

SOUTH AFRICA / JUDGMENT

Ursela v Willy and Others (084085/2023) [2024] ZAGPJHC 728 (13 August 2024)

[2024] ZAGPJHC 728

COURT

South Gauteng High Court, Johannesburg

BEFORE

M A Makume

CASE / FILE NUMBER

084085/2023

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REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

CASE NO: 084085/2023

1. REPORTABLE:

YES / NO

2. OF INTEREST

TO OTHER JUDGES: YES/NO

3. REVISED.

In

the matter between:

ROCH
URSELA
Applicant
and
KALALA
WILLY
1st
Respondent
KALALA
MATETSOANE YVONNE
2nd
Respondent
SHABI
PABALO GLORIA BONITA
3rd
Respondent
KABWEBE
KAMONG GRACE
4th
Respondent
CITY
OF JOHANNESBURG
5th
Respondent

JUDGMENT

MAKUME J:

- [1] In this matter the Applicant seeks an order evicting the 1st to 4th Respondents and all those who occupy her property through the Respondent. The property is situated at 4[...] B[...] Drive, G[...].
- [2] The Applicant also seeks money judgement order being in respect of arrear rental.
- [3] It is common cause that the Applicant and the first Respondent concluded a lease agreement in terms of which the Respondent agreed to lease the property from the Applicant against payment of monthly rental of R18 000.00.
- [4] The Applicant says the lease period was for 12 months commencing on the 1st December 2020 and terminating on the 1st December 2021. The first Respondent avers that there was an error in that the lease was for a period of 36 months not 12 months.
- [5] The Respondent fell into arrears with payments as a result the Applicant cancelled the lease agreement as she was entitled to. The Respondent raises the following defences:
- 5.1 Firstly that the lease agreement is governed by the Consumer Protection Act.
- 5.2 Secondly that the application for eviction was launched prematurely.

5.3 Thirdly that the lease agreement was wrongly cancelled.

- [6] On expiry of the lease the Respondents did not vacate but remained in occupation on a month-to-month lease. On the 27th July 2023 the Applicant's attorneys addressed a letter of demand to the Respondents demanding payment of arrear rental which at that time stood at R265 496.33.
- [7] The Respondents failed to make payment within the stipulated time as a result on the 4th August 2023 the Applicant informed the Respondents about cancellation of the lease agreement.
- [8] When the parties appeared before me in the morning Counsel for the Respondents had not filed heads and in view of the nature of the matter and Applicant's Counsel not agreeing to any postponement I stood the matter to 14h00 to enable Counsel for the Respondent to either file a comprehensive application for a postponement or to file heads.
- [9] The matter resumed at 14h00 with the Respondent having in the meantime filed concise heads of argument. Nothing new came out of the heads and ultimately it turned out that the only thing that the Respondents now wishes the Court to take into consideration was that if the eviction application is granted he and his family will be rendered homeless. He relied on the provisions of Section 4(7) of the PIE Act.
- [10] This belated defence in my view demonstrated that the Respondent was being somewhat disingenuous and typically cynical. I say this because in his answering affidavit the Respondent indicated that he was in the process of building a house and needed time until the end of January 2024 by which time he and his family would vacate.
- [11] He is employed and earns well above the minimum threshold for consideration of municipal housing. In the result I granted an order as prayed for as per the draft order marked X attached hereto.

DATED at JOHANNESBURG this the day of August 2024.

M A MAKUME

JUDGE OF THE HIGH COURT

GAUTENG LOCAL DIVISION, JOHANNESBURG

APPEARANCES

DATE OF HEARING 01st August 2024 DATE OF JUDGMENT August 2024 FOR APPLICANT ADV L
PETER INSTRUCTED BY MESSRS HARRIS INCORPORATED ATT. FOR 1ST RESPONDENT ADV
MOKHETHI INSTRUCTED BY MESSRS STABIN GROSS AND SHULL

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Prepared on 12 October 2026 · Esheria