

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG LOCAL DIVISION, JOHANNESBURG**

**CASE NO: 2013/24397**

In the matter between:

**NEW HEIGHTS DEVELOPERS (PTY) LTD**

Applicant

And

**BOGATSU, MANANA SHEREEN**

Respondent

---

**SUMMARY- MAIN JUDGMENT AND LEAVE TO APPEAL**

---

**SPILG, J:**

**COMPANIES ACT 71 OF 2008:**

**Section 165 demand;**

- Certain parts of a s 165 demand were overtaken by events. Held: The mere fact that the demand may cover extraneous matters does not render the other terms of the demand *pro non scripto*
- The real issue is whether the recipient of the notice would understand it to be one in terms of s 165 and that a failure to respond would trigger the provisions of that section.
- The demand was not vexatious nor one falling outside s 165. The respondent was seeking through court proceedings to protect the interest of company A which it was alleged was the single largest shareholder in company B and that on the papers, even assuming that the shares of company B had been transferred to the other shareholder of company A, no payment had been made for such shares.

## **S 165: Interpretation of Statutes**

- *The phrase in s165(2) “or take related steps”* is not surplusage. It covers the situation where a party is sued as a co-respondent (even if only by reason of a possible interest) but wishes to establish a *lis* between itself and the other respondents either as a co-applicant or an applicant in reconvention. Otherwise substance (and therefore the purpose of the legislation) would give way to form.
- The presumption that every word is intended to have its own meaning gains weight where the section expressly replaces the entire body of common law on derivative actions and when regard is also had to the processes the legislation went through before it was finally enacted.