

SOUTH AFRICA / JUDGMENT

Dr L J Jordaan Inc v Mather (A2024-089565) [2025] ZAGPJHC 471 (2 May 2025) [2025] ZAGPJHC 471

COURT

South Gauteng High Court, Johannesburg

BEFORE

NTLAMA-MAKHANYA, MV NOKO

CASE / FILE NUMBER

A2024-089565

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IN THE HIGH COURT OF

SOUTH AFRICA

GAUTENG DIVISION,

JOHANNESBURG

CASE NO: A2024-089565

(1)

REPORTABLE: NO

(2)

OF INTEREST TO OTHER JUDGES: NO

(3)

REVISED: NO

DATE: 02 May 2025

SIGNATURE:

In

the matter between:

DR

L J JORDAAN INC, LOUIS JACOBUS JORDAAN

Appellant

And

URSULA

MATHER

Respondent

Summary:

Appeal-Magistrate judgment and order relating to the alleged contravention of Regulation 2(1) of the Exchange and Control of 1961 promulgated in terms of the Exchanges and Control Act 9 of 1933 (Exchanges and Control Act). The Magistrate held that Regulation 2(1) was not contravened and made the contract of £5000 (British Pounds) loan agreement between the parties of legal force and effect. On appeal – Regulation 2(1) – is not applicable - Against this background, this Court dismissed the appeal.

ORDER

(i)
The appeal is dismissed.

(ii)
The Appellant is ordered to pay costs on a party and party scale in terms of Rule 67 of the Uniform Rules of the Court on Scale B in respect of one Counsel.

JUDGMENT

NTLAMA-MAKHANYA AJ (NOKO J concurring)

Introduction

[1] The Appellant appealed against the whole judgment and order of Magistrate Mputle (Magistrate) of the Palm Ridge Civil Court, in the Magisterial District of Ekurhuleni under Case Number GJ 4206/2021, dated 04 June

2024. The Appellant contends that the Magistrate erred in finding that Regulation 2(1) promulgated in terms of the Currency and Exchanges Control Act[1] (Exchanges and Control Act) as amended was not contravened by the Respondent.

Background

[2] In this case, the parties entered into an oral agreement during August 2018 in terms of which the Respondent loaned the Appellant amount of £5000 which was transferred in British pounds from the United Kingdom to the Republic of South Africa. The said loan was to be payable by Appellant on demand. The terms of the loan agreement were as follows:

[2.1] the Respondent would pay the Appellant amount of £5000;

[2.2] the Respondent would not charge an initiation and / or alternatively a service fee alternatively interest on the amount of £5000 if the Appellant repays the capital amount within reasonable time;

[2.3] the Appellant would repay the amount of £5000 into the Respondent's London bank account.

[3] On or about 2 August 2018, the Respondent paid the amount of £5000 into the Investec Bank Account of the Appellant. The Appellant has failed to make payment despite the demand and the acknowledgment of liability through his representative.

[4] Following the failure to effect payment as demanded the Respondent issued summons against him for:

4.1 payment in the amount of Five Thousand (£5000) British Pounds;

4.2 interest on the aforesaid amount calculated at the rate of 7% per annum

at tempora morae, to date of payment thereof in full;

alternatively, from date of letter of demand or summons to date of payment thereof in full;

4.3 costs of suit; and

4.4 further and/ or alternative relief.

Before Court a quo

[5] The Appellant raised a point of law and requested the Court to act in accordance with Rule 29(4) of the Magistrate Court Rules[2] to dismiss the Respondent's claim 1 with costs. The basis of the point in limine was that the loan agreement contravened Regulation 2(1) of the Exchanges Control Act which then rendered the said agreement 'void'.[3]

[6] The Court a quo dismissed the argument as a point of law and found no contravention of the said regulation because the transaction was effected by an authorised dealer, which is Investec Bank. The rationale for the Court's finding was that the transfer was not paid in cash but transferred by Investec Bank, which is one of the largest commercial banks in South Africa. Further, Invested Bank is an authorised dealer appointed in terms of Regulation 3(a) of the Orders and Exchange Rules of the Exchange and Control Regulations by the South African Reserve Bank (SARB). The authorised dealers are, therefore, permitted to buy, sell, borrow or lend foreign currency to their customers.

[7] The Magistrate considered that the money in dispute (£5000) was not given to the Defendant in cash but through a transfer by Investec Bank. The Magistrate further considered that Regulation 3A of the Exchange Control Regulations allows a person to bring into South Africa up to USD 10 000 cash in foreign notes without declaring it to customs. The Magistrate also stated that a Single Discretionary Allowance (SDA) which is limited to R1 million per calendar year for individuals cannot be used to circumvent the Regulations where they would otherwise prevent the transfer of funds in or out of South Africa. Accordingly, the Magistrate held:

“Investec Bank, as an authorised dealer with a dualistic listing at London Stock Exchange with headquarters at London in the United Kingdom and Johannesburg Stock Exchange, Sandton in South Africa, could not have permitted the remittance of funds in contravention of the regulations.”

- [8] The Appellant was aggrieved by the findings of the Court a quo that regulation 2(1) was not contravened and then launched the appeal against the said judgment.

On appeal

Submissions by parties

- [9] The main issue in the appeal is that the Magistrate erred in the point of law regarding the application of Regulation 2(1) of the Exchanges Control Act on the ground that the transfer had been effected by an authorised dealer in the form of Investec Bank and that the transfer was therefore

compliant. The further ground was that the Court a quo failed to consider that the Respondent sought to enforce payment of a loan in foreign currency only, to wit, five-thousand British pounds, to the Respondent's bank account in the United Kingdom, without obtaining the approval of the Treasury, and none of the parties were authorised dealers.

- [10] The Appellant contended that the Court a quo failed to apply the well-established legal principles that were enunciated in *Henry*[4] and *Oilwell (Pty) Ltd v Protec Intl Ltd*[5] judgments wherein the court endorsed a principle that courts should not give effect to contracts that were entered into illegally. The Appellant further contended that the Court a quo failed to consider that the constitutional principle of legality trumps party autonomy where enforcement of the contract will amount to a criminal offence, as set out in *Cool Ideas 1186 CC v Hubbard*[6]. The Appellant further argued that the Court a quo justified the transfer of a Single Discretionary Allowance (SDA), in terms of Regulation 3A of the said Exchange Control Regulations into the Republic of South Africa which could not have been permitted by Investec Bank in contravention of the regulations. The said Regulation 3A, Appellant contended, was not applicable in the relief sought for the payment made abroad in foreign currency only of a loan to which Regulation 2(1) applied. The ‘thorn’ in the grounds of appeal was the Court a quo’s dismissal of the Appellant’s point in limine in respect of claim 1 in circumstances where the court found that the parties are, first not authorized dealers, secondly, the purported

loan was concluded between private individuals, and thirdly, none of the parties got or intended to obtain authorisation from Treasury for such foreign currency loan agreement concluded in the Republic of South Africa.

[11] However, the Respondent struck at the core of the grounds which the Appellant viewed as a commonality between them relating to the contravention of Regulation 2(1) as a point of law in the dispute. The Respondent raised the fact that the Appellant averred that neither of the parties obtained nor had any intention of obtaining the approval from Treasury. Further, the Appellant's contention

that the Respondent failed to file a replication to their plea entailed the uncontested plea of the Appellant. The Respondent submitted that it is common cause that Treasury approved the transaction and exchanged foreign currency, from £5000 from the

Respondent's bank, Lloyds Bank, with an exchange rate being 17,0058 at the time and to an amount valued at about R85,029.00 to the 2nd Defendant bank, Investec Bank. The Respondent strongly contended that the Appellant at no stage pleaded nor argued during

the point of law that Investec Bank is not an authorised dealer. Therefore, without the permission of Treasury and an authorised

dealer, the funds would not have been released from Lloyds Bank to Investec Bank.

[12] The Respondent further submitted that Appellant raising a special plea or point of law has the onus to prove the facts underlying the point of law, which in casu, was a special plea. There is also no provision for special pleas in the Magistrate Court or that a failure to reply to a special plea remains uncontested. The Respondent further argued that Rule 21(2) of the Rules Regulating the Conduct of the Proceedings in the Magistrate Court does not provide for a mere replication that would amount to a bare denial of allegations in the previous pleadings which would not be deemed necessary, and the issue shall be deemed to be joined and pleadings closed. The Respondent concretised his argument by submitting that replication serves two purposes of admitting the allegations and raising a special plea in the form of a confession and avoidance. The Respondent submitted therefore that the Appellants cannot aver that their special defence of the contravention of the Act is deemed uncontested.

[13] Thus, in the circumstances, the Respondent raised the following questions to establish whether:

13.1 Investec Bank is an authorised dealer?

13.2 if Investec Bank is an authorised dealer,

13.2.1 is there any evidence that Investec Bank, as an authorised dealer, performed outside its mandate and failed to report and capture the transaction?

13.2.2 were the parties required to be authorised dealers and / or permission from the National Treasury?

13.2.3 can the Respondent claim repayment of foreign currency only?

- [14] In the end the Respondent persisted with the contention that the Court a quo did not err in its finding that s 2(1) of the Act was not contravened.

Legal principles

- [15] The case serving before me implicates several legal principles. In addition, to outlining the relevant provisions in the Act I will also set out legal principles relating to agreements entered into in contravention of the statutes, and incorrect identification of issues or applicable legal principles.

Exchange Control Act

- [16] An authorised dealer is defined as “a person authorised by Treasury to deal in foreign exchange”. In the context of this case, Investec Bank is one of the authorized dealers appointed in terms of Regulation 3(a) of the Orders and Rules of Exchange Control Regulations to act as such in the foreign exchange market. This means that Investec Bank has legal authority within the prescribed limits and framework of the law to engage in foreign exchange on behalf of the parties.
- [17] The purpose of the Exchange Control Regulations is to eliminate any prospects which may lead to unlawful transactions and other financial irregularities or crimes. The Act prescribed the regulatory framework which guide the process through which foreign currency and gold can be transferred into the Republic of South Africa. Regulation 2(1) read with Regulation 2(2)[7] regulates such transactions when effected by the authorised dealer who intends to buy or borrow or sell or lend foreign currency.
- [18] Authorised dealers are obliged to ensure the needed quality control of the level of scrutiny in foreign currency transactions. It is my view that authorised dealers are empowered to give effect to the overall scheme of the empowering statute: Exchanges and Control Act, in ensuring parties adhere to effective compliance with the Regulations. I am persuaded by Nyathi J in *Ecenter Trading (Pty) Ltd v First National Bank Ltd*[8] at para 14 who held:
- “Exchange controls are government-imposed limitations on the purchase and sale of foreign currencies. Exchange controls are used inter alia to ensure the stability of an economy and prevent exchange rate volatility.”*
- [19] In addition to regulation 2(1) the Act also refer in Regulation 2(3)[9] aimed at regulating to instances where any other person, other than the dealers, seeks buy or borrow or sell or lend foreign currency.

Illegal contracts

- [20] It is trite that where a contract entered into by parties is inconsistent with a clear statutory provision the court would ordinarily not enforce such contracts. This was emphasized by Mavundla AJ in *Lanngenveldt v Horn N.O. and Others*[10] relating to the prohibition of illegal contracts which is of direct relevance to the dispute in this case. In that case, Mavundla AJ cited with approval Innes CJ in *Schiervhout v Minister of Justice* at 109[11] who

held “It is a fundamental principle of our law that a thing done contrary to the direct prohibition of the law is void and of no effect. ... And the disregard of peremptory provisions in a statute is fatal to the validity of the proceeding affected.”

- [21] Similarly, Majiedt AJ writing for the majority in *Cool Ideas 1186 CC v Hubbard*[12] at para 55-constitutionalised the test for statutory illegality in contract law and held that “It cannot be expected of a court of law in such circumstances to disregard a clear statutory prohibition – that would be inimical to the principle of legality and the rule of law. To do so would amount to undermining the purpose of the legislation.”

Incorrect legal principles

- [22] It is also settled principles in our jurisprudence that where parties have referred to incorrect legal principles or mischaracterised the issues the presiding officer is not bound to adjudicate as if she is limited to the issues or principles identified or raised by the parties. Unterhalter AJ in *Tuta v The State*[13] at para 52 settled the issue relating to the misapplication of the relevant legal rule and held:

“Error of law was [...] advanced as a ground of appeal in the [Appellants] application to this Court. This may be done under the caveat that it is done exceptionally, that the point of law arises on the papers, and that the parties are given an opportunity to deal with the issue. I cannot see any basis why this reasoning should not be extended to the situation where an error of law is raised for the first time in oral argument. If the error of law raises a constitutional issue or an arguable point of law of general public importance and the interests of justice require our intervention because of the risk of an unsound [outcome], then if the issue can be determined on the papers as they stand and no prejudice arises, this Court should not be precluded from considering the matter, (emphasis added and all footnotes omitted).”

- [23] The Judge went on to state at para 53:

“An error of this kind, if left uncorrected, would render the applicant’s trial unfair. It would also condemn the applicant to suffer a conviction and sentence of great consequence.”

- [24] The Court will be abdicating its judicial responsibility and endorse a wrong principle in law. Morgan AJ in *Mmakoenla Malven Phaho*[14] at para 29 echoed the same contention and held:

“A court is not bound by an unlawful decision. Thus, it cannot turn a blind eye on [conspicuous] irregularity and in itself issue an unlawful and unenforceable order. [...]. It is a well-established tenet within our legal system that courts cannot sanction or support any form of illegal [decision]. Therefore, it is both necessary and appropriate for the court to examine the [rationality of the Magistrate judgment [...]] in question and not rubber stamp a clearly unlawful decision so as to uphold the integrity of the legal process and ensure that the administration of justice is carried out without condoning [an] unlawful [decision],” (emphasis added and all footnotes omitted).

Discussion

The appeal raises two general issues against the decision of the Court a quo, namely, decision on the applicability of Regulation 2(1) of the Exchange Control Act and secondly, the decision regarding replication.

- [25] The centrality in this appeal is to establish whether the concluded agreement was in contravention of Regulation 2(1) of the Exchanges and Control Act and should serve as the bar in this Court to consider the implications of the subsequent sub-regulation in the determination of the validity of the transaction between the parties. Such consideration is borne by the quest for the Treasury's direct involvement in the regulation of exchange controls as envisaged in sub-regulation 2.
- [26] I am further persuaded by sub-regulation 3 that authorises anyone intending to buy foreign currency to provide all the necessary information to authorised dealers that will ensure compliance with sub-regulation 2.
- [27] Therefore, Investec Bank would not have blanketly transferred the funds without intense scrutiny of the application with the required information for the remittance of such payment. Let me state that this was not a 'backdoor exercise' where the money was paid privately without the authority of those entrusted with the regulation of financial transactions, which is of importance in this case to ensure careful consideration of the payment in foreign currency.
- [28] In casu, the Appellant heavily relied on Regulation 2(1) so that the Respondent does not escape the contractual liability whilst the regulation's aim is designed to ensure diligence in the exercise of control in exchange transactions affecting foreign currency. Although Harms JA in Oilwell at para 17, which is Appellant's reliance as his source of law before this Court, acknowledged that:

"Reliance on the Regulations in order to escape contractual obligations is not something new. However, [...] the Regulations are there in the public interest and not to provide 'an unwilling debtor with a ready instrument for evading liability' or 'to grant a selective moratorium to a particular class of defaulting debtors'. Their purpose, [...], is to enable The Treasury to exercise proper control over transactions affecting foreign currency in order to protect the Republic's foreign reserves," (emphasis added and all footnotes omitted).

- [29] I must reiterate that the Appellant's reliance on misguided principles in support of his alleged claim of the contravention of Regulation 2(1) is without basis. Effectively, the Appellant relied on incorrect sub-regulation with the subsequent result of the Court a quo deciding the matter on a wrong-sub-regulation. This constituted a grave interpretation of the law relating to the effect of the regulations on financial exchanges and control systems. As is noted above regulation 2(1) relates to instances where the authorised dealer intends to borrow or lend foreign currency and the lis which served before the Magistrate related to instances where parties other than the authorised dealers intend to borrow or lend foreign currency.

Replication

- [30] It is also worth mentioning that the Appellant contended that the Respondent did not replicate his plea in the Court a quo wherein the grounds of appeal remain a common cause between the parties. This is of interest in that as alleged, the Respondent did not plead his case by way of replication as envisaged in Rule 21(1) of the Magistrate Court Rules wherein the Respondent would deliver a plea of replication to the Appellant's plea. The issue of replication was contextualised by Heher JA in *JW Construction*[15] at para 13 and held:

"There is thus a serious duty imposed upon a legal adviser who settles an answering affidavit to ascertain and engage with facts which his client disputes and to reflect such disputes fully and accurately in the answering affidavit. If that does not happen it should come as no surprise that the court takes a robust view of the matter."

- [31] Although in that case reference was made to an answering affidavit, thus, in the context of the dispute herein, the plea was contested by the Respondent and cannot be viewed as a 'commonality'. The Respondent also states that replication is either to admit allegation or raise a special plea in confession or avoidance, failing which, the factual allegations are automatically placed in issue and issues are denied. Kganyago J in *Nemathithi v Tshokovhi*[16] at para 15 similarly expressed in the context of that case, that "it is unnecessary for the plaintiff to deliver the replication if the Plaintiff only wishes to deny the allegations contained in the Defendant's plea." In this case, the non-delivery of the replication by the Respondent meant that all the factual allegations in the notice of appeal were in contention. The Respondent opposed the averment that the point of law raised remains uncontested. Further, the Appellant's point in limine (Regulation 2(1) was raised as a ground of appeal and would not have remained as uncontested as the Respondent argued for its consideration in the Court a quo which then served as the basis for an appeal before this Court.

Conclusion

- [32] Having considered all the above, it is also a standing principle of law that this Court is constrained in the exercise of its judicial authority not to interfere with the decision of the Court a quo. The standard upon which this Court may or not to interfere is drawn from the remarks made by Ackerman J in *National Coalition for Gay and Lesbian Equality v Minister of Justice*[17] at para 11. In the latter case the Judge held:

"A court of appeal is not entitled to set aside the decision of a lower court granting or refusing an [order] in the exercise of its discretion merely because the court of appeal would itself, on the facts of the matter before the lower court, have come to a different conclusion; it may interfere only when it appears that the lower court had not exercised its discretion judicially, or that it had been influenced by wrong principles or a misdirection on the facts, or that it had reached a decision which in the result could not reasonably have been made by a court properly directing itself to all the relevant facts and principles," (emphasis added).

- [33] It is my considered opinion that there is a blatant misdirection in respect of which an applicable regulation was not even at the ‘judicial pedestal’ in determining the rationality of the agreement as the focus was limited to the alleged contravention of Regulation 2(1). This means that the Magistrate as the guardian in the interpretation and application of the regulations mischaracterised the applicable regulation in determining the outcome of this case. The mischaracterisation, although it emanated from the Appellant’s pleadings, the Magistrate could not have been barred in ensuring that a proper regulation was before the court for her interpretation. It is also not a bar to this Court to affirm that an incorrect regulation was applied to resolve the dispute in this case. Therefore, with what appears to have been the Magistrate being led “astray” in the pleadings, it does not absolve her of an intense scrutiny of applicable regulation in the resolution of this case.
- [34] In this case, a wrong point of law was raised by the Appellant and the Magistrate considered the application based on that relied upon regulation. The point in limine was also not raised for the first time in this application as it emanates from the Court a quo that found that there was no contravention of Regulation 2(1) between the contracting parties. It becomes imperative for this Court to eliminate any opportunity that may result in an unmerited basis for the outcome.
- [35] It is my further view that although Unterhalter J in Tuta dealt with a criminal appeal, it finds relevance for this Court not to ‘shy away’ from a potential misconception of the law that may result in an unfair assessment of the applicable regulation in this matter.
- [36] It is my affirmation as deduced from Unterhalter AJ in Tuta and Morgan AJ in Phaho that this Court will not hesitate to interfere with the judgment of the Magistrate which is solely based on the application of the irrelevant regulation in this matter. The Magistrate dismissed the point in limine and found it unmerited as she established that there was no contravention of Regulation 2(1) which was a wrong regulation. The

gist of this application was the status of the contracting parties as individuals that were required to furnish the authorised dealer with the needed information on their application for the transaction exchange as envisaged in sub-regulation 3. In essence, Regulation 2(1) was not necessarily contravened because it was not a correct regulation that could have served as a proper basis to determine the outcome of this case.

- [37] In this judgment reference was made of possible application of Regulation 2(3) but the pronouncement would not be on the said regulation lest it be argued that the Court is adjudicating on its own facts. Limiting myself to Regulation 2(1) I am accordingly not satisfied that the Magistrate was correct in the basis of her finding that there was no contravention of Regulation 2(1) because of the misapplication of the relevant regulation in this matter. The special plea should have been dismissed on the basis that the said Regulation is not applicable to facts of the case.

Costs

[38] The costs are always granted at the judicial discretion of the court. Both parties sought cost orders against each other. In this case, despite the results herein, I am of the view that the Appellant was not vexatious but, sought to advance the jurisprudence in the light of section 34 of the Constitution of the Republic of South Africa, 1996 (Constitution) in this area of the law that regulates the centrality of the exchanges and controls in financial governance and its administration in South Africa. That notwithstanding the Respondent would be dealt with unfairly if costs do not follow the results. I intend to make the order of costs which follow the result of this application as indicated below.

Order

[39] Accordingly, the following order is made:

[39.1] The appeal is dismissed.

[39.2] The Appellant is ordered to pay the costs of this application on a party and party scale in terms of Rule 67 of the Uniform Rules of the Court on Scale B in respect of one Counsel.

N NTLAMA-MAKHANYA

ACTING JUDGE OF THE HIGH COURT

I AGREE

MV NOKO

JUDGE OF THE HIGH COURT

Delivery: This judgment is issued by the Judge whose name appears herein and is submitted electronically to the parties /legal representatives by email. It is also uploaded on CaseLines and its date of delivery is deemed 02 May2025.

Date of Hearing:

30 January 2025

Date Delivered:

02 May 2025

Appearances:

Plaintiff: Nerina Austina Instructing Attorneys: Klopper Jonker INC Defendant: GM Anderson-Kriel Instructing Attorneys: Anderson-Kriel Attorneys

[1] Currency and Exchanges Control Act 9 of 1933.

[2] Rule 29(4) provides that: (a) If, in any pending action, it appears to the court of its own accord that there is a question of law or fact which may conveniently be decided either before any evidence is led or separately from any other question, the court may make an order directing the disposal of such question in such manner as it may deem fit and may

order that all further proceedings be stayed until such question has been disposed of. (b) The court may at the request of any party make the order referred to in paragraph (a) unless it appears that the questions cannot conveniently be decided separately.

[2] Rule 29(4) provides that:

- (a) If, in any pending action, it appears to the court of its own accord that there is a question of law or fact which may conveniently be decided either before any evidence is led or separately from any other question, the court may make an order directing the disposal of such question in such manner as it may deem fit and may order that all further proceedings be stayed until such question has been disposed of.
- (b) The court may at the request of any party make the order referred to in paragraph (a) unless it appears that the questions cannot conveniently be decided separately.

[3] except with the permission granted by the Treasury and in accordance with such conditions as the Treasury may impose, no person other than an authorized dealer shall buy or borrow any foreign currency or any gold from or sell or lend any foreign currency or any gold to any person not being an authorized dealer.

[4] Henry v Branfield, 1996 (1) SA 244 (D).

[5] Oilwell (Pty) Ltd v Protec Intl Ltd, 2011

(4) SA 394 (SCA).

[6] Cool Ideas 1186 CC v Hubbard 2014

(4) SA 474 (CC).

[7] Reg 2(2) provides that: an authorised dealer shall not buy, borrow or receive or sell, lend or deliver any foreign currency or gold except for such purposes or on such conditions as the Treasury may determine. (a) the Treasury may, in its discretion, by order prohibit all authorised dealers or any one or more of them: (i) from selling, lending or delivering to, or buying, borrowing or receiving from, any specified person, fund or foreign government any foreign currency or gold; or (ii) from so selling, lending, delivering, buying, borrowing or receiving any foreign currency or gold for any specified purpose or except for such purposes or on such conditions as the Treasury may determine.

[7] Reg 2(2) provides that: an authorised dealer shall not buy, borrow or receive or sell, lend or deliver any foreign currency or gold except for such purposes or on such conditions as the Treasury may determine.

(a) the Treasury may, in its discretion, by order prohibit all authorised dealers or any one or more of them:

(i) from selling, lending or delivering to, or buying, borrowing or receiving from, any specified person, fund or foreign government any foreign currency or gold; or

(ii) from so selling, lending, delivering, buying, borrowing or receiving any foreign currency or gold for any specified purpose or except for such purposes or on such conditions as the Treasury may determine.

[8] Ecenter Trading (Pty) Ltd v First National Bank Ltd [2024] ZAGPPHC 314.

[9] Reg 2(3) provides that: every person other than an authorised dealer desiring to buy or borrow or sell or lend foreign currency or gold shall make an application to an authorised dealer and shall furnish such information and submit such documents as the authorised dealer may require for the purpose of ensuring compliance with any conditions determined under sub-regulation (2) of this regulation.

[10] Lanngenveldt v Horn N.O. and Others

[2007] ZAGPPHC 318.

[11] Schiervhout v Minister of Justice 1926 AD 99 at 109.

[12] Cool Ideas 1186 CC v Hubbard 2014 (8) BCLR 869 (CC).

[13] Tuta v The State

[2022] ZACC 19.

[14] Phaho v Supe [2024] ZANWHC 87 (22 January 2024).

[15] JW Construction v Headfour (Pty) Ltd 2008

(3) SA 371 (SCA).

[16] Nemathithi v Tshokovhi [2017] ZALMPTHC 6.

[17] National Coalition for Gay and Lesbian Equality v Minister of Justice

[1999] ZACC 17; 2000

(1) BCLR 39

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