

SOUTH AFRICA / JUDGMENT

Lambrakis v Taliakis and Another (2025/059253) [2025] ZAGPJHC 542 (28 May 2025) [2025] ZAGPJHC 542

COURT

South Gauteng High Court, Johannesburg

BEFORE

FMM Reid

CASE / FILE NUMBER

2025/059253

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IN THE HIGH COURT OF

SOUTH AFRICA

SOUTH GAUTENG

DIVISION, JOHANNESBURG

CASE NUMBER: 2025-059253

Reportable: YES/NO
Circulate
to Judges: YES/NO
Circulate
to Magistrates: YES/NO
Circulate
to Regional Magistrates: YES/NO
In the matter between:-
APOSTOLOS
LAMBRAKIS
Applicant
(ID
5[...])
and
THEODORA

TALIAKIS
1st
Respondent
REGISTRAR
OF DEEDS
2nd
Respondent

JUDGMENT

FMM REID J

Introduction:

- [1] This urgent application relates to the prevention of a sale of a property registered as Unit [...] H[...] close, 2[...] H[...] Road (the property).
- [2] The Notice of Motion reflects that the applicant seeks the following relief on an urgent basis:
- 2.1. that default judgment is to be awarded to the applicant.
- 2.2. restoration of ownership and possession of the property to the applicant.
- 2.3. the 1st respondent to compensate the applicant for the loss he has suffered to the value of R 2 500 000.00 (Two Million Five Hundred Thousand Rand), with interest at the prime lending rate, from the date of 4th April 2017.
- 2.4. an interdict / caveat to be noted against the 1st respondent's name in the Deeds Offices to not be allowed to deal with the property registered UNIT [...] H[...] C[...], 2[...] H[...] ROAD, B[...], until finalisation of said matter.
- [3] The applicant states the purpose of the application as follows in his founding affidavit:
- “(The property) is terms of Section 33 of the Deeds Registries Act 1937, currently registered in the name of the first respondent as I was unable to procure registration thereof in my name in the usual manner and according to the sequence of successive transaction or successions in pursuance of which the right of ownership of such property as has devolved upon her, hereby apply to the honourable court for an order authorising the registration of such property to be transferred into my name. The defendant is trying to alienate the property without my permission and without authorisation, in spite of the Summons of the 23 October 2024.”*
- [4] It is evident that the property is registered in the 1st respondent's name, and the applicant is challenging the 1st respondent's lawful ownership of the property on the basis of a tacit contract between the applicant and the 1st respondent. This dispute is to be determined in the action instituted by the applicant a under summons dated 23 October 2024. The issue of ownership is not for this Court to decide.

[5] The applicant cites the following reasons for urgency in this application:

“11.1.1. The applicant is aged 73, and still working when he should be retired. The immovable property is the only asset he has. He is fragile and sickly but competent. He has his wits and knows when he is taken advantage off. This is classical case of one person manipulating the other.

11.1.2. will not be afforded substantial redress at a hearing in due court if not held as URGENT.

11.1.3. will suffer imminence and depth of harm if relief is not immediately awarded by the circumstance which I seek adjudication upon.

11.1.4. requires immediate legal support and assistance to continue forward.

11.1.5. cannot sustain the property if the continued unlawful action is allowed.

11.2. The following circumstances which render the matter urgent:

- 1) The property is to be sold.
 - 2) The applicant is to be evicted.
 - 3) The applicant has no family who will maintain or look after him .
 - 4) The applicant has no other source of capital.
 - 5) The applicant cannot afford to buy another house or home on his current salary.
 - 6) The applicant is an elderly man who stands to lose everything he has worked for, for over 50 years of his life.
 - 7) The applicant long term, objectives are not being achieved. There is current Residential Use.
 - 9) The applicant lives in the property and uses the property as his primary residence.”
- [6] Notably, the applicant admits that he signed an Offer to purchase (OTP) on 14 April 2017. The applicant states that the 1st respondent brought him under the impression that the property was registered in his name. He paid the transport duties and monthly

payments. It came as a surprise to the applicant when he realised that the property was registered in the name of the 1st respondent.

[7] As mentioned above, the applicant issued summons on 23 October 2024 in terms of which the applicant prays that the property be transferred back into his name. He claims to have the right not to have the property alienated without his permission and authorisation.

This action is not without its own difficulties, and 2 notices of bar is pending in that action.

[8] The applicant alleges, and the 1st respondent denies, that the property was marketed for sale by the 1st respondent. The advertisement that purported to be for the sale of the property, was not for the property, but for another property in the same Close. The 1st respondent denies any intention to sell the property.

[9] As set out above, the application before me is for a default judgment and ancillary relief. However, Mr Economour, appearing for the applicant, submitted that the application was not for a default judgment but for a rescission order of the order made by Fisher J on 22 April 2025. On this date, Fisher J struck the matter from the roll for want of urgency.

[10] The grounds for urgency, appear to be the same as before Fisher J.

[11] In urgent applications the applicant must prove that he/she will not otherwise be afforded substantial redress at a hearing in due course.

See: Luna Meubel Vervaardigers (Edms) Bpk v Makin (t/a Makin's Furniture Manufacturers) 1977

(4) SA 135 (W) at 137F; East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd (unreported, GJ case no 11/33767 dated 23 September 2011) at paragraphs [6]–[9].

[12] The applicant did not prove that he will not receive substantial redress at a hearing in due course. To the contrary, the applicant currently lives in the property and has use of the property.

[13] The applicant's age (73) does not constitute urgency. Neither does the circumstances in that:

13.1. The applicant currently has use of the property.

13.2. The applicant currently resides in the property.

13.3. The 1st respondent denies that she is attempting to sell the property.

[14] I consequently find the matter to lack the necessary degree of urgency to be heard as an urgent application. The application is thus doomed to be struck from the roll.

Costs

[15] The general principle is that the successful party is entitled to its costs.

[16] I do not find any reason to deviate from this general principle.

[17] In the result, the applicant should be ordered to pay the costs of the application.

Order

In the premise, I make the following order:

(i) The matter is struck from the roll for want of urgency.

(ii) The applicant is to pay the respondents costs.

FMM REID

JUDGE OF THE HIGH COURT

NORTH WEST DIVISION MAHIKENG

DATE OF HEARING: 13 MAY 2025

DATE OF JUDGMENT: 28 MAY 2025

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