



**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG**

Reportable/ not Reportable

Case No:2633/2025

In the matter between:

ENLIGHTENED CHRISTIAN GATHERING SOUTH AFRICA

NPC REGISTRATION NO:2012/123593/08

First Applicant

ECG TNJC RUSTENBURG NPC

REGISTRATION NO:2024/408275/08

Second Applicant

and

GDS RAMAJHO N.O.

First Respondent

S SULEMAN N.O

Second Respondent

FH SULEMAN N.O

Third Respondent

REGISTRAR OF DEEDS, PRETORIA

Fourth Respondent

MASTER OF HIGH COURT, PRETORIA

Fifth Respondent

Coram: MNYOVU AJ

Date heard: 30 April 2026

Date of Judgement: 07 August 2026

ORDER

- i. The application for declaratory order is dismissed.
 - ii. Applicants are ordered to pay costs of the respondents on scale C.
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JUDGMENT

MNYOVU AJ

INTRODUCTION

[1] This is an application in which the applicants seek a declaratory relief that the second applicant ECG TNJC Rustenburg NPC be declared as the real owner of the immovable property situated at Farm 200, Waterkloof Rustenburg, North West Province, which immovable property is presently registered in the name of PROPHET SHEPHERD BUSHIRI MINISTRIES NPC (PSBM). In addition, the applicants seek fourth respondent to effect registration of the said immovable property into the name of the second applicant, and authorising first, second and third respondents to sign all necessary documents to effect registration by fourth respondent.

[2] This application is opposed by the first, second and third respondents on various grounds, the fourth and the fifth respondent are moot in these proceedings.

[3] The first applicant is ECG SA a registered non-profit organisation in 2014 and second applicant is ECG TJNC Rustenburg a company duly registered on 5 July 2024 as N.P.O in accordance with the laws of RSA. The second applicant

was previously known as Enlightened Christian Gathering Rustenburg Branch (ECG Rustenburg). Because the second applicant was not established at the time of acquisition of the immovable property PSBM, subject to this application, its boards of directors authorised the institution of this application and mandated the first applicant.

[4] The second applicant is reclaiming to vindicate Rustenburg rights over the immovable property namely, PROVINCIAL SUPPORT BUSINESS MANAGEMENT NPC (*in liquidation*) situated at Farm 200, Waterkloof Rustenburg, NWP, registered under Prophet Shepherd Bushiri Ministries NPC, which was liquidated by an Order granted in the High Court, Gauteng Division, Johannesburg, under case number 107949/2023, on 06 February 2024.

[5] The first applicant claims that he has a *locus standi* to bring this application together with the second applicant, they have a *prima facie* case on the basis that the second applicant is a true owner of the immovable property now in liquidation by virtue of the intentions of Mrs Maria Mokoena who purchased the PSBM in 2018 on behalf of Rustenburg branch, the first applicant having been in association with PSBM, the entity through which commercial/business activities of the first applicant were carried out.

[6] The First, Second and Third respondents are joint provisional liquidators appointed by the Fifth respondent on 8 May 2024 to wind-up the estate of Provincial Support Business Management NPC (in liquidation), the registered owner of the immovable property, the subject matter, is Prophet Shepherd Bushiri in the Title Deed. The latter was arrested together with her co-accused wife for fraud, rape and amongst others, money laundering here in South Africa. They were released on bail, soon after, they fled to their native country Malawi, as a result of the controversy surrounding the Name of the Ministry Prophet Shepherd

Bushiri Ministries, was changed into Provincial Support Business Management NPC, however, the PSBM remained registered property of Prophet Shepherd Bushiri in its Title Deed, currently the subject matter is at its final liquidation stage by the joint liquidators.

ISSUES

[7] Against this background, this application turns on the following issues:

7.1 whether the applicants have made out a *prima facie* case for a declaratory order to the effect that Clauses 1 to 3 of the Notice of Motion should be granted.

APPLICANT'S SUBMISSIONS

[8] The applicants submit that they have *locus standi* to seek declaratory order from this Court, because of the intention of Mrs Maria Mokoena to purchase the PSBM on behalf of the second applicant, PSBM will hold *nodum dominin* until second applicant be registered as N.O.P by Mrs Maria Mokoena. That made the second applicant the beneficial owner of the immovable property, notwithstanding registration of the immovable property in the name of PSBM, therefore, the relief is vindicatory, notwithstanding the title deed, and that first applicant is a party to the agreement that the second applicant would be the owner of the immovable property.

[9] The applicant submitted that they have interest in the subject matter of the application, the immovable property has manifested. They submit that they are entitled to the relief, whilst the immovable property is registered in the name of PBSM, registration is only *prima facie* proof, the presumption of ownership is not conclusive and can be rebutted, and they relied on various authorities and *Dadabhay v Dadabhay and Another* 1981 (3) SA 1039 (A).

[10] The applicant submitted that the issue of acquisition of the property by a branch, was an issue which the D.E.M committees was empowered to deal with, the applicants had to conduct meetings with D.E.M Committees and Resident Pastor Ngwira, to deal with an issue of a branch acquiring land for its members to develop it and get guidance from the D.E.M.

[11] It is on those meetings where it was agreed that Mrs Mokoena, the buyer should nominate the PSBM an associated entity, as an entity in whose name the property be registered pending the registration of the Rustenburg Branch as an N.P.O. thus PSBM will hold the *nudum dominium* of the property, since the PSBM was an entity through which the church business/commercial activities were being handled/conducted, applicant submitted that the nomination of PSBM was because Mrs Mokoena cannot register the properties in her names, as the local branches were not registered as N.O.P.

[12] The applicant submitted after those meetings Mrs Mokoena purchased the property through an offer of R4.9 Million Rands, acquired the property by sale of Agreement, statements from Mrs Mokoena's FNB account demonstrate the evidence to the effect of acquiring the property, meetings with D.E.M Committees and resident pastor Ngwira coming into agreements, Annual reports 2017,2018 to 2019 demonstrate that second applicant is the true and the beneficial owner of the PSBM in liquidation.

[13] Applicant submits that because of the agreement as such at all material times the members and leadership of the second applicant conducted themselves as the owners of the property in turn PSBM recognised the second applicant as the beneficial owner of the property, never challenged the second applicant's rights over the property. The members started to raising funds to erect the buildings on the property with the common understanding that the beneficial

ownership of the property vest with the second applicant. The congregants pledged various amounts towards the building of the church, through its fund-raising, pledges and contributions from its members has to date spent not less than R5 million rand to refurbish the PSBM old buildings.

[14] Applicant submitted further that on 05 July 2024 the second applicant was then registered as N.P.O, the relief sought is essentially vindicatory in regard to the second applicant. At the time the applicant registered the company, the applicants were not aware that the PSBM was in liquidation or rather liquidated.

[15] Counsel for the applicant argued that the liquidators do not challenge the intentions of second applicant and PSBM, despite disputing Mrs Maria Mokoena's payments for the purchase price of the immovable property, developments and improvements made to the property, payments of the transfer and sundry costs, instead they are purely speculating the amounts and conjecturing.

[16] Counsel for the applicants argued that Section 2 (1) of the Alienation of Land Act 68 of 1981 as contended by the respondents was misplaced, as the applicants do not seek to enforce the sale or exchange or donation of the land in terms of the Alienation of Land Act, instead what is asserted is the second applicant's ownership of the immovable property registered in its name.

FIRST, SECOND AND THIRD RESPONDENT'S SUBMISSIONS

[17] In opposing of the application, the respondents submitted that the applicants have no cause of action, no evidence has been provided of the alleged purchase of R4 900 000.00, the statement of account, dated 18 March 2024, from Dup West Inc Attorneys addressed to PSBM reveals that the purchase price of R4 9 million was paid in instalments from July 2017 to April 2018 by PSBM no

evidence in the founding affidavit that there was any compliance with the formalities of the Alienation of Land Act, No 68 of 1981, which sets out the legal requirements for the sale, exchange or donation of land, it mandates that all such agreements must be in writing and signed by the parties involved (or their authorised representatives) and that all alienation of land must be contained in a Deed. There is no power of attorney between Mrs Maria Mokoena and the Attorneys, nothing links her to the transfers of the property except Botha and PSBM.

[18] The respondents submit that second applicant failed to prove ownership of the property, they have no *locus standi* or *prima facie* in their application, there is no evidence to support all their contentions set out in their founding affidavit. The redacted FNB Bank statements from Mrs Maria Mokoena does not create any transfer rights for second applicant.

[19] The respondents further submitted that the allegation “*beneficial ownership*” does not defeat and/or justify the non-compliance with the provisions of the Alienation of Land Act 68 of 1981, they devise the sham to avoid the sale of property and realisation of the asset by the joint liquidators in order to pay PSBM’s creditors.

[20] Counsel for the respondents argued that the word “*beneficial ownership*” does not exist in our law, if there is alleged ownership, the applicants should prove their real right, their relationship between them and the immovable property they are claiming, the applicants are claiming specific performance from the liquidators because they had a contractual arrangement with PSBM, the Performa Tax Invoice from Conveyancers reflects names of PSBM and addressed to the latter, as well as Title Deed.

[21] Counsel for the respondents submitted that with PSBM having registered in the Title Deed on its own demonstrate that the applicants have failed to prove their real right over the immovable property PSBM, nothing links the Second applicant to the immovable property, not even in the Title Deed. Respondents relied to legal authorities of *Lucas' Trustee v Ismael and Ayob* 1905 TS 239 and *Strydom* in support court's decision that with the issue of whether the respondents were entitled to the proceeds of the expropriation of the property, it was held that if the respondents were to succeed, it could be because they were owners of a *jus in re* (real right) in regard to the land of which the proceeds were in dispute.

[22] Counsel for the respondents argued that the redacted bank statements from Mrs Maria Mokoena were not disclosed in the founding affidavit, they were only disclosed in replying affidavit, they stand to be rejected by this court, they were not pleaded by the applicant in the founding affidavit, the applicant failed to prove their *prima facie* case by failing to comply with s 2 (1) of Alienation Act 68 of 1981.

[23] The respondents counsel submitted that the applicants are claiming personal right not real right, which arise from their purported *inter-partes* agreement, between them and their D.E.M Committees, and Resident pastor Ngwira. The obligation to perform in the context of personal right may arise from a contract, which the applicants claim from this application. In such case the applicants had to comply with s 2 (1) of Alienation Act 68 of 1981, setting out requirements for the sale of the property, to prove their ownership to the immovable property, they have failed to do such as obligated by law to prove them vindicate right.

[24] In reply, the applicants relied to the legal authority of *Dadabhay* where the parties entered into an oral agreement of sale of land, such sale was noted as not

a contract of sale nor cession, it was not valid in terms of s1 (1) of Act 68 of 1957, which was the reason the application does not require them to comply with Alienation Act.

[25] Counsel for applicants submitted that the applicants are not seeking any personal right but a vindicate right, based on the intention of the second applicant in purchasing the property, the respondents seemed to ignore the trust formulation between the parties, that it was agreed that second applicant is the real and beneficial owner of the immovable property PSBM.

LAW

[26] Under common law, the High Court did not have jurisdiction to grant declaratory relief¹. Such power was conferred upon High Court by the provisions of section 102 of the General Law Amendment Act 46 of 1953 (Currently is governed by section 21 of the Superior Courts Act 10 of 2013 (Superior Courts)).

[27] In terms of section 21(1) (c) of the Superior Courts Act, 10 of 2013, the High Court may grant a declaratory order without any consequential relief sought. The section provides as follows:

“21(1) A Division has a jurisdiction over all persons resident or being in, and in relation to all causes arising and all offence triable within, its jurisdiction and all other matters of which it may according to law take cognisance, and has the power-

(c) in its discretion, and at the instance of any interested person, to enquire into and determine any existing future or contingent right or obligation, notwithstanding that such person cannot claim any relief consequential relief upon the determination’.

¹ Geldenhuys and Neethling v Beuthin 1918 AD 426.

[28] The correct approach to section 21(1) (c), the wording of which is similar to the erstwhile power conferred upon the court under section 10 (1)(a)(iii) of now repealed Supreme Court Act 58 of 1959, was summed up by Corbett C J in *Shoba v OC, Temporary Police Camp, Wagendrift Dam* 1995 (4) SA 1(A) at 14F-I as follows:

“an existing or concrete dispute between persons is not a prerequisite for the exercise by the Court of its jurisdiction under this subsection, though the absence of such a dispute may, depending on the circumstances, cause the Court to refuse to exercise its jurisdiction in a particular case (see Ex Parte Nell 1963(1) SA 754 (A) at 759 H -760B). But because it is not the function of the Court to act as an adviser, it is a requirement of the exercise of jurisdiction under this subsection that there should be interested parties upon whom the declaratory order would be binding.

[29] In *Nell's* case, supra, at 759A-B, Steyn CJ referred with approval to the following statement by Watermeyer JA in *Durban City Council v Association of Building Societies* 1942 AD 27, fit 32, with reference to the identically worded section 102 of Act 46 of 1935: - The question whether or not an order should be made under this section has to be examined in two stages. First the Court must be satisfied that the applicant is a personal interested in an existing, future or contingent right or obligation² and then, if satisfied on that point, this court must decide whether the case is a proper one for the exercise of the discretion conferred on it.

[30] When considering the grant of declaratory relief, the court will not grant such order where the issue raised before it is hypothetical, abstract and academic,

² *Family Benefit Friendly Society v Commissioner for Inland Revenue et al* 1995(4) SA 120 (T) at 125B.

or where the legal position is clearly defined by statute.³

[31] A declaratory order is an order by which a dispute over the existence of some legal right or entitlement is resolved. There must be a legal basis upon which the declaratory order in favour of the applicant can be made, it would not ordinarily be appropriate where one is dealing with events which occurred in the past, such events, if they give rise to a cause of action, would entitle the litigant to an appropriate remedy. The interest that the applicant should have, is at least akin to the interest that a party has to intervene in the proceedings in the High Court, i.e., have a direct and substantial interest in the subject matter⁴.

[32] In *Cordiant Trading CC v Daimler Chrysler Financial Services (Pty) Ltd*⁵ the Supreme Court of Appeal confirmed the two-stage approach adopted by the then Appellant Division in *Durban City Council v Association of Building Societies* 1942 AD 27, fit 32.

[33] In this current application, the issue that requires determination for the declaratory order to be granted in my discretion is based on the dispute over the existence of some legal right or entitlement on acquisition of the immovable property PSBM (*in liquidation*), in order for me to grant the declaratory order in favour of the applicants, this Court should be satisfied that:

(a) the applicants have an existing, future or contingent right or obligation in the PSBM property in liquidation, if so, what legal right do they have to prove their direct and substantial interest in the subject matter (the PSBM in liquidation).

³ *Ex parte Noriskin* 1962 (1) SA 856 (D).

⁴ *Milani et al v SA Medical and Dental Council et al* 1990 (1) SA 899 (T) at 902G.

⁵ 2005 (6) SA 205 (SCA) at 213 E-G.

(b) the applicants' events, which occurred in the past, such events, if they rise to a cause of action, would entitle the applicant to an appropriate remedy.

ANALYSIS

WHETHER THE DECLARATORY ORDER SHOULD BE GRANTED

[34] The applicant has approached this Court seeking a declaratory order to the effect to Clause 1-5 of the Motion.

[35] It is common cause that the applicant's alleged vindicative right in respect of the PSBM property, which arose from six years ago in 2017, when Mrs Maria Mokoena, a member in second applicant's church intended to acquire the immovable property situated at Farm 200, Waterkloof Rustenburg, North West Province, on behalf of the second applicant, while Prophet Shepherd Bushiri Ministries NPC will hold the *nudum dominium* of the property on behalf of the second applicant. In 2018 the PSBM was registered at Registry of Deeds under the name of PSBM, and registration still exists.

[36] The legal rule for a *vindicatory right* is often exercised through the *rei vindication*, a legal remedy that allows an owner to reclaim physical property unlawfully held by someone else, the property must exist and be identifiable and the person you are taking action against must be in actual control of the property at the time the claim is instituted, this is applicant's claim in its papers.

[37] The first applicant contends that the second applicant is true owner of PSBM immovable property they wish to reclaim, second applicant is currently using the premises for its church congregants, the respondents who are currently in possession of the property as joint liquidators must hand over the immovable property to them, which is a reason they sought declaratory order to vindicate the second applicant's rights over the property as per motion.

[38] The reasons that qualifies second applicant to be the true owner of the immovable PSBM, are already set out in their submissions, I must emphasize that these events occurred in the past, way back 2017 that is six years from now, these events are the applicant's cause of action for the order sought, Mrs Maria Mokoena ultimately acquired the property from Pastor Shepherd Bushiri Ministries by , and became the beneficial owner of the PBSM, in an oral agreement that was concluded between the parties involved, there is no offer of purchase or sale of agreement that was concluded.

[39] This court is in agreement with the Respondents where there is a sale of property, in particular where there are transfer duties involved, there is an Title Deed in existence, the owners must prove the ownership in terms of Section 2 (1) of Alienation Act of 68 of 1981⁶, in order to be enforceable and be valid in law as such nothing of that effect in this application, the applicants relied to legal authority of the *DADABHAY v DADABHAY* 1981 (3) SA 1039 (A) for the purposes of their application, in that there was an oral nominee agreement that existent between the first applicant, Mrs Maria Mokoena, D.E.M Committees and Resident Pastors of PSBM, they did not need to comply with Section 2 (1) of Alienation Act 68 of 1981.

[40] This court endorsed Greenberg's J A's *DADABHAY v DADABHAY* that the appellant and the respondent entered into oral agreement in terms of which the respondent agreed to buy an erf from the respondent on behalf of appellant and as nominee for the appellant, but respondent refused to transfer it when called upon to do so, a defence was based on s 1(1) of the General Law Amendment Act 68 of 1957 was dismissed.

⁶ mandates that no contract for the sale or transfer of land is legally valid unless is reduced to a written deed of alienation and signed by both parties (or their agents acting under written authority).

[41] In South African property and contract of law, the *DADABHAY* case is seminal Appellate division (now Supreme Court of Appeal) judgement establishing that *verbal nominee agreements* for the ownership of immovable property are legally valid and enforceable, provided they do not involve the direct transfer or alienation of land. This precedent was affirmed in *Loggenberg and Others v Maree*⁷.

[42] In reference to the above even though there was no written contract between, the D.E.M Committees, Resident Pastor and Mrs Maria Mokoena, their *oral nominee agreement* had an objective approach on words that remain the first source of reference, the intentions of Mrs Maria Mokoena to purchase the immovable property and PSBM hold *nudum dominium* of the property on behalf of the second applicant until second applicant is registered as N.O.P, the Court had to examine those facts, context in order to determine what the parties intended⁸⁸ for declaratory ruling.

[43] In examining the facts in what Mr Maria Mokoena intended to purchase the property on behalf of the second applicant, submits proof of registration of second applicant as N.O.P on 5 July 2025 but did not submit evidence to this court in its founding affidavit how the property PSBM was acquired.

[44] In their replying affidavit the redacted bank statements were submitted as proof that Mrs Maria Mokoena purchased the immovable property, my observation on the statements was that some transactions were intentionally removed, only amounts reflecting deposits received by Mrs Maria Mokoena, some from Mary, and transactions to Dup West Incorporated, conveyancers for PSBM.

⁷ (286/17) [2018] ZASCA 24.

⁸ *Nvartis v Maphili* 2016 (1) SA 518 (SCA) at para 28.

[45] I must stress that these redacted statements are regrettably rejected by this Court as they do not hold any water to my ruling, they don't prove any beneficial ownership by the second applicant.

[46] Moving on this Court cannot ignore that the immovable property is still in existence and identifiable under the new name of Provincial Support Business Management NPC (*in liquidation*), the name of previous Prophet Shepherd Bushiri Ministries NPC was changed on 06 February 2024 because of the surrounding circumstances of fraud, rape and money laundering, the same property the applicant requests its ownership to be vindicated to second applicant, who presented redacted bank statements to this Court, as proof of the purchase of the PSBM.

[47] I find that, at the time the second applicant was registered as an N.O.P in PSBM property was already transferred by Conveyancers from R J and E A Botha to PSBM in April 2018, giving ownership to PSBM, leaving the applicants with no real right or vindicative right to reclaim the immovable property.

[48] *Dadabhay* case clearly states that the verbal nominee agreement for ownership of immovable is binding, provided they do not involve direct transfer of the immovable property, in the circumstances of the current application the conveyancers directly transferred the immovable property from Botha to PSBM, which in my view, the PSBM directly purchased the property from the Botha's and transferred it at the time there is *oral nominee agreement* that second applicant will take ownership as they are registered as N.O.P.

[49] In my consideration view, it is clear that there was a mistrust between the parties, Mrs Maria Mokoena did not purchase the immovable property, same she could not bring the evidence to this court. The second applicant is not the true

owner of the immovable property PSBM. It is evident from their papers the Deed of Transfer indeed occurred between R J and E A Botha and PSBM on 10 April 2018. Mrs Maria Mokoena's intentions to be owner of immovable property PSBM extinguished on 10 April 2018 when the immovable property was transferred by PSBM conveyancers and register in PSBM.

[50] I am of the view that soon after their oral nominee agreement was concluded, the payments should have been paid to the original owners R J and E A Botha, second applicant should have registered its company as a N.O.P as earlier, however, the PSBM the nominee, paid those transfer as demonstrated by Invoices from Conveyancer and transfer occurred.

[51] The respondents, the joint liquidators are not in unlawful possession of the immovable property PSBM, by virtue of an Order, granted in the High Court, Gauteng Division, Johannesburg, under case number 107949/2023, on 06 February 2024, their legal duty is to wind – up the estate of immovable property PSBM considering the crucial circumstances surrounding it. registered under Pastor Shepherd, this Court does not have jurisdiction to overturn that Order.

REASONS FOR THE ORDER

[52] It is my considered view that the second applicant does not have any vindicative rights over the immovable property Provincial Support Business Management NPC (IN LIQUIDATION), it is evident from their papers that the second applicant seek to acquire ownership of the property because their counterparts (the extradited Pastor Shepherd Bushiri and his wife Mary Bushiri) are not in South Africa to reclaim their property (*in liquidation*).

[53] The second applicant registered its company on 5 July 2025 to save the PSBM liquidation proceedings, Mrs Maria Mokoena's intentions with its events

occurred in 2017, giving rise to second applicant's cause of action, are not good intentions, I am of the view that there intentions were there to protect interest of (the extradited Pastor Shepherd Bushiri and his wife Mary Bushiri) it will not be in the interest of justice to grant the order sought under the surrounding circumstances, accordingly, the applicants application stands to fail.

[54] The second applicant does not have any existing, future or contingent right or obligation in the PSBM immovable property (*in liquidation*), let alone substantial interest in the subject matter (the PSBM *in liquidation*). Its appropriate remedy after receiving advertisements for the liquidation of PSBM, was to opt for the purchase of the immovable property.

[55] In my view, it is for the joint liquidators to sell the immovable property PSBM by powers vested to them as per Resolutions of the joint liquidation of the company resolved on 25 September 2025.

COSTS

[56] The application is opposed both parties seek costs, in which event costs shall be borne jointly and severally, the one paying the other to be absolved.

[57] The general rule in matters of costs is that the successful party should be given costs. In determining who the successful party is, the court looks to the substance and not the form of the judgement.

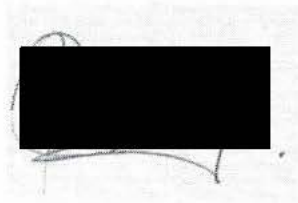
[58] The respondent in this matter is successful in the main application, accordingly, the applicant should pay the respondents costs, both junior and senior counsels on Scale C.

ORDER

[59] In conclusion, I make the following order:

59.1 The applicant's application for the declaratory order is dismissed;

59.2 The applicant shall pay the Respondent's, both Junior and Seniors 'counsels' costs in terms of Scale B.



B. F. MNYOVU

**ACTING JUDGE OF THE HIGH THE COURT
NORTH WEST DIVISION, MAHIKENG**

Appearances:

For the Applicant: Adv. L. Hollander
Instructed by: Mathopo Attorneys Inc.
C/o Sethunyane Attorneys
MMABATHO

For the respondents: Adv. N. Horn with him Adv. K. Mitchell
Instructed by: Oosthuizen Caine Inc
C/o Labuschagne Attorneys
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