

IN THE HIGH COURT OF LESOTHO

CIV/APN/61/09

In the matter between:-

THREE ZEDS (PTY) LTD

APPLICANT

And

LINEO 'MANTSATSI RANTHOCHA

1ST RESPONDENT

PROPERTY INTERNATIONAL (PTY) LTD

2ND RESPONDENT

MINISTER OF LOCAL GOVERNMENT

3RD RESPONDENT

COMMISSIONER OF LANDS

4TH RESPONDENT

REGISTRAR OF DEEDS

5TH RESPONDENT

ATTORNEY GENERAL

6TH RESPONDENT

CORAM : NOMNGCONGO J.

DATE OF HEARING : 28TH MARCH, 2011

DATE OF JUDGMENT : 30TH AUGUST, 2018

JUDGMENT

[1] In a notice of motion the applicant seeks the interdiction of the 5th Respondent from facilitating the transfer of **plot No.22124 – 107**

situated at Maputsoe, Leribe. This prayer is untenable as such transfer to the second respondent has already been executed in its favour. More to the point, it seeks cancellation of the deed of transfer from the Deeds Registry. In order to facilitate transfer to itself an order is sought to direct 1st respondent to Co-operate and do all things necessary to enable the transfer and registration of the plot in favour of the applicant and in particular to comply with the terms and conditions of the Deed of sale pertaining to the plot between itself and the 1st respondent. I am also asked to direct the 3rd respondent the necessary consent to the sale and transfer of the plot.

- [2] The founding affidavit to the application is deposed to by one **Yasin Yusuf Vallybhai** duly authorized by the applicant. He deposes that in 1997 one **Mohammed Salim Karim** introduced him to the 1st respondent and following that a deal was struck for the sale of the disputed Plot between him and the applicant. Mohammed Salim Karim was a signatory the ensuing deed of sale the original copy of which he kept. The purchase price of the property was R500,000 which was paid for in cash and in kind until the 25th August 2002 when it was paid in full.

[3] The applicant came to court on an urgent basis and *ex parte* and on the return date, applicant's counsel moved to obtain judgment which it did. It would appear that the matter had already been opposed in court when that happened, because a notice of intention to oppose dated three days prior to obtaining judgment is filed of record. No wonder the respondents quickly applied for rescission which was finally obtained. The less said about the conduct of both counsel in the affidavits of the application, the better. I can only say it was characterized by acrimonious exchanges and the trading of disparaging recriminations by counsel against each other in a manner unbecoming of officers of this court.

[4] The situation was not helped by the rather unsavoury and duplicitous first respondent who vacillated between supporting the respondents and the applicant's versions of the facts. The matter was finally heard and argued in court.

[5] I need go no further than to say that the applicant's case is based on a so called deed of sale between itself and the 1st respondent. It

is upon that “sale” that I am asked to cancel the deed of transfer and to order the Minister to grant the necessary consent to transfer the Plot to the applicant. The law in this regard was settled by the Court of Appeal in **Mothobi v Sebotsa LAC 2007 – 2008 439** where it was held that a purported sale agreement of leased land between the respondent and appellant’s successor in title is invalid because the Minister prior consent was not sought and obtained pursuant to **s. 35 (1) (b) read with s.36 (5) of the Land Act 1979.**

[6] This is exactly what happened in *casu*. I cannot compel the Minister to grant consent. The application must therefore be dismissed. It is dismissed with costs.

T. NOMNGCONGO
JUDGE

For Applicant :Mr Nteso

For Respondent :Mr Teele