

SOUTH AFRICA / JUDGMENT

Jacobs and Others v City of Cape Town (5453/2022) [2025] ZAWCHC 53 (18 February 2025)

[2025] ZAWCHC 53

COURT

Western Cape High Court, Cape Town

BEFORE

M Pangarker

CASE / FILE NUMBER

5453/2022

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FLYNOTES: EVICTION – Appeal against order – Peremption – Applicants had acquiesced in judgment – Conduct and acceptance of emergency housing kits – Completing necessary documentation in order to receive same – Unequivocally and unconditionally accepted judgment and orders and decided to abide it – Attorney consulting with applicants and applying for leave to appeal – When right to appeal clearly abandoned – Conduct of attorney egregious and reprehensible – Application for leave to appeal set aside.

IN THE HIGH COURT OF SOUTH AFRICA

(WESTERN CAPE DIVISION)

Case number: 5453/2022

BRADLEY JACOBS First Appellant LEONIE TOLL Second Appellant MICHELLE BRANDT Third Appellant BRENDA MURPHY Fourth Appellant LOURENCIA MAKER Fifth Appellant And CITY OF CAPE TOWN Respondent

Date of hearing:

17 February 2025

Date of judgment:

18 February 2025

JUDGMENT DELIVERED ELECTRONICALLY

PANGARKER J

The judgment and order of 10 September 2024

1. On 10 September 2024, I granted an order evicting various respondents from 8 Erven situated at the Belhar Pentech Housing Project. The order was granted pursuant to my judgment delivered in the matter City of Cape Town v Hearne and Others[1], which was an opposed eviction application in terms of sections 4 and 6 of Act 19 of 1998. In terms of the orders granted, the respondents were evicted from the occupied units and ordered to vacate same on 6 January 2025, failing which the Sheriff of the High Court was duly authorised to evict them by 7 January 2025.
2. Further orders were granted whereby the City of Cape Town, as applicant, was directed to make suitable emergency housing available at Leonsdale to those respondents who requested it, and in the alternative, the respondents had an election to take up the emergency housing kits issued by the City. This election had to be exercised within 30 days of date of granting of the Order. At the time of the opposed application, the respondents were represented by Cader and

Company, on a pro bono basis and had the benefit of senior and junior counsel at the opposed hearing on 7 June 2024.

Application for leave to appeal

3. Some four months later, Bradley Jacobs, Leonie Toll, Michelle Brandt, Brenda Murphy and Lourencia Maker, who were respondents in the eviction application, represented by a new legal representative, delivered an application for leave to appeal my judgment and the orders handed down on 10 September 2025. These respondents (in the eviction application) are referred to herein as applicants in the application for leave to appeal to the Supreme Court of Appeal, which forms the subject matter of this judgment.
4. The application for leave to appeal indicates that it was signed on 6 January 2025 at Blue Downs by the applicants' attorney, Le Roux and Associates in Eerste River. The attorney dealing with the matter

is Sean le Roux. The Registrar's date stamp indicates the filing date as 7 January 2025 and from the affidavit filed by Riley

Incorporated on behalf of the City (as respondent in the leave to appeal application), it is undisputed that the City's legal

representative was served with the application on 13 January 2025. The date of 17 February was provided for the hearing of the

application.

5. Given the evolution of the application and the circumstances which unfolded yesterday at the hearing, the grounds of appeal are ultimately irrelevant to my findings below, and for that reason, not repeated herein. Subsequent to the receipt of the application for leave to appeal, Riley Incorporated took the following steps: they attended to delivering an affidavit deposed to by Kirsten Pearce, an attorney at Riley Incorporated who sets out the facts and

circumstances subsequent to receipt of the application, together with confirmatory affidavits by two City officials who were involved in the provision of emergency housing kits to the five applicants. Furthermore, Riley Incorporated delivered an Index to the leave to appeal application, an obligation or duty which would normally rest on the shoulders of the practitioner or law firm representing the applicants, and they also filed written heads of argument.

Events which occurred subsequent to delivery of the judgment

6. The hearing date was communicated to the legal representatives. Before I address the role of Mr le Roux in the application, it is necessary to sketch the facts which arose after the judgment, as deposed to by Mr Pierce as some of these facts become relevant. On 4 November 2024, approximately 2 months after the judgment, Cader and Company informed Mr Riley of John Riley Incorporated that three families advised of their need for housing kits. The City's attorneys were requested to advise Cader and Company of the detail as to how the allocation of these emergency housing kits would occur[2]. On 6 November 2024, Riley Incorporated forwarded the request to the City. Cader and Company responded by informing that they were

assisting the five applicants as a courtesy as their mandate had come to an end. It would certainly seem that the latter firm indeed

assisted the applicants as far as possible in respect of the orders granted by the Court.

7. The applicants, through their erstwhile attorneys, informed Riley Incorporated on 7 November 2024 that they did not intend taking up the offer of emergency housing at Leonsdale but would be accepting the emergency housing kits as per the Court's order[3]. On 18 November 2024, Riley Incorporated addressed correspondence to Cader and Company that these applicants were required to sign an acceptance of offer form, provide the details and the date on which they would vacate the units so that the City officials would be present and also provide an affidavit by the owner of land who was prepared do have the emergency housing kits erected

on their land.

8. On 21 November 2024, Riley Incorporated informed Cader and Company that the emergency housing kits would be provided within 14 days of receipt of further information, and subsequently between 13 to 17 December 2024, the required information plus the land owners' affidavits were received[4]. On 6 and 7 January 2025, City officials who were ready to deliver the emergency housing kits to the five applicants, attempted to contact them to arrange the delivery but were met with unanswered calls, a refusal to engage or communicate with the officials and outright refusals to accept the emergency housing kits.

9. Also, on 7 January 2025, Mr le Roux contacted Mr Pearce and informed him that he had taken over the matter, acted for the five applicants and had instructions to apply for leave to appeal my judgment and order. As indicated, the application was filed on 7 January and served per email on Riley Incorporated on 13 January 2025. Mr Pearce's affidavit indicates that the five applicants continued to occupy the Pentech units subsequent to delivery of judgment.

Proceedings on the hearing date, 17 February 2025

10. Whilst some of the discussion below might seem academic in the overall orders granted below, my view is that it is nonetheless necessary as it has a bearing on findings regarding Mr le Roux's conduct and the question of costs. Having considered the application for leave to appeal, Mr Pearce's affidavit, the confirmatory affidavits and counsel's heads of argument, I was ready to pose various questions to Mr le Roux during yesterday's hearing which was due to commence at 09h00. Unfortunately, that was not to be as Mr le Roux failed to appear at Court 12 at the allocated time. He was not excused, and had not communicated with the Registrar nor Riley Incorporated as to his absence nor any late attendance.
11. At counsel's request, the application stood down for a while and was recalled at 09h25, at which stage Mr le Roux was still absent. Counsel for the City indicated that the instructions from Riley Incorporated were that Mr le Roux was contacted in the interim and he advised the instructing attorney that he had served a notice of withdrawal of the application for leave to Appeal some weeks ago on them. Furthermore, it was placed on record that Riley Incorporated, after a diligent search, had no record of ever receiving such a notice of withdrawal of the application. Mr le Roux informed the opponent (who was present during the proceedings) that he had briefed or appointed an Advocate Human to attend to the leave to appeal application, and could not or did not specify the date on which the apparent service per email of the application had occurred. Counsel had instructions to seek an order of costs de bonis propriis against Mr le Roux as his conduct in the matter as well as his absence were unbecoming of an officer of the Court.
12. Having heard these submissions, I indicated that on my perusal of the Court file, there was no notice of withdrawal of the application filed and after confirming with the Registrar, it was determined that no such notice was ever filed in the matter. In light of the specific costs order requested and what appeared to be a failure to deliver the notice of withdrawal, I directed that Mr le Roux be contacted and informed that his attendance was required at 14h00 at Court 12. In the time that the matter stood down, I was placed in possession of a printed Whatsapp conversation between Mr le Roux and the City's

instructing attorney which indicates that Mr le Roux had advised that he had sent the notice of withdrawal of the application to his opponent, had requested Advocate Human[5] to contact Riley Incorporated regarding the leave to appeal proceedings and that Le Roux and Associates had difficulty in securing the attendance of the applicants at consultations and had problems regarding financial instructions.

13. At 09h37, the Registrar messaged Mr le Roux informing him that the matter had stood down and that he was instructed to attend Court at 14h00. Mr le Roux's response was that he did not know when he would be done and would not be able to attend. On my enquiry, it came to light that Mr le Roux indicated that he was involved in a partheard matter in a lower Court. It later transpired on Mr le Roux's attendance and confirmation, that he was in Blue Downs Court involved in a partheard matter. The printout of copies of these Whatsapp conversations has been placed in the Court file.
14. Mr le Roux indeed appeared in Court shortly after 14h00. Counsel advised that after diligent search of emails and their server, Riley Incorporated confirmed yet again that they had not received a notice of withdrawal of the leave to appeal application. Counsel's further submissions were that there was no proof that the notice was filed, that they are at Court for the application but even if the notice is late, it would now seem that the application was withdrawn. However, he made further submissions that due to Mr le Roux's advice to the applicants in January that they could bring a leave to appeal application, they (the respondent and its representatives) were at Court, but the advice was legally impermissible in light of the events subsequent to the delivery of the judgment as the applicants had acquiesced in the judgment.
15. Furthermore, it was submitted on behalf of the City that the notice of withdrawal of the application is dated and signed 28 January 2025, Mr Pearce's affidavit setting out the events post-judgment and the opposition to the application was commissioned and served on 5 February 2025; the Index was stamped 11 February and similarly served on Mr le Roux per email, yet Riley Incorporated were never informed that the application was withdrawn. Counsel argued further that this was not a case where there was a service issue but rather that the City's legal representatives were shown no courtesy at all,
being none the wiser that the application was withdrawn.
16. It was also submitted on behalf of the City that the Court should censure the conduct of Mr le Roux and indicate its unhappiness and disapproval with an order of costs de bonis propriis as his conduct was unfitting of an officer of the Court. It was at this juncture that counsel alerted me, as his attention was drawn by his instructing attorney, that Mr le Roux is practising as a legal practitioner without being the holder of a Fidelity Fund Certificate (FFC) [6], and in circumstances where he gave advice in this matter, the subsequent process would be null and void. Counsel added further that the City and its legal representatives acted on the understanding that Mr le Roux was in good standing as a legal practitioner which it turns out, was not the case. In the result, it was argued that the opposition was all for nothing as the leave to appeal application was a nullity. The City persisted with its request for a costs de bonis propriis order.
17. Mr le Roux, who was instructed to attend Court, confirmed the correctness of the information and submissions made by the City's counsel; that he is not the holder of a valid FFC, and was not a holder of an FFC at the time of advising the applicants in this matter

regarding a leave to appeal application, nor when he drafted the application, nor when he drafted the notice of withdrawal of the application. At this juncture I point out that notwithstanding the lack of standing of Mr le Roux before me, I nonetheless gave him the opportunity to address me on the City's request for costs de bonis propriis against him. Despite being given such opportunity, he nonetheless proceeded to protest that he had indeed sent the notice of withdrawal of the application to Riley Incorporated and had made the necessary effort and received no communication thereafter from them. The meek request that Advocate Human, whom nobody seems to know, should come to Court to address it on the costs de bonis propriis request, was not motivated.

18. In reply, counsel made the point that the severity of his actions is lost on Mr le Roux, and I find that I must agree wholeheartedly. It would be easy to simply make a finding that the application for leave to appeal and the subsequent notice of withdrawal are nullities and void ab initio and grant an appropriate costs order, and that would be that. However, I would be failing in my duty if I did not set out my reasoning for such finding and clarify why I view Mr le Roux's conduct in such a grave and severe light.
19. While this judgment does not relate to an application by the disciplinary body, the Legal Practice Council (LPC), to either suspend or strike Mr le Roux's name from the roll of practising attorneys, the fact that it only came to light during yesterday's proceedings that he is not the holder of a valid FFC makes the situation and his conduct extremely serious. In the context of what has already been addressed, the picture painted in this matter supports my ultimate referral of Mr le Roux's conduct to the LPC and the granting of a costs order de bonis propriis against him.

Discussion and legal principles

20. It is apparent from the undisputed facts placed before me that subsequent to Cader and Company's exit as legal representatives for the applicants regarding the provision of emergency housing kits, Mr le Roux arrived on the scene on 6 or 7 January 2025. At that stage, and as indicated by the chronology above, these applicants had already decided to accept the emergency housing kits from the City and in so doing, had complied with paragraph 4 of the orders granted on 10 September 2025. It certainly seems that Mr le Roux's arrival or "taking over of the matter" as Mr Pearce described in his affidavit, was the catalyst for the applicants then doing a remarkable volte-face on the emergency housing kits and vacating the units as ordered.
21. I can therefore only conclude that Mr le Roux advised these five applicants not only that they could apply for leave to appeal the judgment and orders but that the law allowed them to do so. However, nothing could be further from the truth because in circumstances such as those which prevailed after the judgment and orders, the applicants were perempted from appealing because they had acquiesced in the judgment and I say this for the reasons set out below.

22. Firstly, the provision of an affidavit to set out facts relevant to the exercise of a Court's discretion in an appeal and a leave to appeal application has been sanctioned by the SCA in *SAPS Medical Scheme v Lamana*[7]. Hence, Mr Pearce's affidavit in the leave to appeal application is not irregular.
23. As far back as 1920, the Appellate Division (AD) had cause to address the question of peremption in relation to a judgment in *Dabner v South African Railways & Harbours*[8] where Innes J stated as follows:

"The rule with regard to peremption is well settled, and has been enunciated on several occasions by this court. If the conduct of an unsuccessful litigant is such as to point indubitably and necessarily to the conclusion that he does not intend

to attack the judgment, then he is held to have acquiesced in it. But the conduct relied upon must be unequivocal and must be inconsistent

with any intention to appeal. And the onus of establishing that position is upon the party alleging it. In doubtful cases acquiescence, like waiver, must be held non-proven".

(my emphasis)

24. The dicta in *Dabner* has been applied consistently by the SCA in a line of cases including *Standard Bank v Estate van Rhyn*[9], *Natal Rugby Union v Gould*[10], *Gentiruco AG v Firestone SA (Pty) Ltd*[11] and more recently in *Qoboshiyane NO v Avusa Publishing Eastern Cape (Pty) Ltd*[12]. In summary, the peremption of an appeal refers to a situation where, after judgment, the unsuccessful party conveys unequivocally through their conduct an intention to be bound by the judgment or conveys conduct inconsistent with the intention to appeal. In such circumstances, any right to appeal that judgment (and orders) is abandoned as the unsuccessful party has expressed its acquiescence with the judgment.
25. In this matter, the conduct of the five applicants subsequent to the judgment and up to at least 17 December 2024, as conveyed and confirmed in emails, correspondence and documents exchanged between the legal representatives at the time, indicates that the applicants, by conveying their acceptance of the housing kits and completing all the necessary documentation in order to receive same, unequivocally and unconditionally accepted the Court's judgment and its orders, and decided to abide it. By all accounts, this conduct, which Mr Pearce established in his affidavit and attachments thereto, leads

to the conclusion that the applicants acquiesced in the judgment, and as such, they did not intend to assail the judgment. Hence, in view of the aforementioned authorities, they abandoned any right of appeal in respect thereof[13].

26. Mr Le Roux should have known that the advice he gave the applicants to launch an application for leave to appeal was legally impermissible given that the clients had already, by virtue of their conduct in accepting the housing kits and intending to vacate the Pentech units, acquiesced in the judgment. The applicants had all along abided the judgment until

Mr le Roux took over the matter on their behalf. Mr le Roux should also have known that where his clients had unequivocally elected to abide and comply with the judgment, it was not open to them to embark on another course to apply to appeal the judgment and orders[14]. Yet, this is exactly what transpired here. To add, Mr le Roux conveyed on 13 January 2025 that he had consulted with the applicants and was waiting on the other applicants to attend a consultation. He further advised in such email to Mr Pearce that the applicants would be seeking alternative accommodation where they could erect the structures (presumably, the housing kits).

27. From the above conduct, it is evident that Mr le Roux not only provided advice which was legally impermissible given that the applicants had acquiesced in the judgment and the appeal was perempted, but forged ahead with a leave to appeal application while simultaneously re-iterating in an email that his clients would erect the City's emergency housing structures elsewhere. This tells me that notwithstanding an indication that they in any event still accepted the housing kits and intended to vacate the Pentech units, hence confirming the acquiescence, Mr le Roux nonetheless served and filed an application for leave to appeal. It is anyone's guess as to the motive behind the leave to appeal application but the conduct of Mr le Roux in consulting with these applicants and taking the steps to apply for leave to appeal in circumstances where the right to appeal was clearly abandoned, is egregious and reprehensible.
28. Having then delivered a leave to appeal application, Mr le Roux paid no heed to the provisions of Uniform Rule 49(1)(b) which require of an applicant who wishes to apply for leave to appeal to do so within 15 days after the date of the order appealed against. The language of the sub-rule is peremptory in its use of the word "shall". In terms of the calculation of the dies, the 15-day period would have expired on 2 October 2024[15]. The leave to appeal application was only delivered on 13 January 2025, more than four months after the date of delivery of the

judgment and thus an application for condonation would have been necessary, yet none was ever launched. Whilst possibly academic in view of other aspects related to Mr le Roux's standing, the leave to appeal application, absent an application for condonation,

would in any event not have been properly before the Court for its consideration.

29. Put another way, in the absence of a condonation application explaining the lengthy delay and non-compliance with rule 49(1)(b), there would have been no basis for me to exercise my discretion to extend the 15-day period on good cause shown as no condonation was ever sought. Despite a further period from 13 January 2025 to date of hearing, no condonation application was filed, yet again the responsibility of Mr le Roux.

30. Mr le Roux also did nothing to advance the hearing in that he failed to prepare the Index to the application and failed to put the file in order. This was left to Riley Incorporated in a leave to appeal application brought by Mr le Roux for the applicants. As if the above conduct was not cause for alarm and concern, it came to light yesterday that Mr le Roux had prepared a notice of withdrawal of the leave to appeal application, signed and dated 28 January 2025, which he used as an explanation as to his absence at Court at 09h00 yesterday.
31. As indicated above, neither Riley Incorporated nor the Registrar have knowledge of such notice and none was filed at Court. The documentation brought to my attention yesterday during the proceedings, which I refer to above, in no way convinces me that such notice was properly served, let alone filed at Court. As counsel indicated, had the explanation been that there was a problem with service or some other administrative issue, it would have gone some way to redeem Mr le Roux's actions yet it is but one more action added to a list of questionable behaviour and conduct, which I would not expect of someone who is expected to be an officer of the Court.
32. It is extremely troubling that the notice of withdrawal of the application was dated and signed 28 January, and that Mr Pearce's affidavit, the confirmatory affidavits and the Index were done in February and served on Mr le Roux per email, yet he failed to respond to any of these emails and documents. It would have been expected of Mr le Roux, on receipt of these documents, to have notified his opponent that the application was in fact withdrawn but this was also

not done. All these affidavits and documents were sent to Mr le Roux's email address and the delivery receipts attached in the leave to appeal record constitute proof of service thereof. Despite receipt hereof, Mr le Roux had neither the professional courtesy nor collegiality to inform Mr Riley or Mr Pearce that he had in fact withdrawn the application and that it was not going ahead. To add, he also did not have the respect and professional courtesy to advise the Registrar to bring it to my attention that the application had been/was withdrawn. There was simply no action from Mr le Roux.

33. The result of these actions, considered cumulatively, is that because of Mr le Roux's conduct, the City was brought to Court for a leave to appeal application, had to instruct Riley Incorporated who had to brief counsel, whom I might add, was the same counsel who argued the eviction matter last year. Costs and expenses were incurred, including attending to preparing an Index when it was not their duty to do so as the City was not the applicant; briefing counsel who was prepared to argue the matter yesterday and who drafted comprehensive heads of argument especially on the aspects related to the lack of condonation, peremption of the appeal and acquiescence in the judgment. Whilst everything I describe above amounts to conduct unbecoming of a legal practitioner and an officer of the Court, Mr le Roux's further conduct yesterday was simply inexcusable. It clearly indicates that he has been dishonest.

34. In response to an instruction from the Court to appear at 14h00, Mr le Roux indicated that he was not able to attend Court. As indicated, he indeed made an appearance after I let the matter stand down for his attendance in order to give him an opportunity to address the costs de bonis propriis request. As indicated above, it then came to light that Mr le Roux is not the holder of a valid FFC for 2025, a fact which the Professional

Affairs: Records Department at the LPC Western Cape, confirmed in writing this morning in an email to the Registrar[16].

35. Having regard to all the above facts and occurrences, I agree with counsel that Mr le Roux is the sole cause of the City and the Court having to convene a hearing for the leave to appeal application. He gave advice to the applicants to embark on a course which was, in the circumstances, not allowed given that they had acquiesced in the

judgment.

In the event that they could apply for leave to appeal, he failed to bring a condonation application which was necessary in terms of Rule 49(1)(b). He failed to prepare the file and deliver an Index, and failed to notify the Court that the application was withdrawn, notwithstanding that he was placed in receipt of the City's affidavits. Furthermore, Mr le Roux failed to appear at Court yesterday at the allotted time, and his actions have put the City at great expense and inconvenience. However, as if these actions

are not egregious enough, Mr le Roux, a legal practitioner who practices for his own account, is not in possession of a valid FFC

for 2025. He has also indicated that he was not a holder of a valid FFC at the time of taking over the matter.

36. When regard is had to the notice of withdrawal of the leave to appeal application, a copy of which was provided yesterday, the indication on the notice is that the application was withdrawn due to the applicants' failure to provide financial instructions. As counsel submitted, it would seem from the notice that Mr le Roux has been charging these applicants in circumstances when he was not entitled to do so as he was not in possession of a valid FFC. Ultimately, I need not make a definitive finding on this aspect, which may form the subject matter of an investigation or disciplinary proceedings before the LPC in respect of compliance with section 84 of the Legal Practice Act 28 of 2014.
37. The result of Mr le Roux's failure to be in possession of a valid FFC is that the leave to appeal application and notice of withdrawal of such application are null and void[17]. There is no reason why the applicants should be held liable for the costs related to the application. It was not of their doing and they relied upon the advice given to them by Mr le Roux. It was Mr le Roux's conduct, and his alone, which put the City to the unnecessary trouble and expense which they should not bear. Mr le Roux's conduct, which is characterised by discourteous behaviour to his opponent and the Court, the giving of legally unsound advice,

the possible receipt of funds while not being in possession of a FFC, the non-compliance with the Uniform Rules of Court, the failure to attend Court at the allocated time without explanation, all constitute conduct which materially deviates from the standard expected of a legal practitioner such that the applicants cannot be expected to pay the costs occasioned by the null and void application[18]. As indicated in *Multi-Links Telecommunications Ltd v Africa Prepaid Services Nigeria Ltd; Telkom SA Soc Limited and Another v Blue Label Telecoms Limited and Others*[19], I feel compelled to mark my profound displeasure at the conduct and questionable professional ethics of Mr le Roux. In the circumstances,

an order that Mr le Roux pays the costs in his personal capacity is justified.

38. Finally, in light of the facts placed before me yesterday and the LPC's confirmation earlier today that Mr le Roux is not a holder of a valid FFC, his conduct will be reported to the LPC for their attention and investigation. It is alarming and cause for great concern that Mr le Roux, by his own admission, is involved in a matter in the lower Courts and seems nonchalant about the fact that he is not in possession of a FFC, yet continues to practice and represent the public. Thus, in the interests of the unsuspecting public, the lower Courts and other legal practitioners who may be opponents of Mr le Roux in matters, a copy of this judgment shall be forwarded to the LPC to investigate the conduct of Mr le Roux, and to the Magistrates' Courts for their attention.

Orders

39. In the result, I grant the following orders:

39.1 The application for leave to appeal and the "Notice of Withdrawal of Application" dated 28 January 2025, initiated and drafted by Mr Sean le Roux of Le Roux and Associates, are declared null and void and are hereby set aside.

39.2 Mr Sean le Roux (Mr le Roux) of Le Roux and Associates, Eerste River is ordered to pay the costs occasioned by the application for leave to appeal, de bonis propriis and which costs shall include all wasted costs and preparation, and all such costs shall include costs of senior counsel (scale C).

39.3 The Registrar is requested to forward a copy of this judgment to the Legal Practice Council: Western Cape Provincial Office (LPC) for its urgent attention and investigation into the conduct of Mr le Roux.

39.4 A copy of this judgment shall be transmitted to the Chief Magistrates of Wynberg and Cape Town, and the Regional Court President: Western Cape Regional Division, for the attention of all Magistrates and Regional Magistrates in the Western Cape.

M PANGARKER

JUDGE OF THE HIGH COURT

Appearances:

For applicants: Le Roux and Associates

Mr S Le Roux

Eerste River

For respondent: B Joseph SC

Instructed by: Riley Incorporated

Mr J F Riley

Wynberg

[1]

[2024] ZAWCHC 253

[2] KP1

[3] Par 4 , p33 of main

judgment

[4] KP5-KP10

[5] The conversation refers to a Mr Hieman, not Human

[6][6] The instructing attorney had confirmed telephonically with the Legal Practice RE

[7] 2011 94) SA 456 at par [13]

[8] 1920 AD 583 at 594

[9] 1925 ad 266 at 268

[10]

[1998] ZASCA 62; 1999 (1) SA 432 (SCA) at 443 F-G0

[11] 1972 (1) SA 589 (A) at 600 A-B

[12]

[2012] ZASCA 166 par [3]

[13] Qoboshiyane supra, par [3]

[14] See Feinstein v Niggli and Another 1981 (2) AD 684 at 689 G-H

[15] While the City submits that the dies expired on 1 October 2024, it is noted that 24 September 2024 was a public holiday, and hence excluded from the calculation of the 15 day period

[16] A copy of the email is placed on file

[17] NW Civil Contractors CC V Anton Ramaano Inc case no. 993/2018, unreported judgment of Phatudi J, Limpopo Local Division: Thohoyandou, delivered on 14 May 2018

[18] Adendorff's Boerderye v Shabalala and Others [2017] ZASCA 37; Thunder Cats Investments 49 (Pty) Ltd & Others v Fenton 2009 (4) SA 138 (C) par [30]

[19]

[2013] 4 All SA 346 GNP at para 34-35

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Prepared on 10 October 2026 · Esheria