

SOUTH GAUTENG HIGH COURT, JOHANNESBURG

CASE NO: 20111/13044

In the matter between:

MANAVHELA, KWASHI FREDDA

First Applicant

MANAVHELA, VHANGWELE

Second Applicant

And

ILLING, JAMIE KIM

Respondent

SUMMARY

SPILG, J:

CONTRACT: *Several copies of sale agreement, not one of which contained complete initials and signatures to all amendments but cumulatively they would. Realistic commercial approach taken recognising manner in which negotiated residential property sales occur with counter-offers and amendments added to signed copies (faxed or otherwise) of original signed offer.*

COSTS: *Discretion [paras 100-107]. Applicants, although successful in obtaining transfer of property, liable to pay two thirds of costs plus expert's qualifying fees and expenses. Reasons cumulative:*

- a. Applicants unsuccessfully contending that their signatures and initials were forged and that negotiations were for an annual not monthly interest sum on an instalment land sale. Overwhelming bulk of evidence, which included handwriting expert and estate agent devoted to these issues.*
- b. Aside from time taken, applicants needlessly burdening court with issues that were referred to oral evidence involving an amount of less than R70 000 and where the respondents defence of entitlement to rescind pursuant to alleged repudiation may have been determined without the referral to evidence.*
- c. Applicants persisted with these issues despite averring that they would pay the greater amount provided so directed by court. This required respondent to incur substantial costs where the applicants' own costs outstripped the potential financial reward on a matter that did not involve a rights issue.*
- d. Where courts are now taking greater control over case management in order to ensure that strained resources achieve the objectives of meaningful access to justice while*

maintaining due or fair trial process it is appropriate that unnecessarily burdening the court's resources may have cost consequences where other party has been prejudiced.

EVIDENCE: *Case determined on combination of evidence of handwriting expert, reliability of witness recollection as opposed to reconstruction and inherent probabilities.*

SALE OF LAND- Instalment sale- *Inherent probabilities that more than infinitesimal interest payable where purchase price agreed for straightforward sale aborted and price remains the same although parties negotiate deferred transfer for up to 18 months but immediate occupation is effectively given.*