

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

JUDGMENT

Not Reportable

Case No: **2025-190634**

In the matter between:

**PANORAMA BODY CORPORATE
(SS41/0221)**

Applicant

and

**MODERN ENTERPRISES IMPORTS & EXPORTS
(PTY) LTD (Reg No. 2016/075758/07)**

Respondent

Corum : MAPOMA, AJ

Date heard : 28 April 2026

Date of Judgment: 21 August 2026

***Summary:** Enforcement of adjudication order of the Community Schemes Ombud Services adjudicator– whether the latter is an order of court executable as such – section 56(2) of Community Schemes Ombud Services 9 of 2011 - declaration of commercial property specially executed – requirement of Rule 46(1)(a)(ii) – application for stay of execution pending review – test applied – requirements for interim relief pending review - prima facie right - irreparable harm not met – order enforceable – commercial properties specially executable.*

ORDER

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1. The application succeeds.
 2. The counter-application is dismissed.
 3. The properties consisting of units in in the Panorama Flats and Central Court, namely Section Numbers 1, 2, 3, 4, 5, 7, 8, 9, 12, 13, 14, 15, 16, 17, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46 and 47 registered in the name of Modeen Enterprise Import and Export Proprietary Limited Registration Number: 2016/075758/07, are declared specially executable.
 4. The respondent is liable to pay costs of this application, which cost shall include counsel fees on scale B.
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JUDGMENT

MAPOMA, AJ

Introduction

[1] This is an application in terms of rule 46(1)(a)(ii) of the Uniform Rules of Court, for an order declaring the respondent's sectional title commercial properties in Panorama Sectional Title Scheme ("the scheme") specially executable. The application is in pursuit of enforcement of the adjudication order that was granted by the Community Schemes Ombud Services ("the CSOS") adjudicator, Ms Sabera Hoosian, on 26 August 2025, under reference number CSOS 7155/WC/24, against the respondent, for payment of arrear levies owing by the respondent to the applicant for the amount of R3 510 202.37 ("the adjudication order").

[2] The application is opposed by the respondent, contending that the adjudication order is not a court order as contemplated in section 56 of the Community Schemes Ombuds Services Act 9 of 2011 (“the SCOS Act”) for the purposes of enforcement under rule 46(1)(a)(ii). The respondent also filed what it calls a conditional counter-application, in which it seeks interim relief for the stay of enforcement of the adjudication order pending the finalisation of the review application of the adjudicator’s decision.

Background Facts

[3] The applicant is a duly incorporated body corporate, registered as such in terms of section 36 of the erstwhile Sectional Titles Act 95 of 1986, which was superseded by the Sectional Titles Scheme Management Act 8 of 2011 (“the STSMA”).¹ The applicant is the body corporate that governs a sectional title scheme registered as Panorama Flats and Central Court (“the Scheme”).

[4] The respondent is a duly incorporated private company. It is the registered owner of certain sections (properties)² of the scheme, the total of which constitute 32.4% of the total participation quota in the scheme. The respondent, by virtue of its ownership of the units in the scheme that is governed by the applicant, is a member of the applicant in terms of section 2(1) of the STSMA.³

[5] On 17 May 2018 the respondent acquired the properties by auction for an unincumbered amount of R3 850 000.00. On 31 August 2018, the units were registered into the name of the respondent, resulting in the latter becoming the registered owner of the sectional title properties in terms of Title Deed

¹ Accordingly, the applicant is a juristic person as contemplated in section 2 of the Community Schemes Ombuds Services Act 9 of 2011 (“the SCOS Act”)

² The respondent owns Units 1,2,4,5,7,8,9,12,13,14,15,16,17,29,30,32 to 47 in the Panorama Flats and Central Court (“the Scheme”)

³ Section 2 (1) of the STMA provides that *“With effect from the date on which any person other than the developer becomes an owner of a unit in a scheme, there shall be deemed to be established for that scheme a body corporate of which the developer and such person are members, and any person who thereafter becomes an owner of a unit in that scheme is a member of that body corporate.”*

ST14514/2018. It is alleged that since February 2020, the respondent refuses to pay the due levies to the applicant, claiming that it is entitled to withhold payment because the applicant failed to perform repairs for water damages and do maintenance to its properties.

[6] On 13 June 2024, the respondent referred a dispute to the CSOS for dispute resolution mechanism, claiming against the applicant, *inter alia*, repairs and maintenance of its properties, for which the respondent claimed it made payment of an amount R889 000 to the applicant, yet the maintenance services were never carried out. This claim was opposed by the applicant.

[7] On 23 July 2024, the applicant on the other hand, referred a dispute to the CSOS, applying for its resolution in terms of section 38 CSOS Act. In the dispute, the applicant sought relief in terms of section 39(1)(e) and (f) of the CSOS Act for payment by the respondent of the outstanding levies in the amount of R2 821 614.16 owing at that time; payment of rent by the respondent's tenants, and an order directing the respondent not to allow the tenants to sleep in the units. Section 39(1) of the CSOS Act empowers the applicant to apply for an order for the payment or re-payment of a contribution or any other amount.

[8] On 6 September 2024, the respondent's claim was referred to a CSOS adjudicator, and the parties were required to make submissions by 13 September 2024, which the parties did. On 16 September 2024 the adjudicator handed down the adjudication order dismissing the respondent's claim. This is a separate dispute from the dispute that resulted in the adjudication order that is the subject of these proceedings.

[9] On 27 March 2025, the High Court, upon application by the respondent, reviewed and set aside the adjudication order dismissing the respondent's claim.

However, the Court did not remit the matter to the CSOS in terms of section 8(1) of the Promotion of Administrative Justice Act 3 of 2000 (“PAJA”) for reconsideration. The application was granted on an unopposed basis.

[10] On 26 August 2025, the CSOS adjudicator in the applicant’s claim (Ms Hoosain) granted the adjudication order in favour of the applicant in terms of section 54 of the CSOS Act, against the respondent for payment of the outstanding arrear levies in the amount of R3 510 202.37 within 30 days of receipt of the adjudication order. The adjudication order also directed the respondents not to allow its tenants to sleep in the units. Further, the adjudication order notified the respondent of its right to appeal to the High Court within 30 days in terms of section 57 of the CSOC Act. This is the adjudication order that is the subject matter of these proceedings.

[11] The respondent did not lodge an appeal to the High Court against the adjudication order in terms of section 57 of the Act. Section 57(1) provides that an applicant, the association or any affected person who is dissatisfied by an adjudicator’s order, may appeal to the High Court, but only on a question of law. In terms of section 57(2), such appeal must be lodged against an order within 30 days after the date of delivery of the order of the adjudicator. Further, the respondent did not make payment of the amount ordered in compliance with the adjudication order within the stipulated time.

[12] On 10 October 2025, the applicant's attorneys addressed a letter to the respondent’s attorneys demanding payment in compliance with the adjudication order. In the letter, the respondent’s attorneys were notified that in terms of the CSOS Act, the adjudication order may be enforced as if it were a judgment of the High Court, and that the attorneys were notified that should payment not be made, further legal action would be taken without further notice to them or their client. The 10 October 2025 letter was met by an email response dated 13

October 2025 from the respondent's attorneys, who advised that they were considering launching a review application of the adjudication order, which according to them, would suspend payment of the amount claimed.

[13] On 7 October 2025, the applicant lodged the adjudication order with this Court under the current case number 2025-190634 and on 16 October 2025, the Registrar duly registered it in terms of section 56 (2) of the CSOS Act as an order of court. Section 56(2) of the Act provides that if an adjudicator's order is for the payment of an amount of money or any other relief which is beyond the jurisdiction of the Magistrate's Court, the order may be enforced as if it were a judgment of the High Court, and a registrar of such a Court must, on lodgement of a copy of the order, register it as an order in such Court.

[14] On 14 November 2015, the respondent launched a review application to this Court online under a separate and different case number 2025-218125, seeking to review and set aside of the adjudication order granted on 26 August 2025 in favour of the applicant. The set of papers of the review application is attached in the application papers of these proceedings. Notably, in its review application, the respondent did not seek interim relief staying the execution of the adjudication order pending the finalisation of the review. The respondent now seeks in the conditional counter-application in these proceedings the interim relief of stay of the execution of the order. The conditional application is made in the answering affidavit of the present application.

[15] On 14 November 2025, the applicant's trustees passed a resolution for the applicant to launch an application to this Court to declare the respondent's properties specially executed in terms of Rule 46(1)(a) (ii) of the Uniform Rules

of Court.⁴ Pursuant to the resolution, in January 2026, the applicant launched this application under case number 2025-190634.

Issues

[16] The issues to be decided by this Court are two-fold. The first issue is whether the adjudication order is an order of court capable of being enforced in terms of rule 46(1)(a)(ii) of the Rules as if it were judgment of the High Court. The respondent contends that it is not, whereas the applicant argues the contrary.

[17] The second issue calling for determination is whether the respondent has made out a case for the interim relief staying the enforcement of the adjudication order pending the finalisation of the review application of the adjudication order. Essentially, the respondent seeks to preserve the current position pending the review under another case number 2025-218125 of this Court. The pertinent sub-issue then is whether the respondent has met the requirements for interim relief it seeks as a “conditional counter-application”.

[18] The third issue, which is dependent on the Court’s decision on the conditional application, is whether good cause exists for the respondent’s properties to be declared specially executable in terms of rule 46(1)(a)(ii) in the circumstances of this case. This inquiry will require the Court to consider all the relevant legal factors.

Parties’ Contentions

[19] The applicant contends that the adjudication order was duly lodged with the Registrar of this Court and that it may be enforced in terms of the Rules as if it were the judgment of this Court as contemplated in section 56 of the CSOS

⁴ The Resolution of the Trustees dated 14 November 2025 is marked as annexure FA1 to the founding affidavit

Act. The applicant averred that the adjudication order was lodged with the Registrar on 7 October 2025 through the court online system and was duly registered on 16 October 2025, pursuant to which a case number was allocated by the Registrar.

[20] The respondent contends that the adjudication order is not a court order capable of enforcement as if it is an order of this Court, in that the applicant had failed to lodge the adjudication order as claimed. According to the respondent, no court order was attached in the applicant's founding affidavit confirming its lodgement, and that the respondent's attorneys of record were unable to locate such an order or any evidence of its existence.

[21] The respondent does neither disputes nor deny its failure to pay levies owing. Instead, the respondent contends that it is entitled to withhold the payment of levies because, according to the respondent, the applicant has failed to carry out maintenance at the scheme and specifically to its units, and that the applicant is indebted to it in an amount of R889 000 for the repairs and maintenance that the applicant never carried out.

[22] Notably, during the argument, the respondent took a posture that it has at all material times been prepared to make payment of the levies due but wanted a safeguard ensuring that the maintenance work is performed and that its payment of levies is utilised for that purpose before it can pay. The reasoning of the respondent is that, according to the respondent, the applicant had in the past failed to repair the work with monies paid over.

[23] Regarding the interim relief, the respondent argued that it did not apply for interim relief to stay the adjudication order when it launched the application for its review because it was not aware that the applicant had lodged the adjudication order to make it an order of Court. In this regard, the respondent

contends that the applicant should have notified it when it lodged the adjudication order seeking to make it an order of this Court, which they failed to do. This according to the respondent, fortifies its reasoning that the adjudication order is not the order of this Court.

Enforcement of the Adjudication order

[24] The first issue to deal with is whether the adjudication order is capable of enforcement in terms of rule 46(1)(a)(ii). This subsection provides as follows:

- “(1)(a) Subject to the provisions of rule 46A, no writ of execution against the immovable property of any judgment debtor shall be issued unless –
- (i)
 - (ii) Such immovable property has been declared to be specially executable by the court or where the judgment is granted by the registrar under rule 31(5).”

[25] It is noteworthy that rule 46A, which is referred to as a *proviso* in the above rule 46 provisions, relates to a case where the property in question is a residential property. In this case, the Court is dealing with commercial property, and therefore the requirements of rule 46A finds no application in consideration of this matter. Of course, the residual consideration by this Court is whether it would be in the interests of justice to declare the respondent’s properties specially executable in the circumstances of this case.

[26] Equally, it has to be noted that the adjudication order that has mutated into an order of this Court through the provisions of section 56(2) of the CSOS Act is distinguishable from a judgment granted by the Registrar under rule 31(5), for the latter relates to a default judgment. This is worth pointing out because the respondent argues that it should have been notified of the application to lodge the adjudication order before it was registered by the Registrar.

[27] The Court is not persuaded by the respondent's argument that it should have been notified of lodgement of the adjudicator holds water. There is no such a requirement for lodgement of the adjudication order, which is distinguishable from the application for default judgment in terms of rule 31(5). The process of lodgement of the adjudication order making it an order of Court is regulated by statute. The statute does not make any requirement for the respondent to be notified that the party in whose favour the adjudication order is granted should notify the other of the lodgement of the adjudication order.

[28] In any event, in my view, such a requirement would be superfluous, given that the adjudicator order is a product of the fully ventilated issues before the adjudicator, and that the respondent was duly notified of the adjudication order. The respondent was also notified by the applicant that unless payment was made in compliance with the order, the applicant would take further legal action without further notification. Further, the adjudication order itself notified the respondent of its right to appeal in term of section 57 of the CSOS Act, and the respondent did not exercise that right, nor take any other action.

[29] The enforcement of the adjudication order granted in terms of the CSOS Act is provided for by section 56(2) of the CSOS Act which provides as follows:

“(2) If the adjudicator's order is for payment of an amount of money or any other relief which is beyond the jurisdiction of the magistrates court, the order may be enforced as if it were a judgment of the High Court, and a registrar of such a Court must, on lodgement of a copy of the order, register it as an order of such Court.”

[30] It follows that once lodged with the Registrar, the adjudication order becomes enforceable and may be executed exposing the respondent to attachment of its assets.⁵ On the facts, the applicant averred that the adjudication order was lodged by its attorney personally, who uploaded same through the

⁵ Mare v CSOS and Others [2026] ZAGPJHC (16 March 2026)

court online filing system with the Registrar of this Court, who duly registered the adjudication order and thereupon issued the case number to this matter.

[31] The respondent's basis of challenging the enforceability of the adjudication order is that no Court order was attached in the applicant's founding papers as proof that the adjudication order was granted and registered by the Registrar. There is no requirement that the Registrar must issue a Court order on lodgement of the adjudication order. What section 56(2) provides simply that "*...the registrar of such Court must, on lodgement of a copy of the order, register it as an order in such court.*" In my view, the Registrar did just that.

[32] On the facts, the applicant's averment that on 16 October 2025, its attorney of record personally approached the Registrar and lodged the adjudication order, and that the Registrar in turn duly registered the adjudication order and allocated the case number 2025-190634 is confirmed by the confirmatory affidavit of the applicant's attorney.

[33] On the papers before Court, as contained in the court file in court online under case number 2025-190634, the cover page has attached on it the adjudication order. The cover page signed by the Registrar contains the title: "*Statutory Body Determination*". On it is the Note that reads as follows: "*This document was filed electronically by the registrar on 16 August 2026 at 12:41:23 PM South African Standard Time (SAST). The time and date the document was filed by the party is presented on the header of each page of this document.*"

[34] On the header of each page of the registered adjudication order, the date and time referred to in the cover page reads as follows: "*16/10/2025 - 12:41:23PM.*" Further, each page has the stamp of the Registrar of this Court. This demonstrates that the adjudication was duly lodged and registered.

[35] These enforcement proceedings were instituted in January 2026 under the 2025-190634 which was issued in 2025. As to what may have culminated into the issuing of that case number in 2025 is difficult to fathom if one were to follow the respondent's contention. In my view, this is consistent with the applicant's version that the adjudication order was lodged in October 2025 way before the enforcement proceedings instituted in 2026. It followed that the respondent's contention that the adjudication order is not a Court order is without merit and must be rejected.

[36] In the circumstances, having considered the facts, I am satisfied that the adjudication order was lodged and duly registered by Registrar of this Court on 16 October 2025. Accordingly, the Court finds that the adjudication order is enforceable as it is the order of this Court in terms of section 56(2) of the CSOS Act.

Counter-Application - for Stay of Execution of the Court Order

[37] The next issue to deal with is whether the applicant has made out a case for the interim relief of stay of the enforcement of the adjudication order in terms of rule 45A pending the finalisation of the review. In terms of rule 45A the court may, on application, suspend the operation and execution of any order for such period as it may deem fit. Apart from rule 45A, the court has inherent common law discretion, which must be exercised judicially, to stay the execution.⁶ This power is also derived from section 173 of the Constitution if the interests of justice justify.

⁶ Stöffberg NO v Capital Harvest (Pty) Ltd (unreported WCC case No 2130/2021 dated 2 March 2021) at para [17] to [25]

[38] The general principles for granting of a stay of execution was summarised in *Gios t/a Shakespear Pub v Van Zyl*,⁷ as that:

- “a) A court will grant a stay of execution where real and substantial injustice requires it or where injustice would otherwise result;
- b) The court will be guided by factors usually applicable to interim interdicts, except where the applicant is not asserting a right, but attempting to avert injustice;
- c) The court must be satisfied that:
 - i) The applicant has a well-grounded apprehension that the execution is taking place at the instance of the respondent;
 - ii) Irreparable harm will result if the execution is not stayed and the applicant ultimately succeeds in establishing a clear right;
- d) Irreparable harm will invariably result if there is a possibility that the underlying causa may ultimately be removed that is where the underlying causa is the subject matter of an ongoing dispute between the parties.
- e) The court is not concerned with the merits of the underlying dispute the sole inquiry is simply whether the causa is in dispute.” (own underlining)

[39] The test for granting of interim interdict lies on whether the established requirements are met. These requirements, which are well established as articulated in an ancient decision of *Setlogelo v Setlogelo*,⁸ that enjoys authoritative application till this day, are that in order to succeed, an applicant must show: a) a prima facie right, even if open to some doubt, b) a well-grounded apprehension of irreparable harm if the interim relief is not granted and ultimate relief is eventually granted; c) that the balance of convenience favours the granting of the interim relief; and, d) that the applicant has no other adequate or satisfactory remedy. The above requirements were refined in *Webster v Mitchell*.⁹

⁷ 2011(1) SA 148 (LC) at 155H-156B

⁸ 1941 AD 221

⁹ 1948 (1) SA 1186 (W) at 1189

[40] The Constitutional Court in *National Treasury and Others v Opposition to Urban Tolling Alliance and Others (OUTA)*¹⁰ confirmed that the *Setlogelo* test, as adapted by case law, continues to be a handy and ready guide for the courts in the grant of interdicts. The caveat though is that when applying the test, the court must have regards to the constitutional principles that include separation of powers and the principle of legality especially when dealing with the challenge of public power.¹¹

[41] In the counter-application, the respondent has not addressed in succinct terms any of the standard requirements mentioned above for the granting of the interim interdict or stay of the Court order. Be that as it may, the Court has had due regards to the answering affidavit, which serves as the founding for the conditional counter application to decipher if such requirements have been met. What follows is the assessments of the requirements based on the papers before Court.

Prima facie right

[42] In *OUTA*,¹² the Constitutional Court made it clear that mere right to approach the court relying on the right to administrative action that is lawful, reasonable and procedurally fair as pronounced in section 33 of the Constitution, read with PAJA, is not enough to satisfy the requirement of *prima facie* right to interim interdict pending review of the impugned decision. The court held that *prima facie* for this purpose is a right to which, if not protected by an interdict, irreparable harm would ensue.¹³

[43] In *Webster v Mitchell*, the court pronounced on the correct approach to be followed in determining whether *prima facie* right has been met as follows.

¹⁰ 2012 (6) SA 223 (CC) at paragraph [45]

¹¹ *Mare v CSOS and Others* (supra) at paragraph [31]

¹² 2012 (6) SA 223 (CC) at paragraph [49]

¹³ 2012 (6) SA 223 (CC) at paragraph [50]

Where the court held that the right to be set out by an applicant for a temporary interdict need not be shown by balance of probabilities. If it is *prima facie* established though open to some “doubt” that is enough.

[44] Another principle applicable in assessing *prima facie* right in interim interdict to suspend an order pending review is that the court hearing the interdict must examine the grounds of the pending review to satisfy that the review has prospects of success. In *Economic Freedom Fighters v Gordhan and Others: Public Protector; Public Protector v Gordhan and Others*,¹⁴ the Constitutional Court followed this principle confirmed that the OUTA principle applies in interim interdicts restraining exercise of public power.

[45] Fortifying the above test in *Ramaphosa v Speaker of the National Assembly and Others*,¹⁵ the Court held that the review must rest on strong grounds which are likely to succeed, and the interdict may properly be granted only where the Court is convinced that the review is likely to succeed.

[46] *In casu*, the respondent stated in the founding affidavit that: “*The grounds of review are as set out herein above. As a result of the aforementioned, the adjudicator has misdirected himself.*” Nowhere did the respondent set out its specific grounds of review. On the papers, it is difficult to decipher what those grounds are in order to make a fair assessment of the prospects of success in the review.

[47] In the review application, what appears to be the review ground averred is that the adjudicator failed to apply her mind by not consolidating the respective disputes of the applicant and respondent when considering the adjudication order. In respect of the respondent’s dispute under CSOC 4323WC/24, which

¹⁴ 2020 (6) SA 325 (CC)

¹⁵ 2026-138228[2026] ZAWCHC 371 (24 July 2026) at paragraph 13

was dismissed by its adjudicator, and later set aside by the High Court, the latter did not remit the dispute to the CSOS for reconsideration. Even if it did, that dispute if any, was not before the adjudicator of the impugned adjudication order.

[48] Crucially, on reading of the respondent's answering affidavit in this application, it is not in dispute that the respondent is indebted to the applicant outstanding levies as claimed. The respondent's case is centred around what he asserts as a right to pay the body corporate only if there is guarantee that upon its payment, the body corporate would maintain its units. This Court is not seized with a case for mandamus against the body corporate. In my view, the applicant has no right to set a conditional payment of the levies to the body corporate. The members' legal obligation to pay levies is derived from the statute and is not a *quid pro quo* arrangement that might arise in a contractual relationship relations between the parties.¹⁶ Section 3(2) of the STSMA places the liability on the members of the body corporate to pay levy contributions upon the resolution of the trustees.

[49] In the Court's view, the respondent does not have a valid defence against the applicant's claim. Further, while the review application is a matter yet to be determined by the review court, this Court is not satisfied that the review contains grounds on the basis of which the review is likely to succeed. Accordingly, it is the Court's view that the respondent has not satisfied the requirement of a *prima facie* right to be granted the interim interdict staying the execution of the order.

Irreparable harm

¹⁶ See *Body Corporate of Manhattan v Blake* [2025] ZAGPPHC 585

[50] The only possible outcome if the stay is not granted is that the respondent will be required to pay the outstanding levies due to the applicant, failing which to have his commercial properties specially executed. This, in my view cannot qualify as irreparable harm if the stay is not granted, because admittedly, the respondent owes the levies, and he is prepared to pay the levies, but only on its self-set conditions. The underlying cause is non-existent between the parties.

[51] The condition precedent to payment of the levies as set by the respondent is that there must be safeguard that the applicant will utilise the levy payment to maintain or repair the respondent's units. In the Court's view, no irreparable harm will be suffered by the respondent in paying what it is by law required to pay. In any event, the Court has no power to dictate on the body corporate how it should administer or utilise the levies paid by its members. In the result, the respondent has not met the requirement of irreparable harm if the relief sought is not granted.

Balance of convenience

[52] The respondent's properties constitute 32.4% of the participation in the scheme, the amount of R3 510 202.373.51 outstanding levies is owing by the respondent. Consequently, the body corporate is operating with less than a third of levy contributions paid by its members.

[53] The Court takes a view that the magnitude of the amount owing by respondent and its resultant impact on the financial liquidity of the body corporate, tilts the balance of convenience against the suspension of the order. It is not in the interests of justice that the body corporate, and consequently its members, must suffer financial prejudice in the alter of the respondent who refuses to honour its obligation to pay levies.

Absence of other adequate remedy

[54] The respondent is not without legal remedies to assert its right to repairs and maintenance of its building. In *Body Corporate of Manhattan v Blake*,¹⁷ the court held that the defendant seeking recourse against the body corporate has an option of approaching the Ombud established in terms of the CSOS Act.

[55] To sum up, the respondent has failed to make out a case for the interim relief of the stay of the execution of the order.

Rule 46(1)(ii)

[56] Unlike in the case where immovable property, which is the primary residence of the judgement debtor as governed by rule 46A, rule 46(1)(a)(ii) does not lay down the procedure to be followed to have such immovable property of the judgement debtor to be declared specially executed. The Court has the residual obligation to ensure that it considers all the legally relevant factors and is satisfied that good cause exists for making such an order.

[57] In this case, the applicant is entitled to recover the arrear levies from the respondent, the latter does not deny that entitlement and has no valid defence against the applicant's claim. The respondent's conditional preparedness to pay is not sustainable in law. The outstanding levies withheld by the respondent is a substantial amount. The applicant has demonstrated that it is suffering financial liquidity resulting from the respondent's failure to pay the due levies and consequently negatively affected in managing the body corporate for the good of all its members including the respondent.

[58] The applicant has succeeded in showing that the adjudication order was properly lodged and duly registered by the Registrar and is thus an order of this

¹⁷ [2015] ZAGPPHC 858

Court duly enforceable. The respondent has failed to demonstrate that he has *prima facie* right to the relief to stay of the execution of the order. Most importantly, the applicant has failed to demonstrate a well-grounded apprehension of irreparable harm if the operation of the order is not stayed. Moreover, the balance of convenience is not in favour of the suspension of the order. The application for the stay fails.

[59] Accordingly, the counter application for the stay of the execution of the Court order of 16 October 2026 fails. The application for an order declaring the respondent's properties specially executable succeeds.

Costs

[60] The general rule is that the successful party should be granted costs and this rule should not be departed from except where there are good grounds for doing so. The Court finds no grounds to deviate from the general rule. The applicant is therefore entitled to costs on the party and party scale, such costs to include costs of counsel on scale B.

[61] In the result, the following order is made.

5. The application succeeds.
6. The counter-application is dismissed.
7. The properties consisting of units in in the Panorama Flats and Central Court, namely Section Numbers 1, 2, 3, 4, 5, 7, 8, 9, 12, 13, 14, 15, 16, 17, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46 and 47 registered in the name of Modeen Enterprise Import and Export Proprietary Limited Registration Number: 2016/075758/07, are declared specially executable.

8. The respondent is liable to pay costs of this application, which cost shall include counsel fees on scale B.

ZL MAPOMA
ACTING JUDGE OF THE HIGH COURT

Appearances

Counsel for the Applicant	:	Adv ES Grobbelaar
<i>Instructed by</i>	:	Rabie & Rabie, Cape Town
 Counsel for the Respondents	:	 Adv AM Heunis
<i>Instructed by</i>	:	Boy Louw Inc, Paarl c/o Ward Brink Attorneys, Cape Town