HIGH COURT OF SOUTH AFRICA

MPUMALANGA DIVISION, MBOMBELA (MAIN SEAT)

Case No.: A61/2023

A Quo Case No.: 1726/2021

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED

DATE: 25 March 2024

SIGNATURE

In the matter between:

MS H N ZITHA N.O. **First Appellant**

(Acting Head of the Department Of Human Settlements: Mpumalanga) Third Respondent in the Court *a quo*

THE DEPARTMENT OF HUMAN SETTLEMENTS: MPUMALANGA **Second Appellant**

Sixth Respondent in the Court *a quo*

SIZAMPILO PROJECTS (PTY) LTD **Third Appellant**

Seventh Respondent in the Court *a quo*

and

STEFANUS GUSTAVUS SMITH N.O. **First Respondent**

First Applicant in the Court *a quo*

ERNEL MAJAWODWA MASILELA N.O **Second Respondent**

Second Applicant in the Court *a quo*

JACOB VAN GARDEREN N.O. **Third Respondent**

Third Applicant in the Court *a quo*

Interim Trustees for the time of the
Ingwenyama Simhulu Trust No. IT 6[...]

INGWENYAMA SIMHULU TRUST **Fourth Respondent**

(Trust No. IT 6[...]) Fourth Applicant in the Court *a quo*

JUDGMENT

CORAM: Mashile J, Ratshibvumo J, Bhengu AJ

Judgment: Bhengu AJ

Date heard: 09 February 2024
Date delivered: 25 March 2024

On appeal from: High Court, Mbombela Main Seat (Sibuyi AJ sitting as court of first instance).

[1] This is an opposed appeal against the whole of the judgment and order granted by Sibuyi AJ (Court *a quo*) dated 26 September 2022. In that judgment the Court *a quo* dismissed the Appellant's application for condonation and postponement of the matter pending an interlocutory application. It also granted the judgment in favour of the Respondents on an unopposed basis. The appeal to the Full Court is with the leave of the Supreme Court of Appeal granted on 23 June 2023, the Court *a quo* having dismissed the Appellants' application for leave to appeal.

Issues for determination on the appeal

[2] The first issue for determination by this Court is whether the Court *a quo* failed to exercise its discretion judiciously in refusing the Appellants' application for postponement and for condonation.

[3] The second issue is whether the Court *a quo* misinterpreted the principles applicable to a condonation and postponement application.

[4] Whether the decision of the Court *a quo* in deciding the main application pending an interlocutory application infringed upon the Appellants' constitutional right to a fair trial.

Brief background facts

[5] The Ingwenyama Simhulu Trust was established to receive transfer of the farms within Tenbosch 162 JU, Komatipoort area, in the Barberton District, Mpumalanga Province. The Trust's mandate is to hold the said farms on behalf of the beneficiaries of the land restitution claims and to facilitate the development of the said farms in the interest of the beneficiaries.[1] The trustees were appointed in terms of a court order dated 5 April 2019 by the High Court of South Africa, Gauteng Division.

[6] The dispute between the parties relates to the trust property described as Potion 1 of the farm Pholani 578 Registration division J.U., measuring 83.3497 hectares[2]. The above Trust Property was allegedly sold by the previous trustees to the Inkomazi Local Municipality (Fifth Respondent in the main application in terms of a sale agreement dated 23 July 2013 ("the sale agreement") for an amount of R1,00 (One Rand)[3]. The land has not yet been transferred to the Local Municipality.

[1] Preamble of the Trust Deed, Vol 1 p48
[2] Deeds Search Property, Vol 1 p72-73
[3] Sale agreement dated 03 July 2012 Vol 1 p85-90

[7] Consequentially to the sale agreement, a Land Development Agreement dated 03 August 2020 ("the Development Agreement")[4] was entered into between the Fourth Respondent in the main application and the Appellants. The Respondents in their papers averred that they were not aware of the Land Development Agreement until it was shared with them by a concerned citizen.

[8] On 14 May 2022, the Respondents launched an urgent application against the Appellants seeking a declarator setting aside a sale agreement dated 23 July 2013 and the Development Agreement dated 12 August 2020 and further declaring both agreements null and void, and or alternatively unenforceable. The Respondents also sought further ancillary relief interdicting the Appellants from proceeding with the development. The main application was opposed by the Appellants.

Chronology of events

[9] It is common cause between the parties that the settlement negotiations between them failed in June 2021. The Respondents thereafter informed the Appellants that their answering affidavit was due on 26 August 2021.

[10] On 17 September 2021, the Appellants caused a Notice to produce in terms of Rule 35(12)[5] to be served on the Respondents calling for the documents quoted below:-

a) *"Minutes of the Interim Trustees meeting from date of appointment on 5 April 2019 to date of dealing with the matters referred to at paragraph 2.5 of the Founding Affidavit.*

b) *Document or list of verified Beneficiaries referred to in paragraph 2.5 of their Founding Affidavit.*

c) *Minutes of the meetings or the general meeting referred to in paragraph 2.5 of the founding affidavit.*

[4] Land Development Agreement, Vol 1 p94-105
[5] Appellant's notice to produce in terms of Rule 35(12), Vol 2 p184-186

d) *A full list and particulars of the trust beneficiaries who were supposed to approve the alienation of the trust property, referred to in paragraph 3.7.2.*

e) *Full particulars of the Committee of the Elders referred to in paragraph 7, including documents evidencing their appointment or election of the said committee, their term of office, a copy of the constitution or contract they operate under.*

f) *That their decisions were binding on the respondents and other trust beneficiaries.*

g) *With reference to paragraph 11.2.3 and considering that the challenged agreement was concluded on 23 July 2013, and that the former trustees were only removed on 05 April 2019, the respondents request that they be furnished with copies of document(s) evidencing that;*

h) *Respondents were informed, presumably during the tenure of the former trustees, that the sale of land was unlawful.*

i) *The respondents request to be furnished with documentary proof of all payments made to. Messrs. SG Smith and J van Garderen, referred to. In paragraph 1.10 and 1.11, respectively, of Annexure B of the founding affidavit,*

j) *Copies of the Notice calling for the General Meeting, which they are supposed to hold within six (6) months of the end of the financial year referred to in clause19:*

k) *Copies of the minutes of the Annual General Meeting they held since their appointment as trustees;*

l) *Copies of the annual report which they were supposed to table at the Annual General Meeting referred to in clause 19.2 of the Deed of Trust.*

m) Copies of the audited financial statements of the Trust for the preceding financial year which they were supposed to table at the Annual General Meeting, which in terms of close 19.2 of the Trust Deed, they were supposed to hold within six (6) months of the end of the financial year".

[11] On 30 September 2021, the Respondents replied to the appellant's notice in terms of Rule 35(12)[6]. In their reply the Respondents stated that none of the documents referred to in the Appellants' Rule 35(12) were mentioned in the Respondents' founding affidavit and that the Appellants were therefore not entitled to the requested documents.

[12] On 17 November 2021, the parties attended a Case Management Conference where they agreed that the main application be set-down for hearing on 24 May 2022. During the Case Management Conference, it was indicated that the Appellants were out of time for filing their answering affidavit. It was then agreed that the Appellants will file an application for condonation for late filing of the answering papers by no later than 24 November 2021, failing which the matter will proceed on the 24 May 2022 on the papers as they stand. Paragraph 5 of the case management agreement recorded that the parties confirm that such timelines are reasonable and achievable. The case management directive[7] was then made an order of Court by agreement between the parties.

[13] On 24 November 2021 the Appellants served and filed an application to compel discovery in terms of **"Rule 35(12)"**[8] (the interlocutory application). The application was opposed by the Respondents. Paragraph 2 of the Notice of application reads as follows:-

[6] Respondent's reply to Appellants' notice in terms of Rule 35(12), Vol 2 p192 - 195
[7] Case Management Order or Directive dated 17 November 2021, Vol 3 p246-251
[8] Notice to Compel Discovery in terms of Rule 35(12), Vol 2 p168-170

"Failing compliance with paragraph number 1 above, leave to be granted to the Applicant to approach the Honourable Court on the papers duly supplemented, for an order striking the Respondent's claim and/or defence in the main action"

[14] The interlocutory application was set down for a hearing date on 04 October 2022. The Case Management Directive dated 16 May 2022[9] recorded that the application to compel falls outside the Uniform Rules and applicable directives as the main application is before court on 24 May 2022. It was recorded further that the interlocutory application can only be considered if the Appellants obtain a postponement of the main application. The Respondents indicated their intention to oppose the application for postponement if it was brought.

The Judgment of the Court *a quo*

[15] As can be gleaned from the judgment of the Court *a quo*, the matter was allocated to be heard on 24 May 2022. The Court directed that the matter be heard on 26 May 2022. The Appellants served an application for postponement and condonation on 25 May 2022 at 14h47 via email.[10] The application for postponement and condonation was dismissed by the Court *a quo*. After the handing down of the judgment dismissing the application for postponement, the Appellants' counsel informed the Court that he will not be participating in the proceedings. The matter then proceeded unopposed. The Court *a quo* granted the declarator together with the ancillary relief sought in the main application for reasons as contained in the judgment.

Case for the Appellants

[16] Counsel for the Appellants, Mr Mokhare, argued that the Court *a quo* failed to exercise its discretion in refusing the Appellants' application for postponement and for condonation. Alternatively, if the Court finds that it did exercise its discretion, then it was submitted that the discretion was not exercised judiciously. According to Mr Mokhare, the Court *a quo* elevated the practice directive into law whereas the practice directive of the Court is to facilitate a

[9] Case Management Directive for the interlocutory application, Vol 3 p324-326
[10] Judgment and order of Sibuyi AJ dated 26 September 2022, Vol 4 p339, para 14

proper functioning of the Court and administration of justice. He argued that the Directive is not there to supersede the discretionary powers of the judge. He is of the view that the Appellant is entitled to seek postponement even on the date of trial if the circumstances in the litigation changed and the Directives cannot prescribe that postponement on the date of trial would not be allowed. He submitted that the Court needs to exercise its discretion judiciously and consider all the facts and evidence before it in reaching a decision.

[17] In support of this argument, Mr Mokhare quoted para 22 of the judgment where the court *a quo* said that *"postponement and condonation falls to be dismissed for failure to comply with the case management order".* He contends that this statement shows that Court *a quo* felt as if its hands were tied and it could not depart from the directive. He argued that the case management directives do not have the status of a Court order. When the Court is conducting Case Management, it is performing an administrative function and not sitting as a Court in terms of Section 165 of the constitution.

[18] He contends that Court *a quo* failed to apply and misinterpreted the principles applicable to a condonation and postponement application. He argued further that the Court *a quo* erred in deciding complex issues without the benefit of the other party as it requires both parties to put their versions before it. According to Mr Mokhare the main application was not ready for hearing because the interlocutory application was set down in the date in the future. The Court *a quo* could have granted a punitive cost order to show its displeasure at the manner in which the matter was handled, but not to refuse to postpone the matter.

[19] If the interlocutory application was successful, the Respondents would have been compelled to produce the documents and if the Applicants failed to produce the documents, then the Appellants would have been entitled to go back to court and ask for the dismissal of the application. The matter could have been disposed off in favour of the appellants based on the interlocutory application. Because the main application was heard first then it meant that the appellants' right to have its interlocutory application heard was taken away from it.

[20] He is of the view that because the Respondents failed to produce the documents, in the interest of justice, the main application should have been postponed pending the adjudication of the interlocutory application. He asked the Appeal Court to uphold the appeal with costs and that the matter be remitted back to the Court *a quo* for adjudication of both the interlocutory and the main application.

The case for the Respondents

[21] Counsel for the Respondents, Mr Bensch, in his heads of argument argued that the use of Rule 35(12) was meant to delay the main application. This is shown by the fact that even after the appellants were directed by the Court during Case Management to apply for condonation for late filing of the answering affidavit by no later than 17 November 2021, the application for condonation was never filed until the date of hearing.

[22] According to Mr Bensch Rule 35(12) process did not have an effect of suspending time frames for filing the Appellants condonation application for late filing of the answering affidavit. Therefore Rule 35(12) application was not a valid ground for postponement because the Respondents had already replied to the notice. According to Mr Bensch, the Appellants failed to meet the requirements of a condonation application as they failed to provide a reasonable explanation for the delay and also failed to satisfy the requirements for postponement.

[23] He argued that the condonation application filed on the date of the hearing was in respect of the late filing of the application for postponement and that condonation for late filing of the answering affidavit was never filed. Regarding the application for postponement, he argued that the Court *a quo* had discretion whether to grant a postponement or not. It is not a right guaranteed to a litigant just because they asked for it. The party's reasons for failure and inability to proceed must be fully explained. The prejudice that the party seeking postponement should postponement not be granted must be spelled out. He

further argued that the party who is asking for postponement must offer to pay wasted costs which the Appellants failed to do.

[24] He argued that the Court *a quo*'s decision in dismissing the application for postponement was correct because the Appellants failed to comply with the Case Management Order. Mr Bensch argued that Rule 27 of the Uniform rules provides that where there is a change of circumstances and one cannot comply with the time frames set out in the Judicial Case Management, a party may approach the court. The other option is to enroll the matter before a judge and explain why compliance is not possible. A party cannot ignore the directive as if it did not exist.

The Law

[25] The law relating to postponements is trite. The Constitutional Court in *Lekolwane and Another v Minister of Justice*[11] held that:-

'The postponement of a matter set down for hearing on a particular date cannot be claimed as a right. An applicant for a postponement seeks an indulgence from the court. A postponement will not be granted, unless this Court is satisfied that it is in the interests of justice to do so. In this respect the applicant must ordinarily show that there is good cause for the postponement. Whether a postponement will be granted is therefore in the discretion of the court.

In exercising that discretion, this Court takes into account a number of factors, including whether the application has been timeously made, whether the explanation given by the applicant for postponement is full and satisfactory, whether there is prejudice to any of the parties, whether the application is opposed and the broader public interest. All these factors, to the extent appropriate, together with the prospects of success on the merits of the matter, will be weighed by the court to determine whether it is in the interests of justice to grant the application.'

[11] Lekolwane and Another v Minister of Justice [2006] ZACC 19; 2007(3) BCLR 280 (CC) para 17

Analysis

[26] In order for this Court to be able to answer the first question whether the Court *a quo* failed to exercise its discretion judiciously in refusing the Appellants' application for postponement and application for condonation, this Court has to first consider the application for postponement itself in order to assess whether the appellants complied with the principles applicable in an application for postponement.

[27] The main reason put forward by the Appellants in their application for postponement was that there was a pending application to compel in terms of Rule 35(12) that was set down for 04 October 2022.

[28] The Appellants' counsel argued that the refusal by the Court *a quo* to grant postponement resulted in a matter proceeding without the Appellants' version when they have shown a clear indication that they are opposing the application. This according to the Appellants, constituted an infringement of their fundamental right to a fair trial which is guaranteed in section 34 of our constitution. The Appellants argued that interlocutory application could have an effect of disposing the matter in that failing compliance by the Respondents to comply with the order compelling them to furnish the documents, the Appellants could approach the Court on the papers duly supplemented, for an order striking the Respondent's claim.

[29] Uniform Rule 35(12) provides that:-

(12)

(a) Any party to any proceeding may at any time before the hearing thereof deliver a notice in accordance with Form 15 in the First Schedule to any other party in whose pleadings or affidavits reference is made to any document or tape recording to—

(i) produce such document or tape recording for inspection and to permit the party requesting production to make a copy or transcription thereof; or

(ii) state in writing within 10 days whether the party receiving the notice objects to the production of the document or tape recording and the grounds therefor; or

(iii) state on oath, within 10 days, that such document or tape recording is not in such party's possession and in such event to state its whereabouts, if known.

(b) Any party failing to comply with the notice referred to in paragraph (a) shall not, save with the leave of the court, use such document or tape recording in such proceeding provided that any other party may use such document or tape recording

[30] What can be seen above is that there is no provision in terms of Rule 35(12) itself to compel discovery. In the event of non-compliance with the notice, the result will be that a party cannot use that document/s or recording in a trial or hearing. In essence Rule 35(12) is intended for the documents that party is relying on to prove its case. That such documents should be provided to the opponents in order to enable them to respond to such information.

[31] It is not in dispute that the Respondents did respond to the Appellants' Notice in terms of Rule 35(12). In paragraph 6.2 of the application to compel,[12] the Appellants conceded that the Respondents filed their reply to the notice to produce on 30 September 2021. In their reply, the Respondents stated that the requested documents were not referred to in the main application. If the Respondents had failed to reply or to furnish the documents requested, the Appellants had an option to bring a Rule 30A notice to enforce compliance with the rules. I am, however, of the view that there is no basis for a Rule 30A notice when the Respondents have already responded to the Appellants' Notice to Produce.

[12] Para 6.2 of the application to compel, Vol 2 p179

[32] I considered all the documents requested in Rule 35(12) Notice and noted that none of them were referred to by the Respondents in the Founding Affidavit of the main application. If any reference was made, it was by inference which, it is trite, is not to be countenanced. The said documents were, however, not relevant to the dispute in that the sale agreement and the land development agreement which the Respondents sought to set aside were attached to the Founding Affidavit. It follows therefore that the Appellants failed to show that there was a good cause in the envisaged application, which entails prospects of success. As a result, the Respondents' argument that the request was an attempt to delay the adjudication of the main application cannot be said to be baseless.

[33] In the absence of a legal basis for the interlocutory application, then the reliance on the pending interlocutory application for a postponement had to fail.

[34] After having found that the interlocutory application and the relief sought thereto is incompetent, this Court must still consider if the Court *a quo* in the proper exercise of its discretion should have granted the postponement and condonation applications. This must be done without regard to the interlocutory application.

[35] Mr Mokhare argued that the Court *a quo* could not have exercised its discretion because it felt as though the Practice Directives were prescriptive to Court as to when a party must apply for postponement. In Mr Mokhare's words, "*the Court felt as though its hands were tied*". I now turn to deal with the Case Management Directives.

Judicial Case Management

[36] Judicial Case Management was introduced by amended Uniform Rule 37A. Uniform Rule 37A(2) provides that

(2) Case management through judicial intervention—

a) *shall be used in the interests of justice to alleviate congested trial rolls and to address the problems which cause delays in the finalisation of cases;*

b) *the nature and extent of which shall be complemented by the relevant directives or practices of the Division in which the proceedings are pending; and*

c) *shall be construed and applied in accordance with the principle that, notwithstanding the provisions herein providing for judicial case management, the primary responsibility remains with the parties and their legal representatives to prepare properly, comply with all rules of court, and act professionally in expediting the matter towards trial and adjudication.*

[37] Counsel for the Appellants contended that the Court *a quo* elevated the practice directive to law, he submitted that the Directives are not binding to the to the Court and that the Court can depart from them if the directives interfere with the administration of justice. I am Inclined to agree with Mr Mokhare in as far as the fact that the Practice Directives are not binding to the Court in that the Court, in the exercise of its discretion, can condone non-compliance with the directive on good cause shown by the affected party. However, I am of a firm view that Practice Directives have a place in our Courts to facilitate proper administration of justice provided that they are reasonable, not arbitrary and are not in conflict with the law.

[38] In the application of the Practice Directives, the Court must ensure that its application does not interfere with the proper administration of justice which may in turn infringe upon a litigant's right to a fair trial as alleged by the Appellants. It is important to note that the Case Management Directive in this matter allows the parties to determine for themselves the time frames to file the necessary process in order to get the matter ready for hearing. The Practice Directive further, granted the Appellants an opportunity to file an application for

condonation for its late filing of the answering affidavit which they simply did not do.

[39] Paragraph 6.5 of the Mpumalanga High Court Practice Directives provides that *"A request for a postponement on the date of trial or hearing is discouraged".*

16.9 Further provides that *"any request for a postponement shall be on a substantive application to be enrolled for hearing on the unopposed motion roll and such hearing to place at least 7 clear court days before the trial or hearing date or may be enrolled on the urgent roll provided the circumstances justifying such enrolment on the urgent roll are spelled out in the founding papers".*

[40] It is clear from the Directive that its purpose is to avoid applications for postponement on the date of trial by providing a mechanism that the parties can use when postponement is sought. It is common cause that the Appellants failed to comply with the Practice Directive as evidenced by the Appellants' application for condonation and postponement launched on 25 May 2022 at 14h47.

[41] In paragraph 22 of the judgment, the Court *a quo*[13] *stated that "Therefore, the postponement and condonation application ought to be dismissed for failure to comply with Practice Directives of the Court".* I agree with the Appellants that this conclusion is wrong as it would mean the Court is bound by the Practice Directive in its exercise of its discretion. Erasmus II[14] provides as follows: -

"The object of the rules is to secure the inexpensive and expeditious completion of litigation before the courts: they are not an end in themselves. Consequently, the rules should be interpreted and applied in a spirit which will facilitate the work of the courts and enable litigants to resolve their disputes in as speedy and inexpensive a manner as possible".

[13] Judgment a quo dated 26 September 2022, Vol 4 p343 para 22
[14] Erasmus Superior Court Practice 2 ed (Juta & Co Ltd, Cape Town 2018) vol 2 (Erasmus II)

[42] Having said that, the parties to a litigation cannot simply ignore the Directives as it would defeat the purpose of trying to expedite the finalization of matters and alleviating backlog. However, when the party has failed to comply with the Directives, the Court is duty bound to give them a fair hearing as to the reasons for non-compliance. In this case the Court was still bound to entertain the application for postponement and condonation even if it was filed out of time and consider whether the Appellants satisfied the requirements for postponement.

[43] In order to determine whether the Court *a quo* misdirected itself in refusing the application for postponement one has to read the judgment as a whole. It is argued correctly by the counsel for the Respondents that when the court is faced with an application to postpone a matter, the order postponing the matter is not there for the taking, but the Court still has a duty to consider the merits of the application for postponement. When a litigant applies for postponement, especially on the date of trial, the applicant must satisfy the Court that the requirements for postponement are met.

[44] In the same paragraph 22 referred to above, the Court *a quo* went further to state that *"Even if I were wrong in this conclusion, the application for condonation and postponement ought to be dismissed because the dictates of justice requires that such postponement should be dismissed".* After this paragraph the Court *a quo* continued to consider whether granting the postponement was in the interest of justice. The Court *a quo* considered the requirements as set out by the Constitutional Court decision of *Lekolwane*[15]. This tells me that that even though the Court *a quo* was of the view that the application for postponement ought to have been dismissed for non-compliance with the Case Management Directive, the Court was mindful of the fact that a decision to dismiss the application for postponement could not be decided solely on the ground of non-compliance with the Case Management Directives.

[15] See Para 27 above

[45] The law places a duty on the applicant for postponement to place before the Court all the necessary information in order for the Court to be able to exercise its discretion judiciously. One of these requirements is that the applicant must address prospects of success in the main application. In paragraph 27 of the judgment, the learned Acting Judge stated correctly that the Appellants failed to deal with prospects of success in their founding affidavit.

Application for Postponement

[46] The second issue to be considered by this Court is whether the Court *a quo* misinterpreted the principles applicable to a condonation and postponement application. To answer this question, one need to look at the Appellants' application for postponement[16]. Of note is the fact that save for paragraphs stating the chronology of events, the Appellants' founding affidavit lacks the crucial information that is required in order for the Court to exercise its discretion judiciously. There is no attempt to explain why the application was not timeously made, no averment on the issue of prejudice and no averment on the prospects of success in the main application was made.

[47] Paragraph 32 of the founding affidavit deals with the interest of justice and the Appellants averred that "*due to the complexity of the issues in the main application and the public interest - it is for the convenience of the Court and in the interest of justice that the Respondents answering affidavit be before court. This will allow for a proper ventilation of the dispute between the parties. It would be undesirable to adjudicate the main application solely on the Applicant's version, which we submit is unreasonable".*

[48] Having considered the merits of the application for postponement before the Court *a quo,* I am satisfied that the Appellants failed to make out a case for postponement. The only conclusion for the Court to reach is that the application was brought solely for purposes of delaying the main application and I am inclined to agree with the Respondents' contention that granting the

[16] Application for postponement and condonation dated 25 May 2022, Vol 3 p294 - 308

postponement would have subjected the Respondents to vexatious and frivolous litigation. I am therefore satisfied that the Court *a quo* exercised its discretion judiciously in dismissing the postponement application.

[49] In the result, I propose the order in the following terms:

The appeal is dismissed with costs.

JL BHENGU
ACTING JUDGE OF HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION, MBOMBELA

I agree and it is so ordered

BA MASHILE
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION, MBOMBELA

I agree

TV RATSHIBVUMO
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION, MBOMBELA

For the Appellants: Adv WR Mokhare SC briefed by Nkadimeng Attorneys
For the Respondents: Adv GJ Bensch briefed by Murphy Kwape Maritz Attorneys

Date heard: 09 February 2024

Date of Judgment: 25 March 2024