

SOUTH AFRICA / JUDGMENT

Randell v Cape Law Society (2646/11) [2011] ZAECHGC 59; 2012 (3) SA 207 (ECG) (27 October 2011) [2011] ZAECHGC 59

COURT

Eastern Cape High Court, Grahamstown

BEFORE

J.E Smith, M Makaula

CASE / FILE NUMBER

2646/11

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record

15

IN

THE HIGH COURT OF SOUTH AFRICA

EASTERN

CAPE DIVISION, GRAHAMSTOWN

Case no: 2646/11

Date Heard:15/9/11

Date Delivered:27/10/11

In

the matter between:

MICHAEL

WHARTON RANDELLAPPLICANT

Versus

THE

CAPE LAW SOCIETY

.....RESPONDENT

JUDGMENT

SMITH J:

- [1] The Applicant, a practicing attorney, seeks an order directing that an application brought by the Respondent during June 2011 to strike his name off the roll of attorneys (“the striking off application”), be stayed pending the finalization of the criminal case against him.
- [2] It is common cause that the Applicant was arrested by police on 26 November 2008 and that criminal proceedings against him are now pending in the Commercial Crimes Court, Port Elizabeth, in respect of the same allegations that he is facing in the striking off application. The criminal trial is scheduled to commence on 28 November 2011.
- [3] The allegations against the Applicant in the striking off application relate to alleged breaches of his fiduciary duties as trustee and member of the school governing body of the Greenwood Primary School. It is alleged in particular that the applicant and two other members of the governing body (namely the chairman and school principal) established a trust to purchase and own land and buildings adjacent to the school. The Applicant, being charged with the preparation of the trust deed, without the knowledge of the school allegedly amended the clause which nominated the school as the only beneficiary to read: “and or any other beneficiary which the trustees may from time to time unanimously by resolution nominate.”
- [4] Five months later the Applicant and the other trustees allegedly appointed themselves as beneficiaries of the trust and eight months thereafter sold the property to developers. Of the proceeds of this transaction an amount of R1.5 million was paid to the school and R2.4 million to the other beneficiaries, including the applicant.
- [5] The prejudice which the Applicant alleges he will suffer if the striking off application is allowed to proceed before the criminal case is finalized, is that making a sworn statement in which he will be required to deal with the same issues to be traversed in the criminal case, might serve to prejudice him and violate his s. 35(1)(c) constitutional right not to be compelled to make any statements that could be used in evidence against him.
- [6] He averred in addition that there cannot be any conceivable prejudice to the Respondent or any other person if the striking off application is stayed because:
 - (a) The criminal matter has already been set down for trial in November 2011. There will therefore not be any undue delay that could potentially prejudice the Respondent;
 - (b) The Respondent had, in the event, instituted proceedings only during June 2011 despite having become aware of the allegations against him on 4 December 2009 and despite the fact that he had been arrested and appeared in court on 26 November 2009 on charges of fraud, alternatively theft.

- [7] On 15 April 2011 the Greenwood Property Trust instituted action against the Applicant and one Patrick Lawrence Shelver (another one of the trustees) for payment of the amount of R2.4 million on the basis of the cause of action founded on the same allegations on which the striking off application and the criminal proceedings are premised. The plaintiff (being the Trust) in that matter applied for summary judgment which was opposed by the Applicant on certain technical grounds and also on the basis of the defence which he had set out in his plea filed in that matter. The application for summary judgment was refused.
- [8] The Respondents' opposition to this application is based on the following grounds:
- (a) The Applicant is, in the striking off application, presented with a "hard choice" either to file an answering affidavit or not. If he elects to file an answering affidavit he will suffer the risk that it may be used against him in the criminal matter. He may also choose not to file an answering affidavit and by doing so obviate that risk. He will, however, have to accept under those circumstances that the matter will be decided without his version before the court. There is therefore no element of coercion or state compulsion which can justify a stay of the civil proceedings.
 - (b) The potential prejudice in delaying the striking off application is to the public. The Applicant is not fit to practice as an attorney and it is in the interests of the public that that issue be determined speedily.
- [9] The arguments presented by both counsel dealt primarily with the issue of whether or not the court has a discretion to stay civil proceedings pending the finalization of criminal proceedings, and if so, under what circumstances the court will be entitled to exercise that discretion.
- [10] The judgment of Corbett J (as he then was) in *Du Toit v Van Rensburg* 1967 (4) SA 433 (CPD) is in my view a good starting point. In that matter Corbett J was called upon to decide whether it was proper to grant a provisional

order of sequestration when there were criminal charges pending against the respondent in respect of the same matters on which the sequestration proceedings were founded. In dealing with this issue the learned judge summarised the legal position as follows at 435H – 436A:

"It has been held that where civil proceedings and criminal proceedings arising out of the same circumstances are pending against a person it is the usual practice to stay the civil proceedings until the criminal proceedings have been disposed of. The principle at the root of this practice is that the accused might be prejudiced in the criminal proceedings if the civil proceedings were heard first, because he might have to give evidence in the civil proceedings and he might be subject to cross examination or he might be compelled to disclose information in his possession before the criminal proceedings were disposed of. This principle has been applied in regard to this type of application where application is made for a provisional order of sequestration and it appears that the respondent is charged with the theft of the very amount which forms the subject matter of the claim upon which the application for sequestration is based."

- [11] The learned judge then held at 436B, that the exercise of this discretion under those circumstances is dependent upon the question:

“as to whether there is a danger that the respondent will suffer prejudice in those criminal proceedings by reason of the granting of such order.”

- [12] He decided however that because no provisional sequestration order had been granted and there had not yet been any notice to the respondent that the application had been made, the court did not know what the respondents’ attitude to the application would be. He concluded that the existence of the criminal charges should therefore not at that stage preclude the court from granting a provisional order of sequestration because:

“It may be that, if a rule were granted and served upon him, he might decide to oppose the application and wish to place his version of the facts and his defense to those claims before the Court. Should that be the case, I can visualise a real possibility of prejudice arising. If, on the other hand, it transpires that the respondent has no intention of opposing this application and preventing a final order being granted, then it does not seem to me that there is any real likelihood of his suffering prejudice as far as these proceedings are concerned, and as far as any interrogation under the Insolvency Act is concerned it seems to me that proper safeguards can be imposed by this Court when making the order final”

[at 436C-E]

- [13] This decision was followed by Trengrove J (as he then was) in *Irvin and Johnson Limited v Basson* 1977 (3) SA 1067 (TPD). In that matter the respondent had also applied for the dismissal of the application for a provisional order of sequestration on the basis that it might prejudice him in the criminal prosecution. The learned judge held at 1072H-1073B:

“Now, there is no fixed rule or statutory prohibition against the Court granting either a provisional or a final order of sequestration against the estate of a respondent in respect of whom criminal proceedings arising out of the same circumstances are pending. (Donaldson v Veleris 1936 W.L.D. 84). This principle, as I understand it, is that, if it is shown that proceedings in an insolvency, and the examination of an insolvent,

are likely to prejudice the insolvent in his defense in related criminal proceedings, the Court has a discretion to stay all proceedings against him until the criminal proceedings have been concluded (*Du Toit v Van Rensburg* 1967 (4) S.A 433 (C) see at p. 437: *Gratus & Gratus (Pty.) v Jackelow* 1930 W.L.D. 226 at

- p. 230). This practice arises out of the general rule in civil proceedings that, until criminal proceedings have been disposed of, where a defendant or a respondent, as the case may be, might be prejudiced in criminal proceedings if the civil proceedings were heard first, the civil proceedings would then be postponed or suspended. Basically the question is whether the respondent will suffer prejudice if the proceedings for the sequestration of his estate are continued.”[My underlining]

[14] Mr Brooks, who appeared for the Respondent, placed considerable reliance on the judgment of Nugent J in *Davis v Tip NO and others* 1996 (1) SA 1152 (W) in support of his submission that there has to be some form of state compulsion or coercion present before the court will stay civil

proceedings under these circumstances. In that matter the Johannesburg Transitional Metropolitan municipality had instituted disciplinary proceedings against the applicant (its executive director of public safety) in respect of allegations of, inter alia, bribery, corruption and theft.

[15] While the inquiry had been postponed to a future date for hearing, the applicant had in the meantime been arrested by the police on charges arising out of the same allegations on which the disciplinary proceedings were based. The applicant had unsuccessfully applied to the chairperson of the inquiry to postpone it pending the finalization of the criminal proceedings. It was that refusal that the court was called upon to review.

[16] Nugent J (as he then was) considered the implication of s. 25(3) of the Interim Constitution and held that the right to remain silent is not foreign to our common law and stated that:

"I do not see that s 25(3) enlarges upon the common-law right. Rather, it guarantees its future existence."

(at 1156H)

[17] With reference to the abovementioned dictum of Trengrove J in *Irvin and Johnson* (supra) he stated the following at 1157D-F:

"Although the principle has been articulated in the language of the discretion, this may be misleading. I do not understand the decided cases to have held that a court may direct the civil proceedings to continue even where it has been found that they may prejudice an accused person. On the contrary, it is clear that once the potential for prejudice has been established the Courts have always intervened to avoid it occurring. In that sense then it has no discretion."

[18] The learned judge further held that:

- (a) Although civil proceedings invariably create potential for an accused to disclose damaging information because it may serve his interest in the civil proceedings, the exposure to these inevitable choices has never been considered by our courts to conflict with his right to remain silent in the criminal proceedings;
- (b) Our courts have only intervened where there has been a further element, namely the potential for state compulsion to divulge information. Even then the courts have not suspended the civil proceedings but have ordered, in appropriate cases, that the element of compulsion should not be implemented.

[19] Nugent J then proceeded to consider the argument advanced on behalf of the applicant that he really did not have a choice and that if he chose to remain silent during the disciplinary proceedings he could be found guilty and face dismissal. He considered the approach adopted by the Nova Scotia Court of Appeal in *Phillips v Nova Scotia (Commission of Inquiry into the Westray Mine Tragedy)* (1993) 18 CRD (2d) D-6 (Digest) 117 NSR (2d) 218 and the Nova Scotia Supreme Court in *Williams v Deputy Superintendent of Insurance* 1993 18 CRR (2d) 315, and accepted that while the legislation in terms of which the inquiry had been convened in those cases empowered the authorities to compel persons to testify, that the court in both cases did not suspend the inquiry on those grounds only but also (as was stated by Hallett JA in the Westray Mine case) (*supra*) because the respondent's right to silence might be compromised even where they agreed to testify, because:

"they may not want to leave unanswered allegations that are made at the public inquiry. They are in the coercive power of the State; the Crown will be able to gather evidence without the usual safeguards provided by the criminal law."

He however declined the invitation to adopt a similar approach in that matter on the basis that:

"The right to remain silent derives from an abhorrence of coercion as a means to secure conviction by self incrimination (See S v Zuma (supra) at 658D (SA) at 586E SACR and 417H-I BCLR) and it exists to ensure that there is no potential for this to occur. It achieves this by protecting an accused person from being placed under compulsion to incriminate himself; not by shielding him from making legitimate

choices."

[20] This approach was followed by Navsa J (as he then was) in *Seapoint Computer Bureau v McLoughlin and De Wet* NO 1997 (2) SA 636 (WLD). Referring to the dictum of McAdam J in the Williams case (*supra*) Navsa J held:

"The dictum in the Williams case, referred to above, speaks of the accused being in the 'coercive power of the State'. I am not certain that the Williams' case and the Philips case which it follows, are not distinguishable. The fact that the proceedings sought to be stayed with statutory enquiries is important. So, too, is the fact that compelling mechanisms were available to the authorities concerned. Another factor is that the 'coercive

power of the state' is more clearly seen in enquiries such as insolvency and companies legislation, and, presumably in the

structures creating the authorities conducting the enquiries in the Williams and Phillips cases."

(at 649C-E)

[21] In agreeing with Nugent J that there must be some element of state compulsion present before our courts will consider the stay of civil proceedings he posed the following rhetoric question:

“Why, one may well ask, is no authority available from any jurisdiction to show that in civil litigation involving two private parties, and where no coercive State machinery can be brought to bear on one of them, a Court was willing to stay proceedings. The answer readily presents itself and is alluded to in the Davis judgment and referred to by the plaintiffs’ counsel. The improper application of principle will cause the administration of justice to fall into disrepute. To protect the right to remain silent is eminently desirable. To deny plaintiff recourse to a judgment to which he may be entitled, because a police investigation against the opposing party may materialise, and where the defendant is not subject to coercive means, is not serving the course of justice.”

(at 649E-F)

- [22] Mr Lowe SC, who appeared on behalf of the Applicant submitted that the learned judges were wrong in insisting upon state compulsion as a prerequisite for the stay of civil proceedings where there are criminal proceedings pending in respect of the same matters. He has urged me to follow the approach adopted in the Canadian cases and to find that a lesser form of coercion should suffice.
- [23] I find myself in respectful disagreement with both Nugent J and Navsa J in respect of their conclusions that an element of state compulsion is necessary before the court can exercise its discretion to stay civil proceedings. My reasons are as follows:
- (a) Prior to the decision in the Davis (supra) case the applicable legal principle had been applied in various cases on the basis of an assumption that where civil and criminal proceedings arising out of the same circumstances are pending against a person, it is the usual practice to stay the civil proceedings until the criminal proceedings have been disposed of. See *Du Toit v Van Rensburg* (supra); *Standard Bank v Johnson* 1923 W.L.D. 301 and *Gratus & Gratus (Prop) LTD v Jackelow* 1930 W.L.D 226. The rationale for the practice was stated by Corbett J as being the potential prejudice arising out of the fact that a person might have to give evidence in the civil proceedings, be subjected to cross-examination and be compelled to disclose his defence before the criminal case is disposed of. The court only has to be satisfied that there is a danger that a person in that position might be prejudiced in the criminal proceedings if the civil proceedings are not stayed. The qualification that there must be an element of state compulsion before a court can stay civil proceedings under these circumstances, was superimposed for the first time in the Davis case (supra). This decision was subsequently followed in a number of cases.
 - (b) The stated justification for Nugent J’s insistence upon state compulsion is his assertion that despite the potential for an accused to disclose damaging information in the civil proceedings our courts have never considered the choice facing an accused under these circumstances to conflict with his right to remain silent in the criminal proceedings. He further held that our courts have always insisted upon a further element, namely state compulsion to divulge information, to be present before it can intervene. There was however in my respectful view no such element of compulsion in the *Du Toit* case (supra) where Corbett J was required to consider the applicability of the afore-mentioned legal

principle. It was, with respect, not the possibility of compulsory interrogation under the Insolvency Act which concerned the learned judge in that matter but rather a legitimate “hard choice” which the respondent would have had to make whether or not to defend the sequestration proceedings. In granting the order for provisional sequestration the learned judge was at pains to point out that he did not preclude the respondent from opposing the application on the basis of prejudice by reason of a pending criminal case against him. He directed that, in the meantime pending the finalization of the sequestration application, the respondent should not be interrogated in terms of the relevant provisions of the Insolvency Act. This was also the case in *Standard Bank v Johnson* (supra) where a provisional sequestration order was discharged because of criminal proceedings pending against the debtor. Van Zyl J held as follows at 305:

“It seems to me that danger might arise if the provisional order were allowed to stand and the matter be postponed. The sum of £5. 525 forms part of the amount involved marked in the criminal proceedings, and I do not think that I can make the order final. If I did I would really find that Johnson owed the money whereas the matter is in dispute in the criminal proceedings. Johnson denied his indebtedness, and says that in view of the criminal proceedings he cannot go into the matter.”

- (c) I can also, with respect, not understand on what basis the learned judges concluded that the stay of civil proceedings where there is no element of state compulsion present would amount to an “improper application” of the principle which would cause the administration of justice to fall into disrepute. In all matters where our courts are called upon to exercise a judicial discretion, they inevitably have to weigh up competing interests. The competing interests which I am required to weigh up in this case are the right of the plaintiff to have the civil matter adjudicated expeditiously in terms of the court rules and the constitutional right to a fair trial of the defendant. The application of the principle under these circumstances will effectively be on the basis of the legal principles enunciated by Corbett J in the *Du Toit* case (supra). There is in my view no reason why the exercise of the courts’ discretion on this basis should discredit the administration of justice.
- (d) The other reason proffered by Nugent J is that the s.25 (of the Interim Constitution) constitutional rights are not foreign to our common law and that that section did not enlarge upon the common law rights but rather sought to guarantee its future existence. He concluded that the law does not seek to protect an accused from making disclosures as a result of legitimate choices but rather where he or she is required to do so through state compulsion. I can with respect not agree that our courts are without any power to intervene in civil proceedings where there is a danger that an accused may be prejudiced in the conduct of his defence in a criminal case simply because there is no state compulsion present. Such an approach is in my respectful view a retrogressive step which cannot be justified in the context of our constitutional dispensation. An accused person’s right to remain silent is an important element of the essential content of the right to a fair trial and

our courts should be bold to come to the assistance of an accused whenever it appears that there is a real danger that this right might be compromised. In *S v Zuma and others* [1995] ZACC 1; 1995 (2) SA 642 SA (CC) Kentridge AJ held that the right to a fair trial encompasses a broader notion than merely being confined to the rights mentioned in s.25 (the equivalent of s. 35). There is in my view no reason why the implementation of the practice as enunciated by Corbett J in the *Du Toit* case (case), (without the qualification regarding state compulsion superimposed by Nugent J) should not have endured post 1994 when, if anything, the new constitutional dispensation required a more progressive approach with regard to the interpretation and protection of fundamental

rights.

- (e) Now it is so that where concern has been expressed in the foreign authorities over the possibility of adverse findings against a person in civil proceedings in a matter in respect of which a criminal case against him is pending, this was in the context of the possibility of trial by jury. I am of the view, however, that it is not difficult to conceive how such adverse findings may potentially prejudice an accused in the conduct of his defence in a criminal case even in our criminal jurisdiction.
- (f) To take the view that the defendant in such a case is facing a “hard choice” and must suffer the consequences of such choice is with respect grossly to underestimate the compelling effects of the serious and potentially disastrous social or economic consequences which may flow from such a choice. These may conceivably be so coercive and compelling that the “hard choice” is in fact no choice at all. The “hard choice” which the applicant in this matter faces is whether or not to challenge serious allegations of fraudulent conduct which, if left unchallenged, may result in him being struck off the roll of attorneys. That the economic and social consequences of such an adverse finding will be devastating to the Applicant must, with respect, be self-evident. To regard the choice facing the Applicant as to whether or not to defend these allegations and in the course thereof possibly to prejudice himself with regard to the conduct of his defence in the criminal case, as a legitimate “hard choice”, which renders the court unable to come to his assistance, is in my view untenable in law and in the event contrary to the legal principle enunciated by Corbett J in the *Du Toit* case (supra). Another consideration which in my view militates against such an approach is that a person is, under these circumstances, required to choose between two fundamental rights, namely the right to a fair resolution of his dispute in terms of s. 34 of the Constitution and his right to a fair trial in the criminal case.

[24] Mr Brooks has referred me to a plethora of cases in support of his submission that our courts have as a general rule not stayed civil proceedings as a means of protecting an accused's right to a fair trial or to remain silent where criminal proceedings are pending or likely to ensue. While I do not intend to deal with all these cases individually it will suffice to make the following general remarks with regard thereto:

- (a) In so far as he seeks to place reliance on cases dealing with civil proceedings in terms of the Prevention of Organized Crime Act, 121 of 1998, such reliance is, in my view, misplaced. The main object of this Act, and in particular s. 26 thereof, is to provide for procedures to facilitate the preservation and eventual confiscation of assets that are either proceeds or instrumentalities of crime. It is therefore not difficult to conceive how the stay of civil proceedings pending the finalization of the related criminal proceedings would invariably be anathema to the very purpose and spirit of the Act.
- (b) Where there has been reliance on judgments in which the Davis (*supra*) and Seapoint Computer Bureau (*supra*) decisions were followed, I have noted that these cases were invariably decided on the basis of an uncritical assumption of the correctness of the approach adopted by Nugent J. See *National Director of Public Prosecutions v Prophet* 2003 (6) SA (C) 154 at 158 and 159. In the event none of those cases is binding on this court.
- (c) The foreign authority on which Mr Brooks has relied also needs to be placed in its proper perspective. In the Supreme Court of Kansas case of *Carla J Stovall v David R Meneley* (case numbers 84,573, 84, 974), Abbot J, while holding that a defendant had no absolute right not to be forced to choose between testifying in a civil matter and asserting his right to remain silent, recognized that it was within the district courts' discretion whether or not to grant a stay of the civil proceedings where a criminal trial was pending and arising out of the same facts and held that this decision should be made in the light of particular circumstances and competing interests involved in the case. He upheld the district court's refusal to stay the civil proceedings on the basis that the interest of the public in the pending civil and criminal litigation justified such a finding.

For these reasons I find myself in respectful disagreement with the findings made by the learned judges in the Davis and Seapoint Computer Bureau cases (*supra*).

[25] The applicable legal principles can in my view then be summarized as follows:

Our courts have a discretion to suspend civil proceedings where there are criminal proceedings pending in respect of the same issues;

- (b) Each case must be decided in the light of the particular circumstances and the competing interests in the case;
- (c) In exercising its discretion the court will have regard to, *inter alia*, the following factors:
 - (i) The extent to which the persons' right to a fair trial might be implicated if the civil proceedings are allowed to proceed prior to the criminal proceedings;
 - (ii) The interests of the plaintiff in dealing expeditiously with the litigation or any particular aspect thereof;
 - (iii) The potential prejudice to the plaintiff if the proceedings are delayed;
 - (iv) The interests of persons not involved in the litigation; and

(vi) The interests of the public in the pending civil and criminal litigation.

- (d) The court must be satisfied that there is a danger that the accused might be prejudiced in the conduct of his defence in the criminal matter if the civil case is allowed to proceed before the finalization of the criminal case against him.

I now turn to consider the facts of this matter in the light of the afore-mentioned legal principles.

[26] It was contended on behalf of the Respondent that the potential prejudice in delaying the main application will be to the public. The Respondent averred that the Applicant is not a fit and proper person to practice as an attorney and it is therefore in the interest of the public that that issue be determined speedily. I am, however, of the view that, taking into account the nature of the allegations against the Applicant in the main application and the fact that the criminal trial is imminent (being scheduled to commence on the 28th of November 2011), the potential prejudice to the public will be minimal. It has not been suggested that there is any evidence of wrongdoing in the affairs of the Applicant's practice and his trust account. I have no doubt that if this was the case (and considering the potentially serious implications for his clients and the general public), the Respondent would have sought some type of interim relief in this regard. It is in my view furthermore significant that the Respondent, despite on its own admission having become aware of the full extent of the allegations against the Applicant during December 2009, has only launched the striking off application during June

2011. I can therefore not see how a further delay of at most another three months will be prejudicial to the interests of the general public. Against this has to be weighed the far greater danger of prejudice to Applicant if he is compelled to file his answering affidavit before the criminal trial is finalized.

[27] The Applicant has been advised by his attorney and counsel, who represent him in the criminal trial, that making a sworn statement in opposition to the main application might serve to prejudice him in the conduct of his defence in the criminal matter. This is so despite the fact that he will deny any wrongdoing. It has generally been recognized by our courts (even in cases where state compulsion was present) that such prejudice could potentially also flow from statements intended to be exculpatory. While it is so that the Applicant has disclosed the essentials of his defence in his plea filed in the related civil matter, he will obviously be required to provide far greater detail of his defence in his answering affidavit in the striking off application. There is therefore in my view a real danger that this may serve to prejudice him in the conduct of his defence in the criminal case. In the circumstances I am satisfied that it is proper that the civil proceedings be stayed pending the finalization of the criminal trial against the Applicant.

[28] Regarding the issue of costs, Mr Lowe has conceded that the Respondent, being a Law Society, would normally not be ordered to pay costs unless there are special circumstances present. There are in my view no such circumstances present in this matter such as would justify a departure from this practice. In the result I am of the view that it is proper to reserve the question of costs pending the outcome of the striking off application.

[29] In the result the following order shall issue.

1. The application brought by the Respondent under case number 2646/2011 is hereby stayed pending the finalization of the criminal proceedings against the Applicant in the Commercial Crimes Court, Port Elizabeth in case number CC 1/127/09.
2. The question of costs is reserved for decision by the court dealing with the application brought under case number 2646/2011.

J.E SMITH

JUDGE OF THE HIGH COURT

I agree,

M. MAKAULA

Appearances

Counsel for the Applicant : Advocate Lowe SC

Attorney for the Applicant : Netteltons

P.O Box 449

GRAHAMSTOWN

6140

(Ref: Mr. Netteltons)

Counsel for the Respondent : Advocate Brooks

Attorney for the Respondent : Nevile Borman and Botha

22 Hill Street

Ref: T Carinus

Date of hearing : 15 September 2011

Date Delivered : 27 October 2011

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAECGHC/2011/59.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/randell-v-cape-unknown-topic-aecghc-2011--6a3ea5143b1caa912980bbe9>

Prepared on 13 October 2026 · Esheria