

IN THE HIGH COURT OF SOUTH AFRICA

(TRANSVAAL PROVINCIAL DIVISION)

UNREPORTABLE

CASE NO: 41541/2006

DATE: 22/11/2007

IN THE MATTER BETWEEN:

PAULINA MASHALA

FIRST APPLICANT

MAGGIE JOHANNA MASHILO

SECOND APPLICANT

AND

WILLIAM MAMATI MATLOU

FIRST RESPONDENT

**REGISTRAR OF DEEDS PRETORIA
MPEDI MOTIMEDI INC.
RAHLOGO TP
RAHLOGO RJ**

**SECOND RESPONDENT
THIRD RESPONDENT
FOURTH RESPONDENT
FIFTH RESPONDENT**

J U D G M E N T

MAKGOKA [AJ]

[1] In this matter the Applicants seek an order setting aside the sale to and subsequent registration of property known as Erf 3981 Atteridgeville, into the names of the Fifth and Sixth Respondents.

[2] Upon perusal of the papers, I formed an initial view that there were a number of factual disputes which would not be capable of resolution on the papers. During argument I put across this view to counsel. Counsel were largely *ad idem* with my *prima facie* view. As a result, I intend to refer the matter for oral evidence on specific issues.

[3] In the premises I order that the matter be referred to trial to hear oral evidence and determine the following factual issues:

[3.1] whether or not the deceased, Lobisa Matlou was at the time of her death, the owner of the property known as Erf 3981 Atteridgeville;

[3.2] whether or not the First and Second Applicants, together with the First Respondent, inherited the property from the deceased Lobisa Matlou;

[3.3] whether or not there arose an agreement between the First and Second Applicants and the First Respondent that:

[3.3.1] the property would be under the control of the First and Second Applicants.

[3.3.2] the property would be registered in the name of the First Respondent on behalf of all the First and Second Applicants and the First Respondent.

[4] Pending the determination of the above, the First and Second Applicants, shall, if they wish to continue occupation of the property, pay occupational rent in an amount equivalent to the monthly bond repayments payable by the Fifth and Sixth Respondents to Nedcor;

[5] the amount payable by the First and Second Applicants in [4] above, shall be paid to TP Hotane Attorneys, to be kept in an interest- bearing Trust Account;

[6] The costs hereof are reserved.

**TM MAKGOKA
ACTING JUDGE OF THE HIGH COURT**

HEARD ON: 31 OCTOBER 2007

- 1. FORTHE FIRST AND SECOND APPLICANTS : ZP MAKONDO
INSTRUCTED BY: *MOFOMME ATTORNEYS***
- 2. NO APPEARANCE FOR THE FIRST AND SECOND RESPONDENTS**
- 3. FOR THE THIRD AND FOURTH RESPONDENTS: MJ MALOWA
INSTRUCTED BY: *MPEDI MOTIMEDI INC***
- 4. FOR THE FIFTH AND SIXTH RESPONDENTS: Z SCHOEMAN
INSTRUCTED BY: *TP HOTANE ATTORNEYS***

DATE OF JUDGMENT: 22 NOVEMBER 2007