

SOUTH AFRICA / JUDGMENT

Gouws v Ariano 424 CC and Another (33104/2021) [2022] ZAGPPHC 628 (29 July 2022) [2022] ZAGPPHC 628

COURT

North Gauteng High Court, Pretoria

BEFORE

J Holland-Muter

CASE / FILE NUMBER

33104/2021

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IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

CASE NUMBER: 33104/2021

REPORTABLE: NO

OF INTEREST TO OTHER JUDGES: NO

REVISED

29 JULY 2022

In the matter between:

JAN GERHARDUS CHRISTOFFEL GOUWS Applicant

ID [....]

(First Respondent a quo)

and

ARIANO 424 CC First Respondent

(Applicant a quo)

CITY OF TSHWANE METROPOLITAN Second

Respondent a quo

MUNICIPALITY

IN RE:

ARIANO 424 CC

Applicant

JAN GERHARDUS CHRISTOFFEL GOUWS First

Respondent

CITY OF TSHWANE METROPOLITAN Second

Respondent

JUDGMENT:

APPLICATION FOR LEAVE TO APPEAL

- [1] This application was brought a quo by the First Respondent to evict the Applicant from what was previously the matrimonial home on the small holdings now belonging to the First Respondent. The Applicant and the sole member of the First Respondent are embroiled in a rather acrimonious divorce action with no prospect of finalization in the near future.
- [2] The Applicant was the previous owner of the property where the matrimonial home is situated which was occupied by himself and the now sole owner of the First Respondent. He remained living in the home even after his estranged wife moved out into one of the chalets on the property. Without dwelling into the detail it is safe to say the parties are no longer on the other's friendship list.
- [3] The crux of the application a quo was whether the First Respondent could have the Applicant evicted from the previous matrimonial home even since his estranged wife (sole owner of the CC) no longer occupies the home.
- [4] I am aware of the provisions of Section 17 of the Superior Court Act, 10 of 2013 when a court a quo can grant an application for leave to appeal against a judgment of that court. The crux is whether the appeal would have a reason able prospect of success on appeal.
- [5] I am of the view that another court may well come to another

conclusion

as to whether the estranged wife of the Appellant may well be the using the CC as the vehicle to carry the battle to the Appellant in ongoing divorce matter and that she may be seen as the alter ego of the CC.

- [6] Having considered the arguments forwarded by Mr Haskins and Me Mentz, and reading the papers, I am of the opinion that there may well be a reason able prospect that another court may come to another decision of the facts before the court.
- [7] Leave to appeal is therefore granted to the Applicant to the full court of the Gauteng Division, Pretoria.
- [8] Costs of the application will be costs in the appeal. Should the appellant fail to prosecute the appeal within the Rules of Court, the appellant will be liable for the costs hereof.

Signed on 29 July 2022

J HOLLANDMUTER

ACTING JUDGE OF THE PRETORIA HIGH COURT

Application heard on 28 July 2022

Judgment

uploaded onto Caselines on 29

July 2022

Counsel obo Appellant: M

Haskins SC

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Mentz

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CASE PAGE <https://chat.esheria.ai/case-law/south-africa/gouws-v-ariano-424-cc-and-others-unknown-topic-agpphc-2022>

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