

SOUTH AFRICA / JUDGMENT

Kruger v Molefe and Another (67228/2013) [2015] ZAGPPHC 478 (5 June 2015) [2015] ZAGPPHC 478

COURT

North Gauteng High Court, Pretoria

BEFORE

Hiemstra

CASE / FILE NUMBER

67228/2013

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REPUBLIC OF SOUTH
AFRICA

IN THE HIGH COURT OF
SOUTH AFRICA
(GAUTENG DIVISION)

Case No.: 67228/2013

DATE: 05 JUNE 2015

In the matter between:

RUANN

KRUGER.....APPLICANT

And

CREZENSIA

MOLEFE.....FIRST

RESPONDENT

EKHURHULENI METROPOLITAN

MUNICIPALITY.....SECOND

RESPONDENT

JUDGMENT

HIEMSTRA AJ

[1] The applicant seeks the eviction of the first respondent from a property described as [Erf 2.....], [I.....] Street, [Ext 3.....], [V.....], Boksburg. The applicant alleges

that he is the registered owner of the property, and as proof attached a “Search- Works Report” reflecting him as the current owner.

[2] He alleges further that he had previously entered into an oral lease agreement with the first respondent in terms whereof she had undertaken to pay a monthly rent-al of R3 500. However, on her own admission, she never paid anything towards the agreed rental. The applicant cancelled the lease agreement in terms of a letter from his attorneys to the first respondent, dated 27 September 2013, a copy of which is attached to the founding affidavit. The first respondent admitted that she had entered into an oral lease agreement, but denies that it had been cancelled. Paradoxically, she claims in the alternative that she is the “lawful owner” of the property. These are mutually exclusive allegations that cannot co-exist. She cannot rent her own property from herself.

[3] In explaining how she came to be the owner of the property, she states that she and her late husband had bought the property ‘through the close corporation’. She alleges that the close corporation is Masekane Industrial and Engineering Supplies CC in which her late husband held a 55% member’s interest. The other member with a 45% interest was a certain Du Pliessis. She says that the relationship between the late Mr Molefe and Du Plessis had deteriorated resulting in Mr Molefe “resigning

from” the corporation. This is a bald statement, devoid of any documentary proof. There is no record that the property had ever been registered to such corporation. The first respondent also failed to provide any agreement of sale in terms of which such a close corporation acquired the property. In any event, first respondent’s late

husband had “resigned from the close corporation”, from which it can be inferred that he had parted with his members’ interest.

[4] Therefore, the first respondent made no cogent allegations from which her claim to the property appears.

[5] I accept that the applicant is the lawful owner of the property and that he is entitled to occupation thereof.

In the result I make an order in terms of the prayers 1 to 4 of the Notice of Motion.

J. HIEMSTRA

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA

Date heard: 3 June 2015

Date of judgment: 5 June 2015

Counsel for the applicant: Adv van den Bogert

Attorney for the applicant: Stuart van der Merwe Inc

Counsel for the respondent: Benoni Justice Centre

Attorney for the respondent: Benoni Justice Centre

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