

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)



CASE NUMBER: 46287/21

DATE: 27 MAY 2026

DELETE WHICHEVER IS NOT APPLICABLE	
(1)	REPORTABLE: YES/NO
(2)	OF INTEREST TO OTHERS JUDGES: YES/NO
(3)	REVISED
.....
DATE	SIGNATURE

In the matter between:

RAMA COMMUNAL PROPERTY ASSOCIATION First Applicant

(Registration Number: CPA/02/0435/A)

LIZZY MAKALE ZWANE Second Applicant

DIETERICH PEOPOANE MONTIEDI Third Applicant

TIDIMA ELLIOT BUTSI Fourth Applicant

and

RAMA HD INVESTMENTS 1 (PTY) LTD First Respondent

(Registration Number: 2013/145238/07)

RAMA HD INVESTMENTS 2 (PTY) LTD Second Respondent

(Registration Number: 2013/145241/07)

RAMA HORIZON DEVELOPMENTS (PTY) LTD Third Respondent
(Registration Number: 2008/005187/07)

**DIRECTOR-GENERAL: DEPARTMENT OF RURAL
DEVELOPMENT AND LAND REFORM,
GAUTENG PROVINCE** Fourth Respondent

THE REGISTRAR OF DEEDS, PRETORIA Fifth Respondent

TSHEPO RODNEY MANGANYI N.O. AND OTHERS Intervening Parties

This order is made an Order of Court by the Judge whose name is reflected herein, duly stamped by the Registrar of the Court and is submitted electronically to the Parties/their legal representatives by e-mail. This Order is further uploaded to the electronic file of this matter on Case Lines by the Judge or his/her secretary. The date of this Order is deemed to be 27 May 2026.

JUDGMENT

DU PLESSIS, AJ

INTRODUCTION

1.

- 1.1. This matter was enrolled for hearing on the opposed motion roll of 25 May 2026, where it stood as item 15. What was expected to be the hearing of a long-pending application for the setting aside of certain transfers of communal land did not proceed as such. Shortly before the hearing a comprehensive application to intervene was delivered, and at the hearing on 25 May 2026 each party that appeared sought, in one form or another, that the matter not proceed to a determination of the merits. I indicated that I intended to postpone the matter, and the matter stood down for judgment.
- 1.2. When the matter resumed on 26 May 2026 the position had materially changed. I was informed that none of the parties opposes the application to intervene. In those circumstances it is no longer necessary to make provision for the filing of affidavits in opposition

to the intervention as such, and the intervention may simply be granted. What remains is to regulate the further conduct of the matter that follows upon the intervention, and to direct the joinder of parties who are presently absent. These are my reasons, together with the directions that are to govern the further conduct of the matter.

- 1.3. This judgment decides the disposition of the hearing only. It grants the intervention, regulates the further exchange of affidavits that follows upon it, directs the joinder of further parties, and addresses the costs of the postponement. It does not decide the merits of the main application, nor the merits of the intervention application or the counter-application, nor the challenges to the locus standi and authority of the Applicants. Those are matters for the reconstituted hearing.

THE APPEARANCES AND THE COURSE OF THE HEARING

2.

- 2.1. On 25 May 2026 the Applicants appeared and were represented by Adv L Arthur Maisela. The First and Second Respondents were represented by Adv B Bergenthuin, instructed by M Botha Attorneys, who had come on record for those Respondents following the withdrawal of their former attorneys on 16 March 2026. The Third Respondent, Rama Horizon Developments (Pty) Ltd, was not represented and did not appear. The Fourth Respondent, the Director-General, did not appear on 25 May 2026, although Adv Maisela informed me from the Bar that he had notified Adv Seneke SC, who acts for the Fourth Respondent, that the Applicants would be seeking a postponement by reason of the intervention application. The Fifth Respondent, the Registrar of Deeds, did not appear, no relief being sought against the Registrar save in the event of opposition. The intervening parties were represented by Adv FC Lamprecht, instructed by Thipe Attorneys.
- 2.2. When the matter resumed on 26 May 2026, Adv Seneke SC appeared for the Fourth Respondent, together with his instructing attorney from the Office of the State Attorney. Adv Seneke SC tendered an explanation for the Fourth Respondent's non-appearance on 25 May 2026. I accept that explanation and nothing further need be said about it.
- 2.3. The positions of the parties in relation to the intervention had by then crystallised, and crucially they had changed. Adv Maisela informed me that the Applicants no longer oppose the application to

intervene. Adv Bergenthuin indicated that the First and Second Respondents do not oppose the intervention. Adv Seneke SC indicated that the Fourth Respondent's instructions are, similarly, that it does not oppose the intervention. The intervention is therefore unopposed.

- 2.4. All the parties did, however, indicate that the intervention application – which, as I explain below, serves not only as an application to intervene but also as an answering affidavit in the main application and as the founding affidavit of a counter-application – will be responded to by way of replying and opposing affidavits, as may be applicable, given the nature of that application. It follows that, although the matter had stood down for judgment on a contemplated postponement with a timetable for affidavits in opposition to the intervention, it is no longer necessary to fix dates for such opposing affidavits. There being no opposition to the intervention itself, leave to intervene may simply be granted, and the affidavits that remain to be exchanged are those that follow upon the joinder of the intervening parties and upon the counter-application.

BACKGROUND TO THE MATTER

3.

- 3.1. The First Applicant, the Rama Communal Property Association (“the CPA”), is a juristic person established under the Communal Property Associations Act 28 of 1996 (“the CPA Act”), registered in 2002 following the settlement of a land restitution claim lodged by the Rama community. The CPA is the vehicle through which the restored land is held for the community of beneficiaries.
- 3.2. The land in issue comprises the Remaining Extent and Portion 2 of the Farm Rama No 768 JR. In 2015 and 2016 those properties were transferred from the CPA to the First and Second Respondents. The main application, launched in September 2021, seeks declarators that the underlying sale agreements and the transfers are null and void, and consequential orders directing the Fifth Respondent to cancel the deeds of transfer and to revive the prior deeds. The relief is founded on alleged non-compliance with section 12 of the CPA Act, which regulates the disposal of communal property.
- 3.3. The founding affidavit in the main application was deposed to by Mr Ephraim Poo, who described himself as the Chairperson of the CPA. Opposition was delivered in 2022 by Mr Hendrik Mpho Nthite, who described himself as the duly elected Chairperson of the CPA, and who had occupied that office, on the intervening parties' version,

since 2006. The Second to Fourth Applicants were joined to the proceedings by order of Cowen J on 18 May 2023, formalised on 5 June 2023, in their asserted capacities as ordinary members of the CPA.

- 3.4. From the outset, therefore, the matter has carried within it a contest as to who lawfully constitutes the Executive Committee of the CPA, and accordingly who is entitled to speak and act for the CPA. The deponent to the founding affidavit (Mr Poo) and the deponent to the opposition (Mr Nthite) each claimed that office. That contest – the legitimacy and locus standi of the competing factions – has never been resolved, and it lies at the heart of the difficulties that have now arisen.

THE DEVELOPMENT

4.

- 4.1. It is necessary to say something of the development, because its scale explains both the gravity of the relief sought and the interests of the absent parties. On the version advanced in the intervention application, the community resolved at general meetings over the years to develop the restored land. The structure initially contemplated a long-term lease in favour of a developer, which was later altered – said to be at the instance of the City of Tshwane and to enable the eventual transfer of individual title to beneficiaries – into a structure in which the First and Second Respondents would hold the land as special-purpose vehicles, with Rama City Development Company (Pty) Ltd (“RCDC”) undertaking the development, and the CPA retaining an equity stake said to be 10 per cent together with a number of housing units for its members.
- 4.2. Whatever the ultimate merits of that account, it is not in dispute that a substantial development has in fact taken place on the land. On the intervening parties’ figures, in the order of 1,580 houses have been constructed, the great majority within Rama City Extension 10, and the Gauteng Department of Human Settlements and the City of Tshwane have been involved in funding subsidies and installing bulk infrastructure. Many of those houses are occupied. The relief sought in the main application, if granted, would unwind the proprietary foundation of that development and would, at the least, materially affect the position of those occupants and of the organs of state that funded the project.

THE INTERVENTION APPLICATION

5.

- 5.1. The intervention application was delivered on 22 May 2026, two court days before the hearing. It is brought by eighteen intervening parties – nine natural persons, each cited both in a representative capacity, *nomine officio*, and in a personal capacity – and is supported by a founding affidavit deposed to by Mr Tshepo Rodney Manganyi, running to some 123 pages, with numerous annexures. The affidavit serves a threefold purpose: it founds the application to intervene; it stands as the answering affidavit in opposition to the main application; and it founds a counter-application for declaratory relief.
- 5.2. The intervening parties purport to be the duly elected Executive Committee of the CPA, elected at an annual general meeting held on 13 December 2025, of which Mr Manganyi deposes to be the Chairperson. They claim standing to intervene on two bases: as ordinary members of the CPA with an interest in the litigation, and *nomine officio* as the Executive Committee empowered by the CPA's constitution to institute and defend proceedings on the CPA's behalf. It is important to record what they do not rely upon. They do not advance their standing on the strength of the Third Applicant, nor of any person in the main application claiming to be the leader or president of the Applicants; on the contrary, they expressly distance themselves from the faction represented by the Second to Fourth Applicants and the deponent to the founding affidavit, whom they describe as the "*concerned group*" and whose election they dispute. Their claimed legitimacy rests upon the election of 13 December 2025 and upon their asserted succession to the executive formerly led by the late Mr Nthite. Whether that claimed status is good is precisely one of the matters in dispute, and it is not for determination today.
- 5.3. The relief sought in the intervention application is not confined to leave to intervene. It extends to the dismissal of the main application, a costs order against the Second to Fourth Applicants, and a final declarator that the representative intervening parties are the Executive Committee of the CPA with effect from 13 December 2025. The intervening parties thus seek, in part, final relief. That final relief cannot be granted now. It can only be considered, if at all, at the final hearing of the matter, once all affected parties have had the opportunity to deal with it on properly constituted papers.

THE NEW FACTS RAISED BY THE INTERVENTION, AND THE ASSASSINATIONS

6.

- 6.1. The intervention application introduces material that does not appear in the papers as they previously stood, and which cannot responsibly be ignored. Two matters in particular stand out.
- 6.2. First, the intervening parties allege that the leadership of the CPA has been the target of violence. Mr Nthite, the former Chairperson and the deponent to the opposition in the main application, is said to have been assassinated on 10 March 2025, days after an interim interdict was granted by this Division on 4 March 2025 against the faction represented by the Applicants. The deputy chairperson, Ms Sinah Mothapo, is said to have been assassinated on 2 March 2026, a day after consulting attorneys concerning this very litigation. These are grave allegations. If they are true, they go some way to explaining why the opposition foreshadowed in 2022 was not prosecuted to finality, and why the present intervention comes when it does. They also lend a particular seriousness to the proceedings and to the need to bring the underlying disputes to a proper and final resolution.
- 6.3. Second, the intervention application advances a detailed account of the authorisation and structuring of the development, of the CPA's alleged equity participation, of the interests of the occupant-beneficiaries and the organs of state, and of an interim interdict of 4 March 2025 said to bear upon the standing and conduct of the Applicants. These are matters of substance. They are placed before the Court for the first time in a comprehensive set of papers, and they have not been answered. The Applicants, the First and Second Respondents, and any party to be joined are entitled to deal with them.

THE POSITION OF THE THIRD RESPONDENT AND ITS RELATIONSHIP WITH THE FIRST AND SECOND RESPONDENTS

7.

- 7.1. The position of the Third Respondent calls for comment, because it is presently obscure and because it bears upon how the matter is to proceed. The Third Respondent, Rama Horizon Developments (Pty) Ltd, did not appear and is, on the intervening parties' own description, currently unrepresented. The opposition delivered in 2022 was deposed to by Mr Nthite. On the intervening parties' analysis, although Mr Nthite's filing notice purported to be on behalf

of the First, Second and Third Respondent companies, the substance of his affidavit made plain that he opposed the application in his capacity as the then Chairperson of the CPA, and not on behalf of the companies as such. Mr Nthite has since died.

- 7.2. The consequence is that it is presently unclear whether the company respondents were ever properly before the Court in opposition, by whom they are now represented, and on whose authority. The First and Second Respondents came to be separately represented only in March 2026, through M Botha Attorneys, and now seek time to file answering affidavits. The Third Respondent is not represented at all. The relationships between the three companies, and between the companies and the CPA, are themselves a matter of contention: the intervening parties assert that the CPA holds equity in the development and that the deponent to their founding affidavit has been appointed to the boards of the First, Second and Third Respondents to represent the CPA's interests. Whether that is so, and what it means for the genuineness and the alignment of the opposition, are questions that cannot be resolved on the present papers. It is sufficient for present purposes to record that the representation and authority of the company respondents is unsettled, and that this is a further reason why the matter is not in a fit state to be heard on its merits.

THE INTERVENTION IS GRANTED; WHAT FOLLOWS

8.

- 8.1. An application to intervene is, by its nature, interlocutory to the main proceedings. It falls to be determined before the main application can be heard, because its outcome determines who the parties to the main application are. The intervention being unopposed, leave to intervene is granted and the intervening parties are joined as respondents in the main application.
- 8.2. The single set of papers delivered by the intervening parties serves three distinct functions. It is the founding affidavit in the application to intervene; it stands as the answering affidavit in opposition to the main application; and it is the founding affidavit of a counter-application for declaratory relief. The grant of leave to intervene therefore brings into the main application both an answer to the Applicants' case and a fresh claim against them. The pleadings are, in consequence, incomplete, and an orderly exchange must now follow before the matter can be heard.
- 8.3. Two things follow. First, the remaining respondents must consider

their position in relation to the intervening parties and the case now advanced. Second, the Applicants must be afforded the opportunity to reply to the answering affidavit, and to deliver an opposing affidavit, should they wish to do so, to the founding affidavit of the counter-application. The relief sought – both in the main application and in the counter-application, the latter including the dismissal of the main application and a final declarator as to the lawful Executive Committee of the First Applicant – will be dealt with once all the pleadings have been exchanged and at the final hearing of the matter. It is neither necessary nor appropriate to determine any of that relief now.

THE NEED FOR JOINDER

9.

- 9.1. Independently of the intervention, the main application cannot competently proceed to a final determination in the absence of parties with a direct and substantial interest in the relief sought. The non-joinder of such parties is a matter which the Court must raise of its own accord, and which the agreement or default of the parties before the Court cannot cure: Amalgamated Engineering Union v Minister of Labour 1949 (3) SA 637 (A); Judicial Service Commission v Cape Bar Council 2013 (1) SA 170 (SCA) at para 12.
- 9.2. The relief sought, if granted, would unwind the proprietary basis of a development on which substantial numbers of people reside and in which organs of state have invested. At the least, the Gauteng Department of Human Settlements and the City of Tshwane Metropolitan Municipality have a direct and substantial interest and must be joined. So too do the residents of the Rama City development who are not otherwise represented in these proceedings, including those not covered by the intervention application. I am alive to the fact that the occupants may number in excess of 2,000, and that their joinder will be a substantial undertaking. That is, however, a consequence of the nature and scale of the relief that the Applicants seek, and it is a difficulty that the Applicants must address if they wish to pursue that relief. The burden of effecting the joinder falls upon the Applicants as the parties seeking the order.

THE LOCUS STANDI AND RULE 7 CHALLENGES

10.

- 10.1. The First and Second Respondents, through Adv Bergenthuin, asked that I determine now the *locus standi* of the Applicants and the challenge to the authority of the Applicants' attorneys delivered in terms of Rule 7. I decline to do so at this stage. The matter is being postponed to enable the affidavits that follow upon the intervention and the counter-application to be exchanged, and the necessary parties to be joined. The questions of the Applicants' *locus standi* and of their attorneys' authority are bound up with the very contest over the lawful Executive Committee of the CPA that the intervention raises, and they are better determined on a complete record and in their proper place. It will be for the Applicants to address those challenges to the extent that they may deem necessary, and to do so in the ordinary course as the matter proceeds. Nothing in this judgment is to be taken as expressing any view on the merits of those challenges.

THE CONDUCT OF THE PARTIES AND THE COSTS OF THE POSTPONEMENT

11.

- 11.1. A postponement ordinarily carries with it the question of who should bear its costs. The general rule is that the party responsible for a postponement should pay the costs wasted by it. The position here is not so simple, and I have concluded that no order visiting the costs of the postponement upon any single party would be just.
- 11.2. Criticism may fairly be directed at more than one quarter. The intervening parties delivered a substantial application only two court days before a hearing that had been set down since March 2026, in circumstances where the underlying disputes had been known to them for a considerable time. That lateness is, however, explained to a degree by the disruption to the CPA's leadership, including the assassinations to which I have referred, and by the time taken by a newly elected committee to establish itself. The First and Second Respondents, for their part, came on record only in March 2026 and now seek further time to answer; while a litigant is entitled to proper representation and time to answer, the company respondents' engagement with this long-pending matter has been belated and, until very recently, unclear. The Third Respondent has not engaged at all. The Applicants, although ready to proceed and entitled to have their set-down respected, brought and have maintained an application that suffers from a non-joinder that was apparent and that would in any event have prevented a final hearing.

- 11.3. In short, the matter has reached this impasse through a combination of factors and a measure of responsibility on several sides, rather than through the fault of one party alone. The intervention, which is the immediate occasion of the postponement, raises matters of genuine substance that had to be ventilated; it would not be just to mulct the intervening parties in the wasted costs of a postponement that the state of the main application, and in particular the non-joinder, rendered all but inevitable. Equally, it would not be just to burden the Applicants alone, who were ready to proceed. In these circumstances the fair order is that the costs occasioned by the postponement be reserved for determination by the Court that finally hears the matter, which will then be in a position to assess the conduct of each party in the round and against the ultimate outcome. I make no adverse costs order against any party at this stage, and the reservation of costs is without prejudice to the right of any party to seek an appropriate costs order at the final hearing.

ALLOCATION TO A SPECIAL MOTION COURT

12.

Given the volume of the papers, the number of parties, the complexity of the factual and legal issues, and the prospect that the matter may require the hearing of a substantial interlocutory application followed by a lengthy main application, this matter is not suited to disposal in the ordinary opposed motion court. The parties are directed to give consideration to approaching the Deputy Judge President, in accordance with the Practice Directives of this Division, for the allocation of the matter to a special motion court or for case management, so that an appropriate hearing date and adequate time may be secured. The interests of the many persons affected by this litigation, and the need to bring these long-running disputes to finality, make such an approach desirable.


CONCLUSION AND ORDER

13.

- 13.1. For the reasons set out above, the intervention is unopposed and is granted, and the intervening parties are joined as respondents in the main application. The matter is to be postponed sine die to enable the exchange of the affidavits that follow upon the intervention and the counter-application, and to enable the joinder of the necessary parties. Thereafter the matter is to proceed in the normal course of the Rules of this Court.
- 13.2. In the result, I make the following order:

- 13.2.1. The hearing of the main application is postponed *sine die*.
- 13.2.2. The application to intervene being unopposed, leave is granted to the intervening parties to intervene, and the intervening parties are joined as respondents in the main application.
- 13.2.3. It is recorded that the affidavit delivered by the intervening parties serves as the founding affidavit in the application to intervene, as the answering affidavit in the main application, and as the founding affidavit of the counter-application.
- 13.2.4. The remaining respondents are to consider their position in relation to the intervening parties and the counter-application, and may deliver such affidavits as they may be advised, in accordance with the Rules of this Court.
- 13.2.5. The Applicants may deliver their replying affidavit to the answering affidavit, and their answering affidavit, should they wish to do so, to the founding affidavit of the counter-application, in accordance with the Rules of this Court.
- 13.2.6. The relief sought in the main application and in the counter-application, including the dismissal of the main application and a final declarator as to the lawful Executive Committee of the First Applicant, will be dealt with at the final hearing of the matter, once all the pleadings have been exchanged.
- 13.2.7. The Applicants are directed, within 20 (twenty) days of the date of this order, to take all steps necessary to effect the joinder to the main application of: the Gauteng Department of Human Settlements; the City of Tshwane Metropolitan Municipality; and the residents and occupants of the Rama City development who are not otherwise before the Court, including those not covered by the intervention application. Thereafter the ordinary Rules of this Court shall apply to the joinder and the further conduct of the matter.
- 13.2.8. The questions of the locus standi of the Applicants and of the challenge to the authority of the Applicants' attorneys in terms of Rule 7 are not determined, and stand over to be dealt with as the matter proceeds; the Applicants are to address those challenges to the extent that they may deem necessary.

- 13.2.9. The parties are directed to give consideration to approaching the Deputy Judge President for the allocation of the matter to a special motion court or for judicial case management, having regard to the volume of the papers and the number of parties affected.
- 13.2.10. The costs occasioned by the postponement are reserved for determination by the Court that finally hears the matter.



DU PLESSIS AJ
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

APPEARANCES

Date of hearing: 25 and 26 May 2026

Date of judgment: 27 May 2026

For the Applicants: Adv L Arthur Maisela, instructed by the Applicants' attorneys of record.

For the First and Second Respondents: Adv B Bergenthuin, instructed by M Botha Attorneys.

For the Third Respondent: No appearance.

For the Fourth Respondent: Adv T Seneke SC, instructed by the Office of the State Attorney, Pretoria (appeared on 26 May 2026).

For the Fifth Respondent: No appearance.

For the Intervening Parties: Adv FC Lamprecht, instructed by Thipe Attorneys.