

SOUTH AFRICA / JUDGMENT

Zulu v Mali Mik Properties (Pty) Ltd and Another (2025-066654)

[2025] ZAKZPHC 53 (20 May 2025)

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COURT

Kwazulu-Natal High Court, Pietermaritzburg

BEFORE

P C Bezuidenhout

CASE / FILE NUMBER

2025-066654

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IN

THE HIGH COURT OF SOUTH AFRICA

KWAZULU-NATAL

DIVISION, PIETERMARITZBURG

CASE NUMBER: 2025-066654

In the matter between: MADLENKOSI JEFFREY
ZULU
APPLICANT
And
MALI MIK PROPERTIES
(PTY) LTD
FIRST RESPONDENT
VUTHELA SEBENZA
TRADING CC
SECOND
RESPONDENT

JUDGMENT

P C BEZUIDENHOUT J:

- [1] Applicant brought an application on an urgent basis for interim relief preventing Respondents from entering the property at 1[...] P[...] F[...] Street, Meer en See, Richards Bay, interfering with his occupation thereof or removing or damaging or tampering with any fixtures or fittings and that they restore possession of the front door, sliding door and yard gate that was removed. Further that no work be done on the property pending case number 6234/2023P being heard in the Pietermaritzburg High Court. The relief sought is set out in more detail in the notice of motion.
- [2] It was submitted on behalf of Applicant that on 14 March 2025 a notice was found on his front door informing them that renovations would start at the property on 30 April 2025 and that the property needs to be vacated by then. When he returned home on 4 April 2025 the front gate had been removed and on 7 May 2025 he found that two doors had been removed from his property. On 9 May 2025 Mr. Kennedy from Second Respondent confirmed that they had removed the doors and would return on 12 May 2025 to strip paint off the walls. Photographs of where the doors had been removed and the gate are attached to the application papers. It was therefore submitted that the matter was urgent as there were various letters written to First and Second Respondent and their attorneys but that there were no response thereto.
- [3] It was submitted on behalf of First Respondent that Applicant knew about the renovations from March 2025. That it was not the Respondents that had removed the doors and that accordingly that any urgency was self-created urgency.
- [4] Second Respondent, who was directly implicated by Applicant as the person who admitted to have removed the gates, did not oppose the application nor did he file any affidavit. Considering that it was alleged that Second Respondent would return on 9 May 2025 to continue stripping the paint from the walls that the matter indeed was sufficiently urgent to be heard.
- [5] It is common cause that during 2015 Applicant, in terms of a Deed of Sale, purchased a property from the previous owners a Mr and Mrs van der Merwe. There are various conditions as to payment etcetera in the agreement which is however not relevant at this stage. He was given occupation in terms of the Deed of Sale on 1 July 2015. He has been residing there since then with various family members.
- [6] It appears that there was a bond registered by the previous owners with ABSA Bank, that they had defaulted in payments and the property was then in 2021 sold in execution by ABSA bank was purchased by First Respondent and registered into its name during 2023. There is pending litigation in that First Respondent brought an application to have Applicant evicted from the said property. This application was opposed by Applicant and was first set down on

the opposed roll during April 2025 but then adjourned by consent between the parties to 28 July 2025.

- [7] There is therefore litigation pending which needs to be finalised to determine whether Applicant should be evicted from the said property or not.
- [8] There is further a dispute on the papers as to whether Applicant is in occupation of the said property. Applicant contends that he and his family reside therein but it is contended by First Respondent's representative who filed an affidavit on its behalf that the property is vacant and that they have in actual fact placed a security guard there to guard the property. Unfortunately there is no confirmatory affidavit or any affidavit from the said security guard that is protecting the property to this.
- [9] From the photographs it can be seen that two doors have been removed from the property, namely a front door and a sliding door at the back and that the gate is missing. As far as the gate is concerned it would appear from the affidavit of Applicant that he was merely told that it was removed but he did not witness it and he cannot confirm that it was done by First Respondent or any representative of Second Respondent. However in respect of the front door and the sliding door it is contended by Applicant that it was done by First Respondent, a certain Kennedy admitted to him that he had indeed

removed the said doors and was coming back to do further stripping. As already stated there was no affidavit filed by Second Respondent nor any opposition thereto dispute this.

- [10] The fact that Applicant is still in occupation of the property and there are eviction proceedings pending Applicant should be entitled to undisturbed possession of the property. Although First Respondent may be the registered owner of the said property it does not allow him at this stage, when there is litigation pending, as to the right of occupation of the said property to merely enter and do as he wishes to the said property. Unfortunately for First Respondent the legal process has to be followed and he would have to wait until that is finalised to allow him to do such alteration. He may be allowed to enter the property if registered in his name but then he would also have to give due notice thereof to Applicant.
- [11] It is therefore in my view been shown by Applicant that he is entitled to the interim relief pending the opposed of eviction proceedings and that he had made out a case in that regard. The relief which is to be granted is not exactly as sought in the notice of motion and accordingly the following order is granted.
- [12] In my view, it is prudent that this matter be heard with the eviction matter on 28 July 2025

Order:

1. A Rule nisi is hereby issued calling upon Respondents and any other interested party to show cause on 28 July 2025 at 9:30 or so soon thereafter as counsel may be heard why pending the finalisation of the application for eviction under case number 6234/2023P in the Pietermaritzburg

High Court why an order in the following terms should not be made:

1.1 That Respondents and any person acting at their behest or on their instructions be interdicted and restrained from;

1.1.1 entering the property situated at 1[...] P[...] F[...] Street, Meer en See, Richards Bay without giving Applicant 24 hours notice.

1.1.2 interfering with Applicant's peaceful possession and occupation of the said property.

1.1.3 removing, altering or damaging or tampering with any fixtures, fittings, doors, gates, furniture or special effects on the properties.

1.1.4 undertaking or continue doing renovations or construction work on the property

2. That Second Respondent be directed to restore the wooden front door and sliding door which were removed from the said property within 48 hours of this order.

3. That no further renovations be done to the said property until finalisation of the eviction proceedings under case number 6234/2023P in the Pietermaritzburg High Court.

4. That Respondents pay the costs of the application jointly and severally the one paying the other to be absolved.

5. That prayers 1.1, 1.1.1, 1.1.2, 1.1.3, 1.1.4, 2 and 3 shall operate as interim orders with immediate effect pending the finalisation of this application.

P C BEZUIDENHOUT J.

JUDGMENT

RESERVED ON: 15 MAY 2025

JUDGMENT

HANDED DOWN ON: 20 MAY 2025 COUSEL FOR APPLICANT: N PATEL Instructed by: De Wet Leitch Hands Incorporated Balito Tel: 032 946 0299 Email: shav@dlh.co.za / info@dlh.co.za Ref: Zul2/0010/SVA/JDW c/o: Stowell & Company Pietermaritzburg Tel: 033 845 0500 Email: anthony@stowell.co.za Ref: Mr A Irons COUNSEL FOR RESPONDENT: N MAHARAJ Instructed by: Sangham Incorporated Pietermaritzburg Tel: 033 394 1807 Email: sangham@law.co.za Ref: NIS/SM/M3010

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