REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA,
MPUMALANGA DIVISION (MAIN SEAT)

Case Number: 3938/2023

1. REPORTABLE: ~~YES~~/ NO	
2. OF INTEREST TO OTHER JUDGES: YES/~~NO~~	
3. REVISED.	
13 JUNE 2024	**SIGNED]**
DATE	SIGNATURE

In the matter between:

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL Applicant

and

ZIETTA JANSE VAN RENSBURG Respondent

In Re:

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL Applicant

and

ZIETTA JANSE VAN RENSBURG First Respondent

VAN RENSBURG AND VAN RENSBURG INC. Second Respondent

REG NO: 2019/099758/21

This judgment was handed down electronically by circulation to the parties' legal representatives by email and by release to SAFLII. The date and time for hand-down is deemed to be 15h00 on 13 June 2024

JUDGMENT

Roelofse AJ:

[1] The Applicant is the Legal Practice Counsel ('the LPC'). The Respondent ('Ms Van Rensburg') is an admitted attorney practicing in this court's jurisdiction under the name and style of Van Rensburg and Van Rensburg Attorneys Incorporated. Ms Van Rensburg is the sole director of Van Rensburg and Van Rensburg Incorporated. Ms Van Rensburg represented herself in these proceedings.

[2] The LPC approaches the court on an urgent basis for and order declaring Ms Van Rensburg in contempt of an order of this court that suspended Ms Van Rensburg from practicing as legal practitioner, notary public and conveyancer ('the suspension order').

[3] The LPC also seeks Ms Van Rensburg's arrest and committal to prison for 6 months (or such period as the court deem appropriate) half of such period of

imprisonment to be suspended on condition that Ms Van Rensburg complies with the suspension order.

Common cause facts

[4] The chronology of the following common cause facts and events is important for purposes of this judgment. These facts and events are:

(i) The Court[1] granted the suspension order on 22 February 2024. In terms of the order Ms Van Rensburg was suspended from practicing as legal practitioner, notary public and conveyancer. The Court also granted ancillary relief. The suspension order operated pending *"….an investigation and disciplinary proceedings to be instituted against her [Ms Van Rensburg];"*[2];

(ii) On 26 February 2024 Ms Van Rensburg applied for leave to appeal the suspension order;[3]

(iii) On 13 March 2024, the LPC applied for an order in terms of section 18(3)[4] of the Superior Courts Act 13 of 2010 ('the Act') ('the section 18(3) application').

[1] Per Mashile J.

[2] Para. 2 of the order.

[3] The application for leave to appeal the suspension order is still pending.

[4] The LPC states that the application was in terms of section 18(1), however, the LPC approached the court in terms of section 18(3).

(iv) On 3 April 2024, the Court granted a section 18(3) order [5] in terms of which, *inter alia*, the suspension order was "*....uplifted in terms of Section 18(1) of the Superior Courts Act 10 of 2013"*[6] and "*The order shall be effected/implemented and/or executed with immediate effect*. [7] I shall refer to the suspension order and the section 18(3) order collectively as 'the orders' where necessary;

(v) On 5 April 2024, Ms Van Rensburg launched an application in terms of Rule 6(12)(c) of the Uniform Rules for the reconsideration of the section 18(3) order[8];

(vi) On 11 April 2024, the Court dismissed Ms Van Rensburg's application for leave to appeal the suspension order;

(vii) On 21 May 2024, Ms Van Rensburg appeared before Mashile J in the urgent application of Shofeeds (Pty) Ltd v Johan Moller and Two Others ('the Shofeeds matter').[9] Ms Van Rensburg represented the respondents in the Shofeeds matter being J Moller, S Joubert and Management Solutions CC ('Moller').

[5] By Mashile J.

[6] Para. 2 of the order.

[7] Para. 3 of the order.

[8] That application is still pending and is still to be set down for hearing.

[9] Under Case Number: 2049/2024.

[5] It is common cause that the suspension order was granted and that Ms Van Rensburg had knowledge of the order.

[6] In addition, Ms Van Rensburg conceded at the hearing of the matter that she has not yet petitioned the Supreme Court of Appeal for leave to appeal the suspension order nor has she delivered a notice of appeal in the section 18(3) order.

Contempt

[5] In Pheko and Others v Ekurhuleni Metropolitan Municipality (No 2)[10], the Constitutional Court held that:

> 'Contempt of court is understood as the commission of any act or statement that displays disrespect for the authority of the court or its officers acting in an official capacity. This includes acts of contumacy in both senses: wilful disobedience and resistance to lawful court orders. This case deals with the latter, a failure or refusal to comply with an order of court. Wilful disobedience of an order made in civil proceedings is both contemptuous and a criminal offence. The object of contempt proceedings is to impose a penalty that will vindicate the court's honour, consequent upon the disregard of its previous order, as well as to compel performance in accordance with the previous order (Footnotes omitted).

[6] The elements of contempt of court are: the existence of an order; the contemnor must have knowledge of the order; non-compliance with the order; and a wilful or *male fide* disregard of the order. These elements must be proven beyond reasonable doubt if a criminal sanction is sought for the contempt.

[10] 2015 (5) SA 600 (CC); 2015 (6) BCLR 711 (CC) at para. 28.

[7] With regards to the wilful disregard or *male fide* of the order, once the existence and knowledge of the order and its non-compliance is proven, a presumption of wilfulness or *male fides* is established and the evidential burden of proving its absence is upon the contemnor. This is how Nkambinde J in Pheko and Others *supra* [11] has xpressed the principle:

> 'Therefore the presumption rightly exists that when the first three elements of the test for contempt have been established, mala fides and wilfulness are presumed unless the contemnor is able to lead evidence sufficient to create reasonable doubt as to their existence. Should the contemnor prove unsuccessful in discharging this evidential burden, contempt will be established.'

The LPC's case

[7] The LPC alleges that Ms Van Rensburg was in wilful contempt of the suspension order after the section 18(3) order was granted because Ms Van Rensburg: appeared before Mashile in the Shofeeds matter on 21 May 2024; addressed a letter to the attorneys for Shofeeds (Pty) Ltd, Stefan Scheepers Inc ('Scheepers') on 20 May 2024 wherein Ms Van Rensburg confirmed that she was representing Moller in the Shofeeds matter; transmitted a notice of intention to oppose the Shofeeds matter on behalf of Moller on 21 May 2024; and, also on 21 May 2024, dispatched an email to the Registrar to which Moller's answering affidavits was attached.

[11] Para. 36.

[8] Ms Van Rensburg admits in the answering affidavit (and conceded at the hearing) the existence of the orders; that she had knowledge of the orders; and that she appeared before Mashile J on 21 May 2024 in the Shofeed matter.

[9] The LPC therefore established the existence of the orders and that Ms Van Rensburg had knowledge of the orders.

Ms Van Rensburg's defence

[8] Ms Van Rensburg denies that she has acted in wilful or *male fide* disregard of the order for three reasons: (i) she is appealing both the orders and, presumably, by virtue of the provisions of section 18(1) of the act, the operation of the orders are suspended; (ii) the section 18(3) order is a nullity, and (iii), she did not act as attorney for Moller.

Alleged appeal of the orders

[9] Ms Van Rensburg says that she cannot be found in contempt of the suspension order as that order is subject to an appeal. In this regard I recite the provisions of section 18 of the Act:

> '(1) Subject to subsections (2) and (3), and unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision which is the subject of an application for leave to appeal or of an appeal, is suspended pending the decision of the application or appeal.
>
> (2) Subject to subsection (3), unless the court under exceptional circumstances

orders otherwise, the operation and execution of a decision that is an interlocutory order not having the effect of a final judgment, which is the subject of an application for leave to appeal or of an appeal, is not suspended pending the decision of the application or appeal.

(3) A court may only order otherwise as contemplated in subsection (1) or (2) if the party who applied to the court to order otherwise, in addition, proves on a balance of probabilities that he or she will suffer irreparable harm if the court does not so order and that the other party will not suffer irreparable harm if the court so orders.

(4) If a court order otherwise, as contemplated in subsection (1) –

(i) the court must immediately record its reasons for doing so;

(ii) the aggrieved party has an automatic right of appeal to the next highest court;

(iii) the court hearing such an appeal must deal with it as a matter of extreme urgency; and

(iv) such order will be automatically suspended, pending the outcome of such appeal.

(5) For the purposes of subsections (1) and (2), a decision becomes the subject of an application for leave to appeal or of an appeal as soon as an application for leave to appeal or a notice of appeal is lodged with the registrar in terms of the rules.'

[10] Therefore, from the moment the suspension order was granted, Ms Van Rensburg could no longer act as an attorney. From 26 February 2024[12], Ms Van Rensburg could again practice as an attorney because the suspension order, by virtue of the provisions of section 18(1) of the Act was suspended pending a decision on her application for leave to appeal. From 3 April 2024, Ms Van Rensburg was once again prevented from practicing because the court granted the section 18(3) order.

[12] The date of the delivery of the application for leave to appeal the suspension order.

[10] In terms of section 18(4) Ms Van Rensburg has an automatic right to appeal the section 18(3) order. Until Ms Van Rensburg exercised this right by delivering a notice of appeal to "next highest" court[13], she was not allowed to practice.

[11] This defence may be dismissed outright in light of the concession made by Ms Van Rensburg that no appeal is pending in respect of the orders. In addition, no proof was furnished by Ms Van Rensburg that any appeal is pending despite reference being made by her to a notice of appeal being attached to her affidavit as an annexure.

[12] This is however not where the issue of the absence of any appeal stops. Ms Van Rensburg has misrepresented to Mashile J, the Registrar, the LPC, Scheepers and in the affidavits she has filed in this application that an unspecified appeal or appeals are pending against the orders.

[13] Ms Van Rensburg made the misrepresentation to Mashile J at the hearing of the Shofeeds matter when Mashile J expressly questioned her right to appear in light of the section 18(3) order that he had granted. The LPC alleges that Ms Van Rensburg informed the court that her *"petition is in the Supreme Court and it has not been opposed, that gives [me] a marginal to assist [my] clients"*[14] Ms Van Rensburg did not deny this allegation in her answering and supplementary affidavits, instead she states in her answering affidavit that she annexes a copy of *"....the appeal launched as the Supreme Court of Appeal against both the Section 18 order*

[13] Which is the full bench of this court.

[14] Para. 52 of the founding affidavit at page 56.

and appeal."[15] and that *"The appeal will also be amended to include the matters that has developed since, being the clear biased [sic] of this Honourable Court"*. In her supplementary affidavit Ms Van Rensburg says that the LPC's allegation *"....are noted and irrelevant in these proceedings."* [16] In paragraph 118[17] of Ms Van Rensburg's answering affidavit she says: "*The matter [Shofeeds] proceeded and I had to step in. I am comfortable that I could, but would have preferred not to."*

[14] It is clear from Ms Van Rensburg's concessions and evidence that: She knew about the orders and their import; and that she wilfully misrepresented that the orders were being appealed when it was not.

[15] In an email of 21 May 2021 that Ms Van Rensburg dispatched to the Registrar (to which Moller's answering affidavits were attached)[18], Ms Van Rensburg misrepresented to the Registrar that *"…. My petition to appeal to the Supreme Court has been issued."* In both Ms Van Rensburg's answering and supplementary affidavits, she gives no explanation for telling the Registrar that her petition has been issued. Why else would Ms Van Rensburg inform the Registrar of the alleged appeal than to ensure that the documents be accepted because she, in light of the alleged appeal, may continue to act as attorney?

[15] Para. 113 of the answering affidavit at page 141.

[16] Para. 15.1 of the supplementary affidavit at page 212.

[17] Page 142.

[18] Annexure "FA12" at page 104.

[16] On 21 May 2021 at 9:58 AM, Ms Van Rensburg dispatched an email to the LPC wherein she, amongst other things, wrote:

> "My petition to appeal has been issued and I shall supply you with a copy for service. We had to wait for the transcriptions of the hearings and one was unfortunately not available."

[17] Ms Van Rensburg therefore misrepresented to the LPC that she has appealed the suspension order (at least) whereas she has not.

[18] On 22 May 2024 at 16:06, the LPC dispatched an email to Ms Van Rensburg.[19] The email, in relevant part, reads:

> "Please take note that we have been advised that you appeared in the High Court on behalf of a client on the 21 May 2024, as far as the courts order in the section 18(2) application you are not allowed to practice and your conduct in appearing before Court amounts to misconduct and contravention of section 93(3) and (4) of the Legal Practice Act 28 2014 and is a criminal offence and a person in the contravention of this provision is liable to a fine and/or imprisonment, until such time the Supreme Court of Appeal set aside both Mpumalanga High Court (Mbombela) orders.
>
> We further wish to confirm that we have no knowledge of a petition to the Supreme Court Of Appeal [sic] and even if it were served on us your status quo remains."

[19] Save for the reference to the wrong sub-section of the Act, the LPC was correct. The section 18(3) order prevented Ms Van Rensburg from practicing in the absence of an appeal as contemplated in section 18(4) of the Act.

[19] Annexure AA7 (at page. 153) which is attached to Ms Van Rensburg's answering affidavit.

[20] On 25 April 2024, Scheepers wrote to Ms Van Rensburg.[20] Paragraph 5 of Scheepers' letter reads:

> "Verder let ons daarop dat u Mev. Zietta Janse Van Resnburg as Prokureur hierin [Shofeeds matter] optree. Ons ontvang graag die bevestiging dat u gemagtig is om as Prokureur hierin op te tree na aanleiding van nuusberigte en Hofbevel onder saaknommer 3989/2023 gedurende April 2024, waarin onder andere gemeld word dat u Mev. Janse van Rensburg tans verbied word om as Prokuruer te praktiseer."

[21] On 25 April 2024, Ms Van Rensburg wrote to Scheepers[21] informing him that "*[The] suspension you are referring to is under appeal and she [Ms Van Rensburg] is permitted to practice"*. This constitutes a further misrepresentation relating to the alleged appeal or appeals. Perhaps more importantly, Ms Van Rensburg also says in the letter that she confirms that an interdict has been granted (on behalf of Moller), that a return date will be received shortly and threatens Scheepers with *"....a contempt of court issue..."* This threat Ms Van Resnburg with no doubt made as attorney for Moller. In addition, Ms Van Rensburg does not tell Scheepers that she acts for Moller in any other capacity.

[22] Ms Van Rensburg committed purgery by falsely stating in her sworn answering affidavit that she appealed to the Supreme Court of Appeal against "*....the order in terms of rule 18(1) and the dismissal of the appeal of 11 April 2024, on 23 April 2024, as per Annexure "AA5" hereto"*[22] In paragraphs 113 and 114 of the

[20] Annexure "FA7" at page 83.

[21] Annexure "FA8" at page 84.
[22] Paragraph 8.14 of the answering affidavit at p. 119.

answering affidavit[23], Ms Van Rensburg repeats that she has lodged an appeal with the Supreme Court of Appeal and refers to an annexure which is purportedly a copy of the appeal to the answering affidavit which annexure does not exist. Ms Van Rensburg conceded at the hearing that no appeal was lodged.

[23] Lest there be any doubt that Ms Van Rensburg misrepresented that an appeal or appeals have been lodged Ms Van Rensburg says in paragraph 13.2 of the answering affidavit[24] that the deponent to the LPC's founding affidavit (Ms Townsend) "*.... was present during the virtual hearing and it was stated that the rule 18 decision is also suspended due to the appeal."*

[24] The aforesaid deliberate misrepresentations of the alleged appeal or appeals proves beyond a reasonable doubt that Ms Van Rensburg knew that she was suspended, therefore could not have practiced as an attorney and that she was in wilful and *male fide* defiance of the orders. Depending on what prejudice arose for those to whom these misrepresentations were made because they may have had acted on the misrepresentations, Ms Van Rensburg may have committed fraud my making the misrepresentations as she did.

Alleged nullity of the section 18(3) order

[25] In paragraph 13.3 of her answering affidavit[25], Ms Van Rensburg alleges that:

[23] P. 141.

[24] P. 120.

[25] P. 120.

> "The appeal decision and ruling on the section 18(1) is *ultra vires* and has no effect in law."

[26] There can be no doubt that Ms Van Rensburg refers to both the refusal of the application for leave to appeal the suspension order and the section 18(3) order. As basis for this allegation Ms Van Rensburg accuses Mashile J of bias and that *"Every obstacle was created to obstruct the course of justice."*[26]

[27] In paragraph 47 of Ms Van Rensburg's supplementary affidavit[27] she alleges:

> "The argument about the appeal is therefore irrelevant as both the orders are void, as prescribed by the Constitutional Court".

[28] Ms Van Rensburg holds the misperceived view that she did not have to obey the orders. In paragraph 49 of her answering affidavit, Ms Van Rensburg sets out as follows:

> "The exception emphasized in the Matola case; where a court does not have the authority to make a decision it is to be disregarded at face value notwithstanding if it was set aside by way of appeal or not. "Being a nullity a pronouncement to that effect was unnecessary. Nor did it first have to be set aside by a court of equal standing"

[26] Para. 48 of the answering affidavit at page 127.

[27] P. 230.

[29] In a footnote of the answering affidavit[28], Ms Van Rensburg refers to paragraph 14 in the matter of the Master of the High Court Northern Gauteng High Court, Pretoria v Motala NO and Others (172/11) [2011] ZASCA 238; 2012 (3) SA 325 (SCA). In paragraph 14 of that judgment, the following is said:

> 'In my view, as I have demonstrated, Kruger AJ was not empowered to issue and therefore it was incompetent for him to have issued the order that he did. The learned judge had usurped for himself a power that he did not have. That power had been expressly left to the Master by the Act. His order was therefore a nullity. In acting as he did, Kruger AJ served to defeat the provisions of a statutory enactment. It is after all a fundamental principle of our law that a thing done contrary to a direct prohibition of the law is void and of no force and effect (Schierhout v Minister of Justice 1926 AD 99 at 109). Being a nullity a pronouncement to that effect was unnecessary. Nor did it first have to be set aside by a court of equal standing. For as Coetzee J observed in Trade Fairs and Promotions (Pty) Ltd v Thomson & another 1984 (4) SA 177 (W) at 183E: '[i]t would be incongruous if parties were to be bound by a decision which is a nullity until a Court of an equal number of Judges has to be constituted specially to hear this point and to make such a declaration'. (See also Suid-Afrikaanse Sentrale Ko-operatiewe Graanmaatskappy Bpk v Shifren & others and the Taxing Master 1964 (1) SA 162 (O) at 164D-H.)'

[30] Ms Van Rensburg's reliance upon Matola *supra*[29] is entirely misplaced. In Matola, the court placed a company under provisional judicial management and appointed persons as joint judicial managers in circumstances where the Master through legislation has that power and not the court. Nothing prevented Mashile J from granting the orders. Any grievance whatsoever Ms Van Rensburg wishes to raise over the orders must be raised through appropriate proceedings in a competent court. This includes Ms Van Rensburg's automatic right of appeal in terms of section

[28] P. 128.

[29] Which she even refers to as "*the Matola-exeption*".

18(4) of the Act or a petition to the Supreme Court of Appeal after her application for leave to appeal the suspension order was dismissed. Ms Van Rensburg can simply not ignore the orders because she believes that the order is a nullity for whatever reason.

Capacity in which Ms Van Rensburg acted for Moller

[28] Over the capacity in which Ms Van Resnburg appeared for Moller before Mashile J on 21 May 2024, Ms Van Rensburg says in paragraph 13.4 of her answering affidavit[30] that:

> "The First Respondent [Ms Van Rensburg] has the capacity to act on behalf of the Respondents [Moller] in the Shofeeds matter in terms of the extended definition of *locus standi*;"

[29] In paragraph 69 of her answering affidavit[31], Ms. Van Rensburg says:

> "If the Respondents were given the opportunity, it would have been argued (as it is in their appeal of that matter) that I have *locus standi* in terms of section 38 of the Constitution. This matter revolves around an elephant, which is specifically protected game in terms of the Animal Welfare Act, and the matter is in the public interest."

[30] In paragraph 16 of the founding affidavit[32], the LPC sets out the purpose of

[30] P. 121.
[31] P. 131.

[32] P. 46.

this application. The LPC mentions that Ms Van Rensburg is continuing to render legal services to the public despite the suspension order. Ms Van Rensburg responds to the LPC's allegation as follows:

> "It [the LPC] does not have the authority to limit my *locus standi* given section 38 of the Constitution." [33]

[31] In paragraph 95 of the answering affidavit, Ms Van Rensburg says:

> "I specifically and clearly state it as such when I onboard a client onto the new entity that is not a legal practice. As it is, I wish to downscale and/or not practice as a legal practitioner once all of the storm has blown over."

[32] In paragraph 100 of the supplementary affidavit[34], Ms Van Rensburg alleges:

> "I do not deny representing them [Moller]. The representation was legitimate as the matter is appeal and failing which I have *locus standi* in terms of the Constitution."

[33] Paragraph 100 of the supplementary affidavit discloses the true nature of Ms Van Rensburg's stance in this application. She fore mostly relies on the alleged appeals (which, according to her own concession are non-existent) and in the alternative on what she calls *locus standi* in terms of section 38 of the Constitution.

[34] Ms Van Rensburg's clear conduct viewed objectively show that her *locus standi* defence is a mere fabrication for nowhere prior to her answering and

[33] Para. 85 of the answering affidavit at p. 136.
[34] P. 241.

supplementary affidavits has she made any attempt to clarify that she did not appear for Moller as its attorney. Instead she, through her misrepresentations over the appeals, attempted to justify her representation of Moller as its attorney.

[35] I find that the first tree requirements for a finding of contempt of court were established and that Ms Van Rensburg did not succeed in proving that she was not in wilful or *male fide* disobedience of the orders. I find that Ms Van Rensburg was in blatant, wilful and *male fide* disobedience of the suspension order and that she had demonstrated absolutely no intention to heed the suspension order or section 18(3) order insofar as it suspended her from practice from the date of the issue of the orders.

Sanction

[30] Having found that Ms Van Rensburg was in contempt of the suspension order and the section 18(3) order, I must now proceed to consider an appropriate sanction.

[31] It is trite that civil contempt may attract a criminal penalty. I see no reason why different principles should apply when an appropriate sentence in criminal proceedings is to be considered as to an appropriate sentence in contempt proceedings. Both have the same aim, namely, to punish the offender.

[32] I echo that which was said by Shongwe J in Ndou v S[35]

[35] (93/12) [2012] ZASCA 148; 2014 (1) SACR 198 (SCA) (28 September 2012) at para. 14.

'Sentencing is the most difficult stage of a criminal trial, in my view'

[33] In this case, as in most other contempt cases, very little or no attention is given to facts that the court will need to consider an appropriate sentence once the contemnor's guilt is established. I am acutely mindful of what was said in S v Siebert 1998 (1) SACR 554 (A) by Olivier JA at 558i - 559a:

> 'Sentencing is a judicial function sui generis. It should not be governed by considerations based on notions akin to onus of proof. In this field of law, public interest requires the court to play a more active, inquisitorial role. The accused should not be sentenced unless and until all the facts and circumstances necessary for the responsible exercise of such discretion have been placed before the court.'

[34] In considering an appropriate sanction, I have to consider the well-known sentencing triad[36]: the offence, the offender, and the interests of society.

[35] Court orders must be obeyed or else the Rule of Law shall be under threat. Contempt of court is a serious offence. The very foundation of society is to rely on courts to vindicate both its individual or collective rights and to enforce its individual or collective obligations arising from our social compact or else society will destroy itself. Despite Ms Van Rensburg's hollow claims that she did what she thought was right not to obey the orders, I still view her blatant disregard of the orders in a serious light. After all, she is a legal practitioner who should, without any reservation, comply with the law.

[36] S v Zinn 1969(2) SA 537 (A) at 540G.

[36] I know very little about Ms Van Rensburg and nothing about her personal circumstances. All I know is that she is an attorney from Malelane who has been suspended from practice effective from 3 April 2024. On her own version she wishes to "*scale down*" and do not wish to practice as an attorney any longer "*once all of the storm has blown over*".

[37] In light of what I know from the papers about Ms Van Resnburg's circumstances, and in light of the sanction I intend to impose, I am of the view that I am, despite the paucity of information about Ms Van Rensburg's personal circumstances, still able to impose an appropriate sentence.

[38] I take guidance from what was said by KHAMPEPE ADCJ in Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State v Zuma and Others:[37]

> 'I should start by explaining how the purposes of contempt of court proceedings should be understood. As helpfully set out by the minority in Fakie, there is a distinction between coercive and punitive orders, which differences are "marked and important". A coercive order gives the respondent the opportunity to avoid imprisonment by complying with the original order and desisting from the offensive conduct. Such an order is made primarily to ensure the effectiveness of the original order by bringing about compliance. A final characteristic is that it only incidentally vindicates the authority of the court that has been disobeyed. Conversely, the following are the characteristics of a punitive order: a sentence of imprisonment cannot be avoided by any action on the part of the respondent to comply with the original order; the sentence is unsuspended; it is related both to the seriousness of the default and the contumacy of the respondent; and the order is influenced by the

[37] (CCT 52/21) [2021] ZACC 18; 2021 (9) BCLR 992 (CC); 2021 (5) SA 327 (CC) (29 June 2021).

need to assert the authority and dignity of the court, to set an example for others.' (Endnotes omitted)

[39] I have decided to opt for a coercive order in so that Ms Van Rensburg an opportunity to avoid imprisonment by complying with the suspension order.

Costs

[40] I see no reason why costs should not follow the result. No counsel was employed by the parties. I display my displeasure with Ms Van Rensburg's conduct with an appropriate costs order, that was in any event sought by the LPC.

[41] In the premises, I made the following order:

(a) The Respondent is declared to be in contempt of the order of this court dated 22 February 2024 under case number: 3938/2023 ('the order');

(b) The Respondent is sentenced to undergo 6 (SIX) months imprisonment the whole of which is suspended for 3 (THREE) years on condition that the Respondent complies with the order;

(c) The Respondent is ordered to pay the Applicant's costs on an attorney and client scale.

Roelofse AJ

Acting Judge of the High Court

DATE OF HEARING:	12 June 2024
DATE OF JUDGMENT:	13 June 2024

APPEARANCES

For the Applicant:	Ms T Ratshibvumo of Ratshibvumo Attorneys Inc
For the Respondent:	Ms Janse van Rensburg represented herself.