THE HIGH COURT OF SOUTH AFRICA

MPUMALANGA DIVISION, MBOMBELA MAIN SEAT

CASE NO: 6192 / 2024

(1) REPORTABLE: YES

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED.

DATE **05 March 2025**

SIGNATURE

In the matter between:

HL HALL PROPERTIES (PTY) LTD **APPLICANT**

(REGISTRATION NO. 1970/008171/07)

And

THE ALLIANCE CHURCH **FIRST RESPONDENT**

CHAUKE ANTON **SECOND RESPONDENT**

CHAUKE OBED **THIRD RESPONDENT**

NDIMANDE THABILE **FOURTH RESPONDENT**

SIBIYA SOLOMON **FIFTH RESPONDENT**

MTHUNYWA PINKY **SIXTH RESPONDENT**

MONA SOLOMON **SEVENTH RESPONDENT**

THE UNLAWFUL OCCUPIERS OF PORTION 22, A PORTION OF PORTION 6 OF THE FARM DINGWELL 276, JT, MPUMALANGA **EIGHTH RESPONDENT**

THE UNLAWFUL IVADERS AND THOSE WHO ARE CONSTRUCTING STRUCTURES ON PORTION 22, A PORTION OF PORTION 6 OF THE FARM DINGWELL 276, JT, MPUMALANGA **NINTH RESPONDENT**

THE MBOMBELA LOCAL MUNICIPALITY **TENTH RESPONDENT**

THE ENHLANZENI DISTRICT MUNICIPALITY **ELEVENTH RESPONDENT**

THE SOUTH AFRICAN POLICE SERVICES WHITE RIVER **TWELFTH RESPONDENT**

J U D G M E N T

RATSHIBVUMO DJP:

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email. The date and time for hand-down is deemed to be on 05 March 2025 at 10H00.

[1] Introduction

This is an urgent application whereby the Applicant seeks an order in the following terms,

1.1 "That pending the finalization of proceedings to be brought in terms of Section 4 of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (PIE), the First to the Ninth Respondents and all those occupying the Applicant's property be evicted from the immovable property more fully described as PORTION 22, A PORTION OF PORTION 6 OF THE FARM DINGWELL 276, REGISTRATION DIVISION JT, MPUMALANGA (the Applicant's property) in terms of Section 5 of PIE.

1.2 That the First to Ninth Respondents, and all those occupying the Applicant's property, be ordered and directed to vacate the Applicant's property within 72 hours of any order being granted by this Honourable Court.

1.3 That the First to Ninth Respondents are ordered and directed to dismantle and remove:

1.3.1 the illegal structures they have erected on the property; or

1.3.2 which have encroached upon the property in terms of the encroachment diagram attached to the notice of motion and marked "Y";

1.3.3 To remove the building material therefrom within the time period stipulated in paragraph [1.2] above.

1.4 That, in the event that the First to Ninth Respondents, and all those occupying the Applicant's property, do not vacate the Applicant's property in terms of prayer 1.2 above, the Sheriff of the Court or his/her lawfully appointed Deputy, be authorised and directed to evict the First to Ninth Respondents from the Applicant's property.

1.5 That in the event that the First to Ninth Respondents fail to comply with prayers 1.2 or 1.3 above, the Sheriff and/or any persons appointed by him/her are authorised to

1.5.1 demolish and remove any structures built upon, materials used and the moveable assets found on the properties, upon effecting the demolition;

1.5.2 any building material, building components, or personal effects of the First to Ninth Respondents remaining at the property for whatever reason shall be removed from the property and disposed of by the Sheriff or the Applicant.

1.6 That the Sheriff of the Court, or his/her lawfully appointed Deputy, be authorised and directed to approach the Twelfth Respondent for any assistance he/she may require in the circumstances.

1.7 Start the First to Ninth Respondents are to pay the costs of this application, including the costs of part A hereof, jointly and severally, the one paying the other to be absolved.

1.8 That the Applicant be granted such further or alternative relief as the Honourable Court may deem fit in the circumstances."

[2] The above prayers constituted what the Applicant phrased as Part B of the application. On 10 December 2024, this Court granted Part A of the application when it declared that the Applicant's property was unlawfully invaded by the First to Ninth Respondents and interdicted them from further invading, trespassing and developing or demarcating the land. The Court further authorised the issuing and service of notice of the application in terms of section 5(2) of the Prevention of Illegal Eviction from, and Unlawful Occupation of Land Act, no. 19 of 1998 (the Act), which application was to be instituted in terms of section 5(1) thereof. In the same order, the Tenth Respondent was directed to file a report on the availability of temporary emergency accommodation to any of the occupiers of the Applicant's property.

[3] There has not been any application for leave to appeal that judgment nor was there any application for rescission of that order, as of the date of hearing of the application in respect of Part B. As a result, court order dated 10 December 2024

remains valid and binding. Meanwhile, the Sheriff proceeded to execute the service of notice of application in terms section 5(2) of the Act. The Tenth Respondent also filed a report regarding the availability of temporary emergency accommodation. The current application is opposed by the Second to Fourth and Sixth to Ninth Respondents (the Respondents) and by the Fifth Respondent separately and for different reasons.

[4] Part B of the application.

As it is apparent from the notice of motion, this application is premised on section 5(1) of the Act, which provides,

> "5 Urgent proceedings for eviction
>
> (1) Notwithstanding the provisions of section 4, the owner or person in charge of land may institute urgent proceedings for the eviction of an unlawful occupier of that land pending the outcome of proceedings for a final order, and the court may grant such an order if it is satisfied that-
>
> *(a)* there is a real and imminent danger of substantial injury or damage to any person or property if the unlawful occupier is not forthwith evicted from the land;
>
> *(b)* the likely hardship to the owner or any other affected person if an order for eviction is not granted, exceeds the likely hardship to the unlawful occupier against whom the order is sought, if an order for eviction is granted; and
>
> *(c)* there is no other effective remedy available."

[5] Submissions.

According to the founding affidavit deposed to by Ms. Sabine Walker (Ms. Walker), a director for the Applicant, the Applicant has been the owner of Portion 6 of the Farm Dingwell 276, Registration Division JT, Transvaal, from 19 June 1985.[1] In 2019, this was subdivided into three parts being Portion 21, Portion 22 and the remainder being Portion 6. From the aerial photograph compiled in November 2024 by Mr. Andrew Smith, the Geographic Information System Specialist (the GIS specialist), which is attached to the founding affidavit, there are 19 stands with

[1] See paragraph 12.1 of the Founding Affidavit on p. 18 of the paginated bundle and a title deed on p. 74.

building structures allocated to Portion 22, of Portion 6 of the Farm Dingwell 276, Registration Division JT, Mpumalanga (the Applicant's property).[2] The stands are marked as Stand A, B, C, D, E, F, G, H, J, K, L, M, N, O, P, Q, R, S and T. Of these, Stand A, B, O, S and T (five in total) only encroach into the cadastral boundary of the Applicant's property, while the remaining stands (fourteen) are completely located within this property. These stands are occupied by the First to the Ninth Respondents.

[6] According to the Applicant, the allocation of these stands was done without its knowledge and consent. The development appears to be an attempt to develop a township as there are roads established in between the stands, and some of the structures have been fully built or are being built. Amongst the stands, there is a church structure, a brick-laying business, a multi-storey student residence and residential structures. The existence of these stands only came to the attention of Ms. Walker at the beginning of November 2024.[3] The reason she could not have known of this earlier is attributed to the fact that the Applicant's security officers were monitoring the wrong boundary lines as there are many other stands established in the neighbouring property (the Remaining Extent of the Farm Dingwell 279, JT, Mpumalanga) which is owned by Matsafeni Trust. In the neighbouring property, a township is being developed without the necessary demarcations and authorisation by the municipality (the Tenth Respondent).

[7] Upon learning of the invasion of its land, the Applicant brought an urgent application referred to above in which Part A of the application was granted.[4] The Applicant alleges that they intend to bring an application for eviction in terms of section 4 of the Act. The application, premised on section 5(1) of the Act, is brought pending the envisaged application in terms of section 4 and seeks the relief as per Part B of the application.

[8] It is the contention by the Applicant that there is a real and imminent danger of substantial injury or damage to any person or property if the unlawful occupiers are

[2] See Annexure FA-4 on p.90 of the paginated bundle and the GIS specialist affidavit on p. 211.
[3] See paragraph 55 of the founding affidavit on p. 30 for the paginated bundle.
[4] See paragraph 2 above.

not forthwith evicted from its land. This contention is grounded on the report compiled by a Geotechnical Engineer in December 2008, after he was appointed by the Applicant to investigate the Applicant's property. This happened when the Applicant was contemplating the potential proclamation of a township.[5] After undertaking extensive laboratory tests of the soil taken from the Applicant's property, the report concludes that;

> "Potential collapsible and compressible soils
>
> The open texture noted in this surficial hillwash, gullywash and underlying reworked residual granite, makes these soils susceptible to consolidation and/or collapse settlement. Representative samples of these soils, were therefore, subjected [to] double oedometer tests and/or moisture, density and specific gravity determinations. The results from the consolidometer tests reveal that the hillwash, gullywash and reworked residual granite are susceptible to collapse. The gullywash classifies as moderate trouble (3) the hillwash classifies as severe trouble (3) and the underlying reworked residual granite classifies as trouble (3). In addition to these soils being collapsible the calculated coefficient of volume compressibility over a stress range of 100kPa greater than the overburden pressure (Table 3), reveals the surficial transported soils (hillwash and gullywash) and the underlying reworked residual granite, all classify as a highly compressible (Table 4)."[6]

[9] Over and above this report, the Tenth Respondent issued a certificate dated 08 November 2024 in which the following is recorded in respect of the Applicant's property: Zoning: "agriculture," uses: "permitted to farm," consent use: "none," and specific geological requirements: "<u>proposals to overcome detrimental soil conditions to the satisfaction of the Municipality shall be contained in all building plans submitted for approval and all buildings shall be erected in accordance with precautionary measures accepted by the Municipality</u>."[7] [My emphasis].

[10] The Applicant's Geotechnical Engineer report is not challenged by the Respondents, nor do they proffer any alternative report thereto. The Respondents

[5] See Annexure FA-6A on p. 112 of the paginated bundle.
[6] See paragraph 5.4 of the Geotechnical Engineer report on p. 125-126 of the paginated bundle.
[7] See Annexure FA-5 on p. 91 of the paginated bundle.

do not even attempt to dispute the contents in the Tenth Respondent's certificate. They however deny that the structures built on the Applicant's property are susceptible to collapse or pose danger to the occupants and/or to the Applicant's property. The major reason advanced for this assertion is that they have been in occupation of the property since 2019 and their structures have since, not collapsed, suggesting that they are safe and not susceptible to collapse.

[11] The Fifth Respondent who filed a separate affidavit from the rest of the Respondents, is opposed to the part of the notice of motion in which the Applicant prays for the demolition of the structures. The case against him, like four other stands owners, is about the encroachment of the Applicant's land by a portion of a stand he occupies. In his answering affidavit, the Fifth Respondent questions the accuracy of the boundary markings reflected in the photographs compiled by the GIS specialist. This argument does not take his concerns far as he offers no alternative photographs to those presented by the Applicant, nor does he challenge the expertise of the GIS specialist appointed by the Applicant.

[12] The rest of the Respondents do not deny that the Applicant's property is zoned for agriculture use and that they are occupying it as though it had been zoned for residence, without it being so rezoned by the Tenth Respondent. It follows naturally that the building plans for the structures erected could not be in line with the National Building Regulations and Building Standards Act, no. 103 of 1977, for not having gone through the necessary approval process within the municipal authority.

[13] The Respondents also seem to rely on the document commissioned by one of the occupiers (probably the Eighth Respondent), Mr. BJ Mona. The report commissioned by Mr. Mona was compiled by Eyesizwe Consulting Engineers. This one-page report states,

> "At your request a visual survey of the building located at REMAINDER OF FARM DINGWELL 276 - JT PHUMLANI VILLAGE, was conducted by Mr. Given Kola. Transmitted herewith are the inspection report stating our professional opinions on whether the items of construction included in the survey are performing their intended function or are in need of alterations.

The scope of our inspection and other important information particularly in the area of dispute resolution should a question arise. is contained in our service agreement.

Thank you for asking Eyesizwe Consulting Engineers to perform this important inspection work for you. If you have any questions after reviewing this report please feel free to call Mr. Kola at 0[...]*******3[...]

INTRODUCTION

PURPOSE

The purpose of the inspection was to inspect concrete slabs, structural walls and foundation footing of the building, particularly the load bearing walls and give our opinions on whether or not incomplete building conditions as it has been exposed to the weather for some time (sic).

It is our purpose to provide information on the condition of the building on the day of the inspection and not to provide discussions or recommendations concerning the future maintenance of any part of the building or to verify the adequacy and/or design of any component of the building. It is pointed out that other engineers or inspectors may have contrasting opinions to those given in this report in the performance of the inspection, Eyesizwe Consulting Engineers has acted as an engineering consultant subject to the standards of Engineering Council of South Africa (ECSA) and National Building Regulator (NRB)

SCOPE

The scope of the inspection include limited visual observation of the building conditions.

BUILDING CONDITIONS

We are pleased to inform you that the whole structure is structurally sound to perform its intended design."[8]

[14] Discussion.

It is plainly clear that the letter by Eyesizwe Consulting Engineers was not penned to respond to the Applicant's Geotechnical Engineer report of December 2008. It also appears from the contents of the letter that it was written following a visual

[8] See Annexure PB7 attached to unpaginated "Respondent's answering affidavit" deposed by Nicholas Brian Pebane on behalf of the Second to Fourth and Sixth to Ninth Respondents.

observation, which was done without laboratory tests of the soil as was done in the Applicant's 2008 Geotechnical Engineer report. This letter does not even answer the question on why the structure was built without the required approval by the municipal authority. In essence, the letter by Eyesizwe Consulting Engineers is irrelevant to the issues raised by the Applicant in this application.

[15] As for the Respondents' contention that the Applicant sold the property and/or that it allowed them to occupy the land, the Applicant disputes that narration saying, the land in respect of which this submission was made is a different property to the one pertaining to this application, which is in the same neighbourhood, and it was sold to a third party. The Respondents' contention was not raised by them when opposing the application that resulted in the order granted on 10 December 2024.[9] In line with the *Plascon-Evans* rule, where in motion proceedings disputes of fact arise on the affidavits, a final order can be granted only if the facts averred in the applicant's affidavits, which have been admitted by the respondent, together with the facts alleged by the latter, justify such order.[10] This dispute creates no conundrum for the Applicant as this application impacts only to those in occupation of the Applicant's property, that has not been subjected to sale.

[16] If this dispute is out of an error by the Respondents, regarding the exact location and boundaries of the property that was sold by the Applicant, that error could be attributed to many other stands in the Applicant's neighbourhood which are not subjected to this application. It would appear that the same error was committed by the Tenth Respondent when compiling a report as directed by this Court. I will deal with this report later. It suffices at this stage to state that this application does not affect the residents not in occupation of the Applicant's property, i.e. all those outside the stands described in paragraph 5 above.

[17] The urgency requirement in all matters of eviction premised on section 5 of the Act, is embedded in the statutory provision. This means an order shall only be granted if the Applicant is able to prove that the application is urgent. The Respondents submitted that the application could not have been urgent because they had been

[9] See paragraph 2 above.
[10] See *National Director of Public Prosecution v Zuma* 2009 (2) SA 277 (SCA) at para 26.

in occupation of the Applicant's property for over four years, and that it has been over two months after the application was brought before it could be heard, meaning that the delay has diluted the urgency.

[18] The reason the application could not be heard on a date it was initially set down, early in January 2025 is that the Court required that a report be compiled by the Tenth Respondent on the availability of temporary emergency accommodation. The need for this report was initiated by the Court and the delay in having it ready cannot be blamed on the Applicant. The argument to the effect that the delay in filing the report diluted the urgency is therefore without merit.

[19] The occupants of the structures erected on the Applicant's property have been in imminent danger from the day the structures were erected on the premises, for as long as they did not comply with the municipal requirements as per municipal certificate. Chances are that the occupants did not know that there was (and still is) a risk that those structures could collapse due to the nature of soil. The risk did not start the date on which the Applicant became aware of the occupation of its property or when the application was launched in court. The date on which the Applicant was made aware of the occupation of its property, became a date on which the risk (which had been in existence) was known.

[20] The duration of the occupation of the property without any incident of collapse does not mitigate against the risk. It could be just a question of luck, or the structures having not encountered the triggering climate such as heavy rains, from the date they were erected. I am therefore in agreement with Rabie J in *Groengras Eiendomme (PTY) LTD and Others v Elandsfontein Unlawful Occupants and Others*,[11] when he held that the duration of the unlawful occupants is not a deciding or even a relevant factor for consideration.

[21] The only evidence relevant that the Respondents could present, that eliminates the risk, is expert evidence that could demonstrate if there are inaccuracies in the Geotechnical Engineer report or another expert evidence to show that the

[11] 2002 (1) SA 125 (T) at para 28.

prerequisites in the municipal certificate and/or the Geotechnical Engineer report were taken care of, before the structures were erected. That evidence would demonstrate that the soil was safer for the occupiers and thereby eliminating imminent danger, that otherwise remains in existence. No such evidence was presented before the court.

[22] There is therefore no basis to now conclude that the occupiers are not in any imminent danger, unless it is expected of us to reach such conclusion only after tragedies have struck, of which it would be too late. Based on the Geotechnical Engineer report, which remains unchallenged, I therefore reach the conclusion that there is a real and imminent danger of substantial injury or damage to the unlawful occupiers of the property if they are not forthwith evicted from the land.

[23] I have taken note of the concern raised on behalf of the Respondents to the effect that while the Applicants had several years to acquire the Geotechnical Engineer report, the Respondents were given just a few days within which to file answering affidavits as this was an urgent application and that they could not have commissioned any report in that short space of time. Orders in terms of section 5 of the Act are not intended to offer final relief to the litigants; hence the provision is that these applications should only be considered, “pending the outcome of proceedings for a final order.” The door to obtain such a report, is as such not closed as the application seeking a final relief in terms of section 4 of the Act is yet to be brought. What is rather relevant for now is that while that application is pending, no person should be in imminent danger that can be averted by a temporal order for eviction.

[24] The next question to explore is whether the likely hardship to the owner or any other affected person if an order for eviction is not granted, exceeds the likely hardship to the unlawful occupier against whom the order is sought, if an order for eviction is granted. This is not an easy exercise because it requires the court to somehow evaluate the future hardship while at the present. The hardship that the owner must endure when the property continues being invaded and used for other purpose than it was zoned for, is demonstrated when the Applicant tries to show the difficulty in getting a buyer of land that is occupied and used as a township. The

current debate over the land grabs and invasions, which has taken the international centre stage is just an example of the impact this could have, not just to the Applicant as a landowners, but also the country's economy.[12]

[25] The report compiled by the Tenth Respondent opens a veil into the hardships likely to be suffered by the Respondents, in case the order is granted as requested. As indicated above, this application affects no more than 19 families, five of which are affected only to the extent of their stands encroaching into the Applicant's property. The report should have been in respect of only 14 families or worse, not more than 19. The tenth Respondent however went on to compile a report in respect of 37 households. Of these, one is a church the owner of which resides elsewhere. Thirty-two owners of the remaining 36 households are all employed. One of the remaining four is a pensioner, whereas there is no indication in respect of the last three. Of importance in this report is that none of the occupiers of the Applicant's property qualified for the provision of temporal emergency accommodation by the Tenth Respondent as they were not even on the waiting list for that provision.

[26] The picture portrayed by the Tenth Respondent's report is not that of the indigent people who could be struggling to make the ends meet. Some of the structures the photographs of which were attached to the affidavits, appear to be decent houses at face value. The importance of the above background is to the effect that these are the people who, if they are given a chance to settle elsewhere, they can recover from whatever hardship associated with the eviction. The court is however not oblivious to the dilemma of our people and their desire to build homes provided they are allocated a piece of land on which to settle. While I am sympathetic to their plight, parties have to take cognisance of the fact that the rule of law means just what it says. They, like everybody else, have to bow to the law. They cannot ride roughshod over it. Not even when the need is great.[13]

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[12] See the court's remarks in *Groengras Eiendomme (PTY) LTD and Others v Elandsfontein Unlawful Occupants and Others (supra)* at para 30 where the court said, "[I]n my view this Court cannot close its eyes to the devastating effect land-grabs have had on the economy and the security of one of our neighbouring countries. The rule of law means that everyone must respect and adhere D to the law. One cannot ride roughshod over the law; not even when the need is great."

[13] See remarks by Dijkhorst J in *Commercia Area Industrial Forum and Another v North East Rand Transitional Metropolitan Council and Others* 1997 (3) SA 1075 (T) at 1079B.

[27] The question on whether eviction is just and equitable is not a consideration when dealing with eviction based on section 5 of the Act. It is the hardship the occupants are likely to face that should be considered that overlaps with the aspect of just and equitable. The court cannot turn a blind eye to this aspect as though it is immaterial, especially when the order would result in them becoming homeless.[14] In *Telkom*, Wilson J of Gauteng Local Division, Johannesburg, took a view that eviction on urgent basis should not be granted if the likely results would be homelessness of the respondents.[15] In that case, the court agreed with the judgement in *Tshwane North Technical and Vocational Education and Training College v Madisha*[16] where the same court had ordered the eviction of hostel dwellers when it appeared that the hardship that might be done to Telkom's property if there were no eviction outweighed the hardship that the residents would likely endure if they are evicted. This judgment was however distinguishable, as the court reasoned, in that the hostel dwellers would not be rendered homeless by the eviction.

[28] In *Communicare*[17] the court faced the same dilemma as in *Telkom* where the respondents would be rendered homeless in case the order was granted in terms of section 5 of the Act. After weighing and balancing the hardship the respondents would go through against the danger of damage to the properties, the likely hardship to the applicant if eviction was not granted, and the lack of another effective remedy, the court granted an order for eviction on condition that before implementation thereof, each and every respondent had to provide the residential address of where they came from for the local municipality to facilitate their relocation back to where they came from before occupying the applicant's property.

[29] In *casu*, hardship the Applicant would face in rehabilitating the land that was zoned for agricultural purpose after years of being utilised as a township, is beyond imagination. It may become impossible to restore it or doing so could be of no economic value. The Applicant argues that there is no other effective remedy to the

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[14] See *Communicare v Apolisi* 2023 (6) SA 250 (WCC and *Tekom SA (SOC) LTD v Moeletsi* (40530/2023) [2023] ZAGPJHC 590 (30 May 2023).
[15] See *Telkom supra*.
[16] 2019 JDR 0065 (GP).
[17] *Supra*.

urgent eviction. The Respondents deny this assertion, saying the alternative is to proceed in terms of section 4 of the Act. I am of a view that the Respondents missed the point in this regard as the alternative should talk to the imminent danger posed by the continued occupation of the Applicant's property.

[30] With the above, I hold a firm view that the continued occupation of the Applicant's property poses imminent danger to the occupants. I also reach the conclusion that the hardship the Applicant would likely endure if an order for eviction is not granted, exceeds the hardship the unlawful occupiers would likely endure if the order is granted. There is no other effective remedy available to the Applicant given the looming danger to the occupiers and the hardship the Applicants faces in respect of the damage to the property.

[31] While this is application is urgent, and the danger remains imminent, this is one of those matters in which the court should afford the respondents a reasonable opportunity to relocate and settle at own expense, as none of them qualifies to be allocated a temporary emergency accommodation. This should be done while at the same time taking cognisance of the urgency of this application. I would as such order the eviction of the respondents and also allow them time and opportunity to relocate on their own or with the facilitation by the local municipality, for those needing assistance.

[32] For the same reasons expressed in paragraph 32 above, I am of the view that it would be unnecessarily burdensome to mulct the Respondents with costs order. I will as such make no order as to costs.

[33] <u>The Order:</u>

For the aforesaid reasons, I make the following order:

33.1 That pending the finalization of proceedings to be brought in terms of Section 4 of the Prevention of Illegal Eviction from, and Unlawful Occupation of Land Act, no. 19 of 1998 (the Act), the Second to Fourth and Sixth to Ninth Respondents (the Respondents) and all those occupying the Applicant's property are evicted from the immovable property more fully described as PORTION 22, A PORTION OF PORTION 6 OF THE FARM

DINGWELL 276, REGISTRATION DIVISION JT, MPUMALANGA (the Applicant's property) in terms of Section 5 of the Act.

33.2 That the Respondents and all those occupying the Applicant's property, are ordered and directed to vacate the Applicant's property by no later than 30 April 2025.

33.3 That the First and the Fifth Respondents and all occupiers of Stands A, B, O, S and T (stand that encroached upon the Applicant's property in terms of the encroachment diagram attached to the notice of motion and marked "Y"), are ordered to remove structures encroaching into the Applicant's property by no later than 30 April 2025.

33.4 The Tenth Respondent is ordered to undertake a full investigation and compile a report listing the addresses where the Respondents were resident prior to their occupation of the Applicant's property, on or before Friday 11 April 2025.

33.5 The Tenth Respondent is to facilitate the respondents' move from the Applicant's property to the addresses listed in the report referred to under paragraph 33.4 above on or before 30 April 2025.

33.6 That, in the event that the First to Ninth Respondents, and all those occupying the Applicant's property, do not cooperate with the Tenth Respondent or vacate the Applicant's property by 30 April 2025, the Sheriff of the Court or his/her lawfully appointed Deputy, is authorised and directed to evict the First to Ninth Respondents from the Applicant's property.

33.7 That the Sheriff of the Court, or his/her lawfully appointed Deputy, is authorised and directed to approach the Twelfth Respondent for any assistance he/she may require in the circumstances.

33.8 The decision on the demolition of structures erected by the Respondents shall stand over to be determined in the proceedings to be brought in terms of Section 4 of the Act.

33.9 No order as to costs.

TV RATSHIBVUMO

DEPUTY JUDGE PRESIDENT

MPUMALANGA DIVISION OF THE HIGH COURT

FOR THE APPLICANT:	**ADV. L PETER**
INSTRUCTED BY:	**VERMAAK MARSHALL**
	WELLBELOVED INC
	C/O: WALTER & STANDER ATT
	MBOMBELA
FOR THE 1ST- 4TH & 6TH- 9TH	
RESPONDENTS	**ADV. LD TJALE**
INSTRUCTED BY:	**TP RADEBE ATTORNEYS**
	MBOMBELA
FOR THE 5TH RESPONDENT:	**ADV. J MUZIMBA**
INSTRUCTED BY:	**TM CHAUKE INC**
	MBOMBELA
DATE HEARD:	**18 FEBRUARY 2025**
DATE FOR SUPPLEMENTARY:	**21 FEBRUARY 2025**
HEADS OF ARGUMENT	
JUDGMENT DELIVERED:	**05 MARCH 2025**