



**IN THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION, MIDDELBURG (LOCAL SEAT)**

CASE NO: 6009/24

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

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SIGNATURE

23 June 2026
DATE

In the matter between:

LANCELOT PROPERTIES (PTY) LTD

APPLICANT

And

BERNARDINA JOHANNA GERRETSEN

FIRST RESPONDENT

**ALL UNLAWFUL OCCUPIERS OF THE REMAINING
EXTENT OF THE FARM KATBOSCHFONTEIN 22**

SECOND RESPONDENT

VICTOR KHANYE LOCAL MUNICIPALITY

THIRD RESPONDENT

SOLOMON STANLEY ISAKA BOIKANYO N. O

FOURTH RESPONDENT

JOLENE BROWN N. O

FIFTH RESPONDENT

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by email. The date and time for hand-down is deemed to be 23 June 2026.

JUDGMENT

Phahlamohlaka J

[1] This is an application by Lancelot Properties (Pty) Ltd (the Applicant) for the eviction of Bernardina Johanna Gerretsen (the First Respondent) and all persons occupying through her (the Second Respondent) from the Remaining Extent of the Farm Katboschfontein 22, Mpumalanga (the property), in terms of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (the PIE Act).

[2] The First Respondent opposes the application, raising extensive factual and legal disputes regarding the validity of the Applicant's title, the lawfulness of the liquidation and sale process, and her own rights as a beneficiary of the Gerretsen Family Trust.

[3] The property was originally owned by the Gerretsen Family Trust and was then transferred to Unlimited Livestock (Pty) Ltd, which was subsequently liquidated. The Applicant purchased the property at a public auction conducted by the liquidators, and the transfer was registered in its name on 31 July 2024.

[4] The First Respondent has resided on the property since 1979 and claims lawful occupation as a trust beneficiary, challenging the validity of the sale and transfer.

[5] The Applicant relies on its registered title, the court orders authorising the liquidation and sale, and the absence of any agreement permitting the First Respondent's continued occupation. The Applicant asserts that the First Respondent

is not elderly, indigent, or without alternative accommodation, and that her continued occupation prejudices the Applicant's use of the property.

[6] The First Respondent disputes the lawfulness of the liquidation, the validity of the sale, and the Applicant's title, alleging fraud, procedural irregularities, and ongoing criminal investigations. She asserts her right to occupy as a trust beneficiary, claims the PIE Act does not apply to her, and raises issues of procedural non-compliance, including improper service and forum.

[7] It is now established that the Applicant, as the registered owner of the property, is entitled to vindicate its property unless the Respondents can establish a lawful right to remain. The court must balance the rights of the owner against the personal circumstances of the occupiers.

[8] The Applicant has produced documentary evidence of its registered ownership and compliance with the PIE Act's procedural requirements, including service of the section 4(2) notice.

[9] In *Cape Killarney Property Investments (Pty) Ltd v Mahamba and Others*,¹ the Supreme Court of Appeal stated that: "no one may be evicted from their home without an order of court made after consideration of all the relevant circumstances". In *Wormald NO and Others v Kambule*,² the court stated that:

"PIE therefore requires a party seeking to evict another from land to prove not only that he or she owns such land and that the other party occupies it unlawfully, but also that he or she has complied with the procedural provisions and that on a consideration of all the relevant circumstances [and, according to the *Brisley* case, to qualify as the relevant circumstances must be legally relevant], an eviction order is just an equitable."

¹ *Cape Killarney Property Investments (Pty) Ltd v Mahamba and Others* 2001 (4) SA 1222 (SCA) at 1229E.

² *Wormald NO and Others v Kambule* 2006 (3) SA 562 (SCA) para 11.

[10] The First Respondent's extensive allegations of fraud and irregularity, while serious, have not been substantiated by a court setting aside the transfer or the liquidation orders. The Applicant's title stands until set aside by a competent court.

[11] It is common cause that the First Respondent is not elderly, has no dependents, and owns other property from which she derives income. She has not demonstrated that she will be rendered homeless or that alternative accommodation is unavailable.

[12] The Second Respondent's occupation is through the First Respondent and is similarly unlawful in the absence of the Applicant's consent.

[13] Consequently, the balance of convenience and justice favours the Applicant, who has been deprived of the use of its property for an extended period. In my view, the Applicant has succeeded in making out a case for the relief sought.

[14] Having found that the First and Second Respondents are in unlawful occupation of the Applicant's property, the court is bound to ascertain what will be the just and equitable remedy. The court, therefore, must exercise a discretion in deciding what is just and equitable.

[15] In *Wormald NO and Others v Kambule*,³ Maya AJA, as she then was, stated as follows:

"The nature of the discretion which a court employs in this exercise is described in the *Ndlovu* case (*supra*) where Harms JA held in para [18]:

'The court, in determining whether or not to grant an order or in determining the date on which the property has to be vacated (s 4(8)), has to exercise a discretion based upon what is just and equitable. The discretion is one in the wide and not narrow sense (*cf Media Workers Association of South Africa and Others v Press Corporation of South Africa Ltd ('Preskor')* 1992 (4) SA 791(A) at 800, *Knox D'Arcy Ltd and Others v Jamieson and Others* 1996 (4) SA 348 (A) at 360G-362G). [*Port Elizabeth Municipality v Various Occupiers (supra)* at para 31]. A court of first instance, consequently, does not have a free hand to do whatever it wishes to do and a court of appeal is not

³ *Ibid* para 18.

hamstrung by the traditional grounds of whether the court exercised its discretion capriciously or upon a wrong principle, or that it did not bring its unbiased judgment to bear on the question, or that it acted without substantial reasons.”

[16] In *Johannesburg Housing Corporation (Pty) Ltd v Unlawful Occupiers of the Newtown Urban Village*,⁴ the court stated as follows:

“Once the court has decided, after having been satisfied that all other requirements of section 4 of PIE have been met, and that it would be ‘just and equitable’ for an eviction order to be made, the court then has to make a decision as to the ‘just and equitable date’ in terms of section 4(8) of PIE. This entails a determination as to the date in respect of which the court should order the vacation of the land, followed by a date on which an eviction order may be carried out if the unlawful occupier has not so vacated the land.”

[17] After considering the application and the fact that the First and Second Respondents are not without alternative accommodation, it is my considered view that an eviction order ought to be granted and that the respondents must vacate the property within six months, which in my view is a just and equitable period.

Order

[18] In the result, in make the following order:

1. The First Respondent and all persons occupying through her are declared to be in unlawful occupation of the Remaining Extent of the Farm Katboschfontein 22, Registration Division I.R., Mpumalanga Province (the Property).
2. The First Respondent and all persons occupying through her are directed to vacate the Property within 90 (ninety) days of the date of this order.

⁴ *Johannesburg Housing Corporation (Pty) Ltd v Unlawful Occupiers of the Newtown Urban Village* [2012] ZAGPJHC 230; 2013 (1) SA 583 (GSJ); [2013] 1 All SA 192 (GSJ) para 126.

3. In the event that the First Respondent and all persons occupying through her fail to vacate the Property within the period stipulated above, the Sheriff of this Court is authorised and directed to evict them from the Property.

4. The First Respondent is ordered to pay the costs of this application on scale B.



K F PHAHLAMOHLAKA
JUDGE OF THE HIGH COURT
MPUMALANGA DIVISION, MIDDELBURG

Appearances

For the Applicant: Adv J A Venter

Instructed By: Fluxmans Inc.

For The Respondents: First Respondent In person.

Judgement Reserved On: 03 March 2026