

SOUTH AFRICA / JUDGMENT

Bonnichsen v Tirade Props 185 (Pty) Ltd (1140/08) [2008] ZAECHC 130 (7 August 2008) [2008] ZAECHC 130

COURT

High Courts - Eastern Cape

BEFORE

Froneman

CASE / FILE NUMBER

1140/08

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PARTIES : Richard Bonnichsen & Tirade Props 185 (Pty) Ltd

Case Number: 1140/08

DATE DELIVERED: 07/08/08

JUDGE(S): Froneman

Appearances:

for the Applicant(s): Adv de la Harpe

for the Respondent(s):

Instructing attorneys:

for the Applicant(s): Dold & Stone

Nature of proceedings:

Key Words:

This is an unopposed application for an order declaring that an agreement of sale of land between the parties is valid and binding upon the respondent. I reserved judgment to consider some aspects that concerned me and to allow Mr Redding to file further written heads of argument dealing with some of my concerns. He did so on 18 July 2008.

One of the provisions of the addendum, annexure “I”, envisages that a ‘redrafted’ agreement be drawn up that would substitute the applicant as purchaser with another entity, ‘ARH’. The true nature of this provision is problematic for at least two reasons. The first is that it appears to be ambiguous about whether the provision is a suspensive condition or an actual term of the

agreement. The second is whether the respondent had authority to conclude an agreement with a new purchaser or, in other words, whether the original authority to conclude a deed of sale also extended to this condition or term, whatever its true nature.

Evidence of the background context to the addendum would, in my view, have been admissible to determine the true meaning of the provision, but after considering Mr Redding's written submissions I am satisfied that the averments in the applicant's founding papers are sufficient to justify the interpretation of the clause that the applicant contends for. There is no evidence before me to counter that interpretation.

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Prepared on 11 October 2026 · Esheria