

SOUTH AFRICA / JUDGMENT

Taljaard v Stanger N.O and Others (051740/2025) [2025] ZAGPPHC 434 (5 May 2025) [2025] ZAGPPHC 434

COURT

North Gauteng High Court, Pretoria

BEFORE

Nyathi

CASE / FILE NUMBER

051740/2025

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Policy

IN

THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION,

PRETORIA

CASE

NO: 051740/2025

(1)

REPORTABLE: NO

(2)

OF INTEREST TO OTHER JUDGES: NO

(3)

REVISED: NO

(4)

Date: 05 May 2025

Signature:

In

the matter between:

ANTON
TALJAARD
Applicant
And
AARON
STANGER N.O.
First Respondent
SINQUMILE
NQOBANI NJONGWE MKHWANAZI-SIGEGE N.O. Second
Respondent
GEORGE
WERNER
Third Respondent
JAN
VAN
VUUREN
Fourth Respondent
THE
DEPARTMENT OF FISHERIES, FORESTRY AND
Fifth Respondent
THE
ENVIRONMENT

JUDGMENT

NYATHI J

A.

INTRODUCTION

- [1] The applicant is seeking an urgent order to interdict the removal and transporting of a collection of 289 rare cycads which he purchased from a deceased estate.
- [2] The applicant contends that he purchased the cycads and holds the necessary permits to remove and transport them and the competing purchaser does not hold the necessary permits, and thus the purchase and transporting will consequently be unlawful.[1]
- [3] The first and second respondents are the Executors of the deceased estate, while the third respondent is the person to whom the Executors now say they have sold the cycads.
- [4] The fourth respondent is the agent who represented the Executors when selling the cycads to the applicant and later purported to sell them to the third respondent.
- [5] The fifth respondent is the provincial department in charge of issuing the permits required to buy and sell as well as transport the cycads.

[6] This application has not been served on the third respondent because the Executors have refused to provide his contact details. It is for this reason that an order is sought directing the Executors to provide the details of the third respondent, and for the applicant to thereafter serve this application on the third respondent.

[7] The order sought at this stage is to preserve the status quo. In part A2 of this application an interdict will be sought that will operate pending the finalisation of the dispute about whether the applicant

has an enforceable contract to purchase the cycads.

[8] The chronology that led to this part of the urgent application is the following:

1. In the late afternoon of Wednesday 9 April 2025, the applicant discovered that the cycads have been prepared for transporting. This follows on engagements between the applicant's attorneys and the first and second respondents' attorneys since 1 April 2025 during which the applicant's entitlement to the cycads was asserted and undertakings not to sell and remove the cycads were sought.
2. On Thursday 10 April 2025 the Executors were requested to undertake not to remove the trees and were told that the removal of the leaves indicates the trees have been prepared for removal.
3. The undertaking sought was not forthcoming. This prompted the applicant to finalize its papers overnight and file on Friday 11 April 2025.

B. URGENCY

[9] The event that triggered this application was when late on the afternoon of Wednesday 9 April 2025 it was discovered that the cycads have been prepared for removal by removing all of their leaves and tagging the stumps.[2] Undertakings were again requested that the cycads would not be removed but the undertakings were not given. Some of the cycads have not been permitted by the fourth respondent (the Department) for removal at all.

[10] The applicant submitted that having been unsuccessful in obtaining an undertaking from the respondents not to remove the cycads from the estate property, papers were settled late on Thursday evening and early on Friday.[3]

[11] The urgency of the matter according to the applicant, is premised on the observation that the cycads have been prepared for removal as their leaves have been removed and their stumps tagged. The only reason for the removal of the leaves is if removal of the cycads is imminent. The requested undertakings not to remove the cycads were not provided on two occasions.[4] The refusal to provide the undertakings suggests that there is a serious intention to remove the cycads. Further in a letter from the first respondent he said that this application would be academic, indicating that there is an intention to remove the cycads so that interdictory relief can no longer be granted.

- [12] The first respondent denies that the cycads are being prepared for removal and transportation. He alleges that he is aware of all the legalities associated with the sale, purchase and transportation of cycads.[5] He denies that the matter is urgent.
- [13] The first respondent's raises points of denial in limine as follows:
1. He contends that the applicant lacks locus standi to bring this application. According to the first respondent, the applicant's reliance on the agreement of sale that he wishes to enforce is misplaced as there is no agreement.
 2. The fifth respondent is tasked with the regulation and enforcement of environmental affairs and legislation. On the facts, it is common cause that the applicant was granted permits by the fifth respondent for the removal and transportation.
 3. The applicant has failed to provide any objective facts upon which it can be accepted that the cycads are being prepared for transportation and removal. However, the respondents have not denied that the leaves of a number of cycads have been cut off, neither have they provided a version disputing the applicant's allegations, providing alternative circumstances that would call for the leaves of the cycads to be cut off and the stumps to be tagged
- [14] The Department wrote to the Executors calling for various permits for the sale to the third respondent to be provided by 8:30 on Friday 11 April 2025. Those documents have not been disclosed by the Executors so far. If those documents did exist they would surely have been presented to this court to show the lawfulness of the sale to the third respondent.
- [15] The first and second respondents (the Executors) opposed the application on grounds that the applicant has no cause of action as his application is not founded on any right since there is no contract in existence between the applicant and the Executors for the sale of the cycads, as no payment was received.
- [16] The applicant submits that this does not assist the Executors because the applicant's offer, which was accepted, expressly records that payment will be released on physical delivery of the trees.[6]
- [17] The Executors further allege that it was an implied term of the agreement that it had to be given effect to "within a reasonable time" and that the agreement had lapsed due to the passage of time. The applicant's contention is that the agreement is good and valid. If the Executors had wanted to rely on the reasonable time term (if it existed), then they should have first placed the applicant in mora and thereafter, cancelled the agreement. The Executors have not said they placed the applicant in mora or that they cancelled the agreement. This is fatal to the Executors' reliance on the reasonable time provision even if it is part of the agreement.
- [18] The applicant also asks for an order that the Executors disclose to his attorneys the contact details of the third respondent so that this application can be served on him. This relief is sought because notwithstanding having been requested to provide these details for service

of this application the Executors have refused to do so. In the answering affidavit the Executors say that the applicant is not entitled to an order that the contact details of the third respondent be provided, because that would contravene the POPIA Act to do so, as such the applicant must find the third respondent by himself.

- [19] The above reference to POPIA Act has no foundation in law. Section 27(1)(b) of the POPIA Act says that the limitations imposed on the processing of information does not apply if the "processing is necessary for the establishment, exercise or defence of a right or obligation in law." That is plainly the case in respect of the contact details of the third respondent.
- [20] The legal requirements for the granting of an interim interdict are trite by now:[7]
- i. the applicant need only show that "prima facie, though open to some doubt" he has the right which he seeks to enforce; and
 - ii. the court will grant the temporary interdict where the prejudice to the respondent if granted is less than the prejudice to the applicant if not granted, subject to any conditions which the court considers necessary to protect the respondent pending judgment at the subsequent trial.[8]
 - iii. The applicant must show a well-grounded (or reasonable) apprehension of irreparable harm if the interim relief is not granted, and the ultimate relief is eventually granted.
 - iv. Lastly, the applicant must show that there is no other sufficient remedy available to him.

C.

CONCLUSION

- [21] From the above, it becomes apparent that the order sought by the applicant will endure for a short duration and the Executors' interests will not be unduly hampered.
- [22] The following order is made:[9]
1. The Applicant's non-compliance with the Uniform Rules of Court, with regard to service and time limits, is condoned and that this application is heard as one of urgency in terms of Rule 6(12);
 2. The First to Fourth Respondents are interdicted from removing or permitting to be removed the cycad trees located at 1[...] and 1[...] G[...] Street North, Colbyn, Pretoria.
 3. The First and Second Respondents are directed to provide to the Applicant's attorneys the contact details of the Third Respondent within 24 hours of this order being granted.
 4. The Applicant is directed to cause this Application to be served on the Third Respondent within 48 hours of being advised of the contact details of the Third Respondent.
 5. The interdict in paragraph 2 above is to operate as an interim interdict pending the determination of the relief sought in Part A2 of this application.

6. The costs of Part A1 of this application are to stand over for determination in Part A2 of this application.

J.S. NYATHI

Judge of the High Court

Gauteng Division, Pretoria

Date of hearing: 14/04/2025

Date of Judgment: 05 May 2025

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- [1] Applicant's founding affidavit para 18.
- [2] Founding affidavit paras 14 and 15.
- [3] Given the urgency it was not possible to comply with the practice of finalizing the papers by noon on Thursday.
- [4] 2 April 2025 and 10 April 2025 as per founding affidavit and its Annexures X and DD paras 8 and 9 respectively.
- [5] Answering affidavit paras 22 to 24.
- [6] Founding affidavit, annexure A.
- [7] Webster v Mitchell 1948
 - (1) SA 1186 (W).
- [8] Olympic Passenger Service (Pty) Ltd v Ramlagan 1957
 - (2) SA 382 (D).
- [9] As per Part A1 of the Notice of Motion.

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