

SOUTH AFRICA / JUDGMENT

Keyes NO v Ellinas and Others (2013/62385) [2017] ZAGPPHC 185 (22 May 2017) [2017] ZAGPPHC 185

COURT

North Gauteng High Court, Pretoria

BEFORE

J R Peter

CASE / FILE NUMBER

2013/62385

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REPUBLIC

OF SOUTH AFRICA

IN

THE HIGH COURT OF SOUTH AFRICA

(GAUTENG

DIVISION, PRETORIA)

CASE

NO: 2013/62385

22/5/2017

In the matter

between:

TREVOR THOMAS

KEYES

NO Plaintiff

and

CHRIS

ELLINAS First

Defendant

JANGO

ELLINAS Second

Defendant

REGISTRAR OF

DEEDS,

JOHANNESBURG Third

Defendant

JUDGMENT

-VARIATION OF JUDGMENT DATED 18 OCTOBER 2016.

PETER AJ:

[1] On 18 October 2016, I gave judgment in favour of the executor of a deceased estate, the effect of which was to set aside the

registration of transfer of ownership of immovable property, which took place after the registered owner had become deceased, and which was effected under a power of attorney given by the deceased prior to death.

[2] In paragraph 3 of my judgment I identified the deed by which the deceased held title to the property as T45790/1997. In the operative part of the order of my judgment this deed was described as T45790/2007, giving rise to an ambiguity and patent error. The correct description of the deed is T45790/1997 and the description, in the operative part of my judgment is a clerical error. This error has been drawn to my attention, as by reason thereof, the third defendant is incapable of giving effect to the

judgment

until corrected.

[3] In terms of the provisions of rule 42(1)(b) I have the power mero motu to correct such clerical error which is to be done by the deletion of the expression T45790/2007 and the Page 2 substitution therefor of the expression T45790/1997. For the sake of completeness, I make the full corrected order:

1. The Registrar of Deeds, Johannesburg is authorised and directed, in terms the provisions of section 6(1) of the Deeds Registries Act, 1937, to cancel the deed of transfer T000014436/2010, dated 11 May 2010.
2. The Registrar of Deeds, Johannesburg is authorised and directed, in terms the provisions of section 6(2) of the Deeds Registries Act, 1937, to cancel the relevant endorsement on deed of transfer T45790/1997, evidencing the registration of the deed T000014436/2010.
3. The second defendant is ordered and directed to deliver, the originals of deeds of transfer T45790/1997 and T000014436/2010 to the plaintiff's attorneys, on or before 31 October 2016.
4. In respect of the first, second, third and fourth special pleas of prescription, it be and is hereby declared that the appointment of Ms Dionisiou with the powers of an executor in Cyprus was not operative in terminating the impediment under section 13(1)(h) of the Prescription Act, 1969.

5. The first and second defendants are ordered and directed, jointly and severally, to pay the plaintiff's costs occasioned by the separated hearing in respect of the issues raised in paragraphs 1- 14 of the particulars of claim as amended and dated 8 July 2015, read with paragraphs 1 - 12 of the first and second defendants' plea and the replication thereto and in respect of the question determined in respect of the prescription defences. Such costs are to include the fee of Ms Dionisiou in the sum of €500 in respect of the preparation of her affidavit evidence.
6. Such issues as remain relevant and raised in paragraphs 15 - 20 of the particulars of claim, together with the relief related thereto, read with paragraphs 13 - 28 of the first and second defendants' plea and the prescription defences in the special pleas are postponed sine die for future determination.

J R PETER

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

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