

SOUTH AFRICA / JUDGMENT

Body Corporate of Bridgetown v Gauteng Management Agents (2024/028185)

[2024] ZAGPJHC 328 (30 March 2024)

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COURT

South Gauteng High Court, Johannesburg

BEFORE

Moorcroft

CASE / FILE NUMBER

2024/028185

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IN THE HIGH COURT OF SOUTH AFRICA,

GAUTENG DIVISION, JOHANNESBURG

CASE NO: 2024 – 028185

1.REPORTABLE: NO

2.OF INTEREST TO OTHER JUDGES: NO

In the application by

THE BODY CORPORATE OF BRIDGETOWN (SCHEME Applicant

NOS SS 1142/1143, 1144 OF 1995 AND 177 OF 1996)

and

GAUTENG MANAGEMENT AGENTS Respondent

JUDGMENT

MOORCROFT AJ:

Summary

Application by body corporate – trustees are not in good standing and therefore disqualified by rules of body corporate from holding office – resolution to cancel agreement with managing agent of no effect – application dismissed

Order

[1] In this matter I make the following order:

1. The application is dismissed;
2. The applicant is ordered to pay the costs of the application.

[2] The reasons for the order follow below.

Introduction

- [3] This is an application in the urgent court by the applicant, a body corporate established in terms of the Sectional Titles Act 95 of 1986 read with the provisions of the Sectional Titles Schemes Management Act 8 of 2011 for the Bridgetown scheme and residential complex established in 1995. There are 524 units in the complex and the owners of units are members of the applicant.

The respondent is the managing agent of the applicant and the applicant alleges that the management agreement between the parties expired on 29 February 2024. The respondent however refused to hand over the relevant documentation and information under its control including information relating to the bank account of the applicant.

The application is supported by a resolution of the trustees purportedly in office taken on 16 February 2024.

- [4] The case for the applicant is that this was a valid cancellation of the management agreement. The respondent disputes the alleged cancellation and a number of grounds. It is not necessary to deal fully with his grounds as the application falls to be decided on clause 22.4 of the conduct rules of the applicant referred to in paragraph 15.2 of the answering affidavit. In terms of the rule:

“No trustee may hold office should his or her levies and electricity fall into arrears.”

- [5] The respondent presents cogent evidence to the effect that the trustees are in arrears with payment of levies due by them. The applicant does not take issue with this evidence in the replying affidavit and merely puts the respondent to the proof of the allegations.
- [6] On the papers therefore the trustees are not authorised to act because they may not hold office for the reasons set out above. The application must therefore fail.
- [7] Because the application was brought in the Urgent Court it will be furnished to the parties immediately but the date of publication will be deemed to be 2 April 2024.

MOORCROFT AJ

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION

JOHANNESBURG

Electronically submitted

Delivered: This judgement was prepared and authored by the Acting Judge whose name is reflected and is handed down electronically by circulation to the Parties / their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date of the judgment is deemed to be 2 APRIL 2024

COUNSEL FOR THE APPLICANT: K NDUNGU

INSTRUCTED BY:

NDUNGU ATTORNEYS

COUNSEL FOR THE RESPONDENT: JH GROENEWALD

INSTRUCTED BY:

VMA INC

DATE OF ARGUMENT:

27 MARCH 2024

DATE OF JUDGMENT:

30 MARCH 2024

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