



**IN THE NORTH GAUTENG HIGH COURT, PRETORIA**

**(REPUBLIC OF SOUTH AFRICA)**

10/7/14

Case No: 22726/2013

DELETE WHICHEVER IS NOT APPLICABLE	
(1)	REPORTABLE: YES/NO
(2)	OF INTEREST TO OTHERS JUDGES: YES/NO
(3)	REVISED
10/7/2014	
DATE	SIGNATURE

**In the matter between**

**UNIQUON WONINGS (PTY) LIMITED**

Applicant

and

**CITY OF TSHWANE METROPOLITAN MUNICIPALITY** Respondent

**CORAM EBERSOHN AJ**

**DATE HEARD 24 June 2014**

**DATE JUDGMENT HANDED DOWN 10 July 2014**

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**JUDGMENT: RULE 49(11) APPLICATION**

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**EBERSOHN AJ**

[1] The applicant is a company which develops townships and earn an income from the sale of the erven.

[2] The respondent is a metropolitan municipality and in its area of jurisdiction the applicant developed a township and has sold many of the new erven but as the respondent refuses to issue clearance certificates to the applicant with regard to the newly developed erven the applicant suffers damages.

[3] In the main matter judgment was given by this court in the applicant's favour and the respondent was ordered to issue the clearance certificates. The respondent, however, filed an application for leave to appeal albeit late, but then also applied for condonation of the late filing of the application for leave to appeal. The applicant opposed both the condonation application and the application for leave to appeal.

[4] Due to the fact that the matter is extremely urgent for the applicant as it has to cause transfer to be registered in the names of the purchasers of the erven, the applicant also brought a Rule 49(11) application.

[5] The respondent did not file a notice of opposition to the Rule 49(11) application and the applicant briefed counsel to argue the matter at the hearing. On the day of the hearing the applicant and the court learned that the application was not opposed. The delay in advising its attitude inconvenienced the court as I had to read and study the whole application and to prepare to hear it.

[6] The applicant made out a good case and the application will be granted with costs.

[7] The following order is made:

1. That, insofar as it may be necessary, this application be heard on a semi-urgent basis, and that the provisions of the Rules of Court relating to time periods and service be dispenses with.
2. That the order of this court under the abovementioned case number

of 12 March 2014 of the Honourable Ebersohn AJ, will be in operation forthwith and must be executed with and complied with, with immediate effect.

3. The order in paragraphs 1 and 2 hereof will remain in force until the finalization of any appeal proceedings instituted by the respondent.
4. That the respondent be ordered to pay the costs of this application which costs will include the costs of two counsel.



**P.Z. EBERSOHN**

**ACTING JUDGE OF THE HIGH COURT**

Applicants counsel

Adv. J.S. Stone

Adv. E. van As

Applicants attorneys

Len Dekker & Associates

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