceedings in the High Court are not reviewable in terms of Rule 53 or at all.

Legal Principles

[16] Uniform Rule 53(1) reads as follows:

> ‘(1) Save where any law otherwise provides, all proceedings to bring under review the decision or proceedings of any lower court and of any tribunal, board or officer performing judicial, quasi-judicial or administrative functions shall be by way of

notice of motion directed and served by the party seeking to review such decision or proceedings on the magistrate, presiding officer or chairperson of the court, tribunal or board or to the officer, as the case may be, and on all other parties affected —'

[17] Uniform Rule 30(1) read with 30(2)(a), (b), (c) and 30 (3) reads as follows:

'(1) A party to a cause in which an irregular step has been taken by any other party may apply to court to set it aside.

(2) An application in terms of subrule (1) shall be on notice to all parties specifying particulars of the irregularity or impropriety alleged, and may be made only if —

(a) the applicant has not himself taken a further step in the cause with knowledge of the irregularity;

(b) the applicant has, within ten days of becoming aware of the step, by written notice afforded his opponent an opportunity of removing the cause of complaint within ten days;

(c) the application is delivered within fifteen days after the expiry of the second period mentioned in paragraph (b) of subrule (2).

(3) If at the hearing of such application the court is of opinion that the proceeding or step is irregular or improper, it may set it aside in whole or in part, either as against all the parties or as against some of them, and grant leave to amend or make any such order as to it seems meet.'

Analysis

[18] The respondent has contended that he never consented to electronic service, and such service is therefore irregular, invalid and prejudicial to him. I have considered the Rule 53 notice of motion that was served on the applicant. In the Rule 53 notice of motion that was served on the applicant, the respondent, in terms of subrule 6(5)(b)(i)[1] indicated the following address as the address he

[1](5) (a) Every application other than one brought ex parte shall be brought on notice of motion as near as may be in accordance with Form 2(a) of the First Schedule and true copies of the notice, and all annexures thereto, shall be served upon every party to whom notice thereof is to be given.
(b) In a notice of motion the applicant shall —
(i) appoint an address within 25 kilometres of the office of the registrar and an electronic mail address, if available to the applicant, at either of which addresses the applicant will accept notice and service of all documents in such proceedings;

would accept services of notices and of all documents in such proceedings: 1[...] R[...] Street Osseinde, Rustenburg, Cell: 0[...] and email address m[...]

[19] Subrule 6(5)(b)(i) of the URC permits the service of documents on the applicant at the addresses reflected in the notice of motion. The subrule requires the applicant to appoint an address within 25km of the office of the registrar of the court and an electronic mail address, if available to the applicant, at either of which addresses the applicant will accept notice and service of all documents in such proceedings. Subrule 6(5)(b)(i) must be read together with Rule 4A(1)[2], which provides, amongst other things, that service may be effected:

(a) by hand at the physical address for service provided;
(b) by registered post to the postal address provided; or
(c) by facsimile or electronic mail to the respective addresses provided.

[20] By including the email address in the notice of motion under Rule 53 of the URC, the respondent indicated to the applicant that the email address is one of the addresses he is prepared to accept service of notices and documents. There is accordingly no merit in the submission that the respondent did not consent to electronic service; the service was proper and effective. The respondent opposed the Rule 30 application and filed his affidavit in opposition. The Rule 30 application clearly came to the respondent's attention.

[21] The applicant has provided proof that the respondent was served with the Rule 30 notice on 21 May 2025. This court found the proof of service on page 4

[2] **4A Delivery of documents**
(1) Service of all subsequent documents, not falling under rule 4(1)(a), in any proceedings on any other party to the litigation may be effected by one or more of the following manners to the address or addresses provided by that party under rules 6(5)(b), 6(5)(d)(i), 17(3), 19(3) or 34(8), by —
(a) hand at the physical address for service provided;
(b) registered post to the postal address provided; or
(c) facsimile or electronic mail to the respective addresses provided.

of the indexed and paginated documents, Index Rule 30 Application. The Rule 30 notice was served by way of email at the given email address of the respondent, m[...]. This dispels the respondent's allegation that he was never served with the Rule 30 notice.

[22] The Rule 53 notice of motion of the respondent was served on the corresponding attorneys of the applicant on 7 May 2025. This Court is satisfied that the Rule 30 notice was served on the respondent within 10 days of the service of the Rule 53 notice of motion. It is not in dispute that the respondent did not react to the Rule 30 notice. The Rule 30 application was served on the respondent on 11 June 2025 by email to his chosen address, m[...]. Service of the Rule 30 application was effected within 15 days after the lapse of the 10-day period for the respondent to remove the cause of complaint. I am accordingly satisfied that the application in terms of Rule 30 is properly before this Court.

[23] The authors of Erasmus: Superior Court Practice at page RS 29, 2026, D1 Rule 53-2, have written that the proceedings of the High Court are not subject to review. This principle is generally accepted. In *Gentiruco AG v Firestone SA (Pty) Ltd*[3] *(Gentiruco)*, the Appellate Division said that it was common cause that the proceedings of the (then) Supreme Court "are not reviewable; the only remedy of an unsuccessful litigant is an appeal. The reason is that by statute only 'the proceedings of inferior courts' have been and are reviewable." Prior to the Supreme Court Act 59 of 1959 ('Supreme Court Act'), 'inferior court' was not defined, but it obviously did not then include any court of the Supreme Court.

[24] Inferior court was defined in the Supreme Court Act as any court (other than the court of a division) which is required to keep a record of its

[3] 1972 1 SA 589 (A) 601E.

proceedings, and includes a magistrate or other officer holding a preparatory examination into an alleged offence[4]. Section 19(1), (a), (b) of the Supreme Court Act read as follows:

'19. (1) A provincial or local division shall have jurisdiction in and over all persons residing or being in and all causes arising and all offences triable within in area of jurisdiction and all other matters of which it may according to law take cognizance, and shall, subject to the provisions sub-section (2) in addition to any powers or jurisdiction which may be vested in it by law, have power –
(a) to hear and determine appeals from all inferior courts within its area of jurisdiction;
(b) to review the proceedings of all such courts;'

[25] The whole Supreme Court Act was repealed by section 55(1)(a) of the Superior Courts Act 10 of 2013 ('the Superior Courts Act'). The Superior Courts Act has not preserved the meaning of an inferior court; s 21(1)(a), (b) of the Superior Courts Act reads as follows:

'21. Persons over whom and matters in relation to which Divisions have jurisdiction

(1) A Division has jurisdiction over all persons residing or being in, and in relation to all causes arising and all offences triable within, its area of jurisdiction and all other matters of which it may according to law take cognisance, and has the power—

(a) to hear and determine appeals from all Magistrates' Courts within its area of jurisdiction;

(b) to review the proceedings of all such courts;'

[26] The High Court has jurisdiction to review decisions from the Magistrate's Court within its area of jurisdiction. In *Vereniging van Bo-Grondse Mynamptenare van Suid-Afrika v President of the Industrial Court and Others*[5] Franklin J said the following:

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[4] s 1 of Act 59 of 1959.
[5] 1983 (1) SA 1143 (T) at page 1146D – F.

'Apart from the inherent power of the Supreme Court to review the proceedings of domestic tribunals other than courts of law, by statute only the proceedings of inferior courts have been and are reviewable by a Provincial or Local Division of the Supreme Court.'

[27] Section 21 (1)(a) and (b) of the Superior Courts Act is worded in similar terms to s 19(1)(a) and (b) of the repealed Supreme Court Act. From the reading of s 21(1)(a) and (b), the High Court enjoys jurisdiction to review proceedings of all Magistrates' Courts within its area of jurisdiction. In my view, the current position is the following, apart from the inherent power of the High Court to review the proceedings of a domestic tribunal, or as prescribed by Rule 53(1), to review the proceedings of a board or officer performing judicial, quasi-judicial or administrative functions other than courts of law, by statute only the proceedings of the Magistrate's Courts have been and are reviewable by a Division of the High Court.

[28] Rule 30(3) of the URC empowers a High Court to set aside a proceeding or step which, in the court's opinion, is irregular or improper. It is a trite law that Rule 30 may be invoked only when a complaint relates to an irregularity in the form of a proceeding or step taken, rather than to a matter of substance[6]. The applicant's complaint in this application is that proceedings before a Judge of the High Court are not reviewable.

[29] When this application was heard, I asked the respondent whether he had any submissions to make beyond those in his answering affidavit. I specifically asked the respondent, having heard the submissions of counsel for the applicant, that review is not the proper procedure to follow where a party is not satisfied with the proceedings before a Judge in the High Court, but rather that the procedure is to appeal the Judge's judgment. What were his submissions in

[6] *Singh v Vorkel* 1947 (3) SA 400 (C) at 406.

response to that? The respondent proceeded to address this Court on the merits of the application that served before Judge President Leeuw (as she was then), the merits of the application that served before Hendricks DJP (as he was then) and the merits of the application that served before Reid J. This Court was constrained to remind the respondent that he had to address it only on the merits of the application that served before it, in particular to make submissions why the respondent is of the view that the applicant is mistaken when it says the proceedings before Reid J cannot be taken on review. After a lengthy debate between the respondent and this Court on which application this Court is tasked with, the respondent said the judgment of Reid J could not be appealed because the application for rescission of judgment was not heard by Reid J, which is why he brought the application under Rule 53.

[30] I have considered the judgment of Reid J dated 31 January 2025 against the submission by the respondent that the application for rescission of judgment was not heard by Reid J on 30 January 2025. From the reading of the judgment of Reid J, there were two issues to be determined by Reid J on 30 January 2025. In the application for rescission of judgment, the respondent sought condonation for the late filing of the application, and secondly, the respondent sought rescission of the judgment of Hendricks DJP. In the application that served before Reid J, the respondent appeared in person. After being addressed on the merits of the application for condonation, Reid J was not satisfied that the respondent made out a proper case for condonation for the late filing of the application for rescission of judgment and proceeded to dismiss the application for condonation. Reid J then went on to say in paragraphs 19 and 20 of her judgment the following:

‘[19] On this basis, the applicant has not made out a case for condonation and the application for condonation stands to be dismissed.

[20] The rescission application need not be considered as the condonation application met with failure.'

[31] As Reid J pointed out in her judgment dated 31 January 2025, the respondent having failed to make out a case for condonation, it was unnecessary for Reid J to consider the application for rescission of judgment itself. It is clear that the application for rescission of judgment failed to make it out of the proverbial starting blocks. There is accordingly no merit in the submission of the respondent that the application for rescission of judgment was not heard by Reid J.

In conclusion

[32] It is clear from what I have stated above that the proceedings before a Judge sitting as a Judge of a High Court cannot be reviewed. The only remedy for an unsuccessful litigant is an appeal. There is accordingly no merit in the submission raised by the respondent in (a). The application that served before this Court was not brought on urgency or under exceptional circumstances. The relief available under Rule 30(1) is not exceptional or extraordinary. There is accordingly no merit in (b).

[33] I disagree that the respondent will be prejudiced by this Court granting the relief sought in the Rule 30 application. Rule 30(1) was intended as a procedure whereby a hindrance to the future conducting of the litigation, whether it is created by a non-observance of what the Rules of Court intended or otherwise, is removed.[7] As I have stated above and referred to the authorities, the proceedings of the High Court are not reviewable. Accordingly, the issues raised in (c) and (f) have no merit and cannot be sustained. On the issue raised

[7] *SA Metropolitan Lewensversekeringsmaatskappy Bpk v Louw NO* at 333G–H.

in (d), it is immaterial that the respondent alleges that the record is incomplete or missing. The Rule 30 application addresses the irregular application that the respondent has brought before the court, and the record is not needed to make such a determination.

[34] At the hearing of this application, I was not informed of the irrelevant, immaterial, and repetitive allegations that had no bearing on the interim relief sought. On the aspect that the applicant alleged that the respondent unlawfully sold land belonging to it, but has failed to place any supporting evidence before this Court and that it further fails to disclose that the disputed land contains over two hundred graves, many predating the discovery of platinum in Rustenburg in 1924 and the issue of legal notices which were mounted 18 kilometres from his residence could not reasonably come to his attention when he was unlawfully detained at Mogwase Correctional Centre. This issue has no bearing on the application before this Court. The defences raised in (h) and (i) are without merit and cannot be sustained.

[35] I am satisfied that the applicant has made out a proper case for the relief sought, and the respondent's Rule 53 proceeding instituted under case number UM126/2022 stands to be set aside as an irregular proceeding.

Costs

[36] It is a trite principle in our jurisprudence that costs follow the cause, and I have not found any reason to deviate from this principle. The purpose of an award of costs is to indemnify a successful party who has incurred expenses in instituting or defending an action.[8]

[8] *Texas Co (SA) Ltd v Cape Town Municipality* 1926 AD 467 at 488.

[37] This application was not complex, and the issue was crisp. It certainly did not warrant the employment of two counsel.

Order

[38] Resultantly, the following order is made.

1. The respondent's Rule 53 proceeding instituted under case number UM126/2022 is set aside as an irregular proceeding.
2. The respondent is ordered to pay the costs of the application, including the costs of one counsel on a party and party scale, scale "A".

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T MASIKE

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA

NORTH WEST DIVISION, MAHIKENG

APPEARANCES

For the applicant:	Adv Mark Smit with him Adv N Ferris
Instructed by:	Cliffe Dekker Hofmeyer Inc. C/o Minchin & Kelly Inc.
For the respondent:	In person
Instructed by:	In person