IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NUMBER: 794621/18

(1) REPORTABLE: YES/NO ✓ Type text here
(2) OF INTEREST TO OTHERS JUDGES: YES/NO ✓
(3) REVISED

..... 5 August 2021

SIGNATURE **DATE**

In the matter between:

LOMBARDY DEVELOPMENT(PTY) LTD	FIRST APPLICANT
KARIN GELDENHUIS	SECOND APPLICANT
JOHANNES FREDRIK GELDENHUYS	THIRD APPLICANT
CECILIA LOOTS	FOURTH APPLICANT
LISA HOPKINSON	FIFTH APPLICANT
LYN CHER CALLE	SIXTH APPLICANT
EMILY MATHILDA BEZUIDENHOUT	SEVENTH APPLICANT
NICOLAAS WYNAND BEZUIDENHOUT	EIGHTH APPLICANT
LIZA HAMMAN	NINTH APPLICANT
HUGH ARUNDEL VAN DER WESTHUIZEN	TENTH APPLICANT
JOHAN SIEBERT VAN ONSELEN	ELEVENTH APPLICANT
MARION GRASSINI	TWELVE APPLICANT
CARLOS ARTURO GRASSINI	THIRTEENTH APPLICANT
MARCOS ARTURO GRASSINI	FOURTEENTH APPLICANT

and

CITY OF TSHWANE METROPOLITAN MUNICIPALITY FIRST RESPONDENT

MUNICIPAL MANAGER OF THE TSHWANE METROPOLITAN MUNICIPALITY SECOND RESPONDENT

JUDGMENT

TSATSI AJ

A. INTRODUCTION

1. This application has been heard in a virtual hearing via Microsoft Teams.

2. This is an opposed application whereby the Applicants are seeking an order asking the First and Second Respondents ("the Respondents") to furnish each and every Applicant with a written account in terms of section 27 (1) of the Local Government: Municipal Property Rates Act 6 of 2004. In addition the Applicants are asking the Court to order the Respondents to give them the debatement and statement of account in terms of section 95 of the Local Government Municipal Systems Act 32 of 200.

3. The Applicants initially applied for a contempt of Court order against the Respondents but later abandoned the application.

4. The Applicants have also applied for condonation asking the Court to condone the late filing of their replying affidavit. The condonation application was not opposed.

B. FACTUAL BACKGROUND

5. In July 2011 the Kungwini Local Municipality was disestablished and incorporated into the City. Subsequent to that the City adopted the 2012 Supplementary Valuation Roll ("SVR") which re-categorized properties in the former Kungwini Municipality as vacant land for the purpose of Municipal rates. As a result it is alleged that the City started charging the Applicants at a higher tariff than they have previously been charged.

6. The Kungwini Municipality made provision for a category of a vacant property but never applied it. Thereafter before the 2012 SVR the Applicants' properties were categorized as residential properties. The 2012 SVR was replaced by the 2013 General Valuation Roll ("GVR") which categorised the Applicants' properties as vacant on the basis of the 2012 SVR.

7. The Applicants approached the Court to review the above. Tuchten J set aside the 2012 SVR on the basis that the City failed to comply with the notice requirements prescribed by the Local Government: Municipal Property Rates Act 6 of 2004 ("the Rates Act"). Tuchen J also set aside the 2013 GVR (to the extent it relates to the Applicants' property) on the basis that it relied on the 2012 SVR.

8. The City appealed Tuchten J's judgment to the SCA. The SCA dismissed the appeal on 31 May 2018. The SCA held that the process through which the 2012 SVR was implemented did not meet the requirements of the Rates Act and fell to be set aside. It also set aside the 2013 GVR on the basis that it relied on the 2012 SVR.

9. The SCA did set aside two of the orders by Tuchten J. Such orders are not the subject of this application.

C.ISSUES

10. The issue is whether or not the First Respondent can provide statements and debatement of Municipal accounts without the Applicants pleading the nature

of the relationship between the Applicants and the Respondents in the Applicants' founding papers.

11. The other issue is that can the Applicants succeed with their prayers in the Amended Notice of Motion when such prayers were not canvassed in the Applicants' founding papers.

12. The Applicants abandoned the contempt application and started a new cause of action in their replying affidavit, which is asking for provision of statements and debatement of Municipal accounts. Should the Applicants bear the costs of the abandoned contempt of Court application.

13. The Respondents are challenging the authority of the First Applicant deposing to the affidavits. The question is whether such a challenge is justified.

D. SUBMISSIONS

14. Adv. Ferreira submitted on behalf of the Applicants that the application stemmed from the fact that the City adopted two valuation rolls which recategorized the Applicants' properties as vacant and imposed a higher tariff for the Municipal rates to be paid by the Applicants. This recategorization was declared unlawful.

15. Tuchten J set aside the City's 2012 SVR and 2013 GVR to the extent that they categorized the Applicants' properties as vacant. The Court also set aside the City's decision to impose the vacant's land rate to the Applicants' properties. The Applicants were directed to pay the rates at the tariff applicable immediately prior to 2012 SVR until the applicable rate is changed according to law. The decision to implement 2013 GVR was remitted back to the City to reconsider appropriate categorization of the Applicants' properties.

16. It was further submitted on behalf of the Applicants that the reason why Tuchten J remitted the 2013 GVR and not the 2012 SVR to the City to reconsider the appropriate categorization of the properties was because at the

time of his judgment the 2013 GVR had not run its course due to the effluxion of time, as compared to the 2012 SVR which had run its course.

17. A further submission on behalf of the Applicants was that the SCA stated that the City recategorized the properties without complying with the notice requirements of the Rates Act which are intended to prevent the Rate payers from being blind-sided. The City did not make any attempt to communicate its decision to the Rate payers.

18. According to the submissions made on behalf of the Applicants, Lombardy has 100 properties and the City only effected change to one property. The Applicants' contention was that they are entitled to statement of account which the City is refusing to provide. Some of the properties are not credited. There is no proper account for penalties or fines.

19. It was further submitted on behalf of the Applicants that from June 2018 to around October 2018 the Applicants wrote letters to the City asking the City to rectify the alleged unlawful imposition of rates. The submission made was that the City failed to respond to most of the said letters. The city replied for the first time on 10 August 2018. In this letter the City promised to rectify the imposition of the rates on the Applicants' properties.

20. In September 2018 the Applicants wrote a letter of demand whereupon they demanded that the City complied with the Court orders failure of which the Applicants intended instituting contempt proceedings. The Applicants refused to accept the City's excuses that the reason why it was not acting as expected was because the City officials were overburden with administrative work.

21. On or around 24 October 2018 the City issued a press statement recognizing its obligation to comply with the Court order. The press statement was supposed to deal with refund and recategorization. According to the Applicants' submissions the City failed to comply with two Court orders.

22. In response to the City's failure to comply with the Court orders the Applicants instituted the contempt proceedings in October 2018. The Respondents filed and served their answering affidavit on 12 December 2018. The Applicants filed their replying affidavit on 6 January 2020.

23. The relief sought by the Applicants is as follows: They have abandoned prayers 1 and 2 in their amended Notice of Motion which deals with contempt of Court. Prayer 3 deals with the fact that the Respondents are in breach of their constitutional obligations to take all the necessary steps to give effect to the Court orders. The Applicants wanted the Court to grant prayers 4A to D which provides that the Respondents must furnish each of the Applicants with written accounts in terms of section 27 (1) of the Local Government Municipality Property Rates Act 6 of 2004 which written account must specify the amount due for rates payable, how the amount was calculated, the market value of the property and any other information required to understand the basis upon which the amount payable was calculated.

24. The First Respondent is directed to debate the adequacy of the account referred to in 4A to 4D of the amended notice of motion, with the Applicants within a month from the date on which it is rendered. The further submission made on behalf of the Applicants was that the Court grants a costs order against the Respondents on an attorney and client scale.

25. Adv. Strydom SC submitted on behalf of the Respondents that the Applicants kept on changing their case as they went along. The Applicants brought a new case in their replying affidavit knowing very well that the Respondents will not be able to answer to the replying affidavit. The new facts in the replying affidavit were not alleged in the Applicants' founding affidavit. Initially the Applicants alleged that the Respondents did not give effect to the Tuchten judgment but the Applicants are now alleging that the Respondents did not properly give effect to the Tuchten judgment.

26. As far as the Respondents are concerned they have complied with the Court orders. The Applicants' first application became moot and then they presented

with a new application. The Respondents should have filed a supplementary affidavit to oppose the replying affidavit. The Applicants alleged in the replying affidavit that the EVR was invalid as a whole. On the day of the hearing the submission by the Applicants is that the EVR was invalid for the remainder of the period. Section 78 of the Municipal Property Rates Act 6 of 2004 precludes retrospective evaluation. Section 30 of the Municipal Property Rates Act 6 of 2004 provides that a Municipality intending to levy a rate on property must cause a general valuation to be made for all properties in the Municipality determined in terms of subsection 2. A valuation roll had to be determined in terms of subsection 3. General valuation roll is the backbone system of Government to obtain revenue.

27. It was submitted on behalf of the Respondents that in terms of section 49 of the Municipal Property Rates Act 6 of 2004, the procedural aspect was not complied with. The General Valuation Roll 2008 to 2013 was not the subject of rescission or review. The law always requires the General Valuation Roll to be in place, cannot set it aside without replacing it. The rates should still be paid. The Applicants had to pay what was not set aside.

28. The submission on behalf of the Respondents was that the General Valuation Roll will be removed in terms of section 8 of the Promotion of Administrative Justice Act 3 of 2000 ("PAJA") for the Respondents to consider afresh. It was submitted that paragraph 8 of the SCA order requires the Respondents for valid process of the re-categorization.

29. The Applicants' contention is that the adjustments are inadequate not that there are no adjustments. A letter was written to the Applicants informing them that the Respondents will rectify and adjust the rates. It was further submitted on behalf of the Respondents that the Applicants were asked to provide information about the stands and numbers. There was no response from the Applicants.

30. The Applicants wrote a letter dated 18 June 2018 to the Respondents, contended that the Tuchten judgment obliged the Respondents to rectify the accounts of not only the 14 Applicants who instituted the review application but of all other affected property owners, who were not party to the review

application.

31. The Respondents' response after having received legal advice was that the Tuchten judgment made a distinction between the Applicants' vacant land properties and the properties of other owners who owned vacant land in the Kungwini area. The said judgment expressly limited the invalidation of the Municipality's imposition of the vacant land assessment rate of the properties belonging to the 14 Applicants only.

32. A further submission on behalf of the Respondents was that the Applicants at a late stage decided to deliver an affidavit of Professor Johannes Daniel van Romburgh which allegedly constitute an expert opinion on the calculations done in so far as the credits to the Applicants' Municipal accounts are concerned. The Applicants filed the third affidavit without leave of the Court or making an application to Court to seek leave to do so.

33. It is trite that a case should be made in the founding affidavit not in the replying affidavit. This does not rectify the situation to simply invite an expert opinion in the replying affidavit. The rules of Court do not permit such a procedure.

34. Sections 95 and 102 of the Municipal Systems Act 32 of 2000 creates an accessibility to the account for the persons who wish to get their statements. Whereas section 62 of the Municipal System Act provides for an appeal where a person is not satisfied with the decision of the Municipality.

35. In addition paragraphs 12 to 20 of the Applicants' replying affidavit explain how the Applicants have dealt with their properties but there are no confirmatory affidavits attached.

36. There was no breach of section 27 of the Municipality Property Rates Act, the Respondents complied. The Applicants were offered to have a sit around the table meeting with the Respondents, the offer which they rejected.

37. It was submitted on behalf of the Respondents that on 24 October 2018 the First Respondent issued a press statement. It is clear that the First Respondent is taking all the preparatory steps to comply with the Tuchten and the SCA orders. Notwithstanding the press statement issued the Applicants proceeded to institute the contempt application on 30 October 2018.

38. The Respondents asked the Court to grant costs against the Applicants with regard to the filing of the answering affidavit from the date of filing to the date of the hearing. The Respondents also asked the Applicants' application to be dismissed with costs including the costs of two Counsel. It was submitted on behalf of the Respondents that the Applicants initially instituted a contempt application under circumstances where the Municipality declared its commitment to comply with the judgments failed to prove any requirements for the relief premised upon any form of contempt in so far as the actions of the Municipality or Municipality Manager are concerned and further relief which is wholly incompetent. The Applicants ought to be held responsible for the costs of the application from 30 November 2018 to the date of the hearing which is 31 May 2021 on an attorney and client scale including the costs of two Counsel.

E. THE LAW

39. Section 49 of the Municipal Property Rates Act 6 of 2004 provides that: *"The valuer of a municipality must submit the certified valuation roll to the municipal manager, and the municipal manager must within 21 days of receipt of the roll-*
(a) publish in the prescribed form in the provincial and once a week for two consecutive weeks advertise in the media a notice - 15 (i) stating that the roll is open for public inspection for a period stated in the notice, which may not be less than 30 days from the date of publication of the last notice; and(ii) inviting every person who wishes to lodge an objection in respect of any matter in, or omitted from, the roll to do so in the prescribed manner within the stated period; disseminate the substance of the notice referred to in paragraph(ha)to the local community in terms of Chapter 4 of the Municipal Systems Act; and (c) serve, by ordinary mail or, if appropriate, in accordance with section of the Municipal Systems Act, on every owner of property listed in the valuation roll a copy of the notice referred to in paragraph (a)together

with an extract of the valuation roll pertaining to that owner's property. (2) If the municipality has an official website or another website available to it, the notice and the valuation roll must also be published on that website".

40. Section 27 (1) of the Municipal Property Rates Act 6 of 2004 provides that *(1)**A** municipality must furnish each person liable for the payment of a rate with a written account specifying- the amount due for rates payable; the date on or before which the amount is payable; how the amount was calculated; the market value of the property; if the property is subject to any compulsory phasing-in discount in terms of section 21, the amount of the discount; and if the property is subject to any additional rate in terms of section 22, the amount* due for additional rates". Section 27 (3) provides that: "*The furnishing of accounts for rates in terms of this section is subject to section 102 of the Municipal Systems Act".*

41. Whereas section 102 of the Municipal System Act 32 of 2000 provides: *"that (l) A municipality may—(a) consolidate any separate accounts of persons liable for payments to the municipality;(b) credit a payment by such a person against any account of that person; and (c) implement any of the debt collection and credit control measures provided for in this Chapter in relation to any arrears on any of the accounts of such a person. (2) Subsection (1)* ***does not apply where there is a dispute between the municipality and a person referred to in that subsection*** *concerning any specific amount claimed by the* municipality from that person".

42. Section 62 of the Municipality Systems Act provides that: "*A person whose rights are affected by a decision taken by a political structure, political office bearer, councillor or staff member of a municipality in terms of a power or duty delegated or sub-delegated by a delegating authority to the political structure, political office bearer, councillor or staff member, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision. (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4). (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision. (4) When the appeal is against a decision taken by—(a) a staff member other than the municipal manager, the municipal manager is the appeal authority; the municipal manager, the*

executive committee or executive mayor is the appeal authority, or, if the municipality does not have an executive committee or executive mayor, the council of the municipality is the appeal authority: or(c) a politics! structure or political office bearer, or a councillor- 50 (i) the municipal council is the append authority where the council comprises less than 15 councillors; or (ii) a committee of councillors who were not involved in the decision and appointed by the municipal council for this purpose is the appeal authority there the council comprises more than 14 Councillors…"

43. Section 30 of the Municipal Property Rates Act provides that: "*A municipality intending to levy a rate on property must in accordance with 5 this Act cause- (a) a general valuation to be made of all properties in the municipality determined in terms of subsection (2); and (b) a valuation roll to be prepared of all properties determined in terms of subsection (3). All rate able properties in the municipality must be valued during a general valuation, including all properties fully or partially excluded from rates in terms of section 17(l)(a),(e), (g), (h)and* ***(i):*** *Provided that- (a) properties referred to in section 7* ***(2)****(a)must be valued only to the extent that the municipality intends to levy a rate on those properties…"*

44. In ***Betlane v Shelly Court CC:*** **2011 (1) SA 388** (CC) para 29, the Court said: 'It is trite that one ought to stand or fall by one's notice of motion and the averments made in one's founding affidavit. A case cannot be made out in the replying affidavit for the first time. In ***De Beer v Minister of Safety and Security and Anothe****r:* (2011) 32 ILJ 2506 (LC), where it was held that 'It is trite law that an applicant must stand or fall by his or her founding affidavit. The applicant is therefore not permitted to introduce new matter in the replying affidavit. The Courts strike out such new matter. The above being the relevant principle, I am thus entitled to exclude any new material in the replying affidavit insofar as it seeks to make out a new case and not simply replying to what is set out in the answering affidavit".

45. In **National Director of Public Prosecutions v Zuma**: 2009 (2) SA 277 (SCA) at paras [26] - [27] the Court stated that it is not proper for a Court in motion proceedings to base its judgment on passages in documents which have been annexed to the papers when the conclusions sought to be drawn from such passages have not been canvassed in the affidavits. The reason is

manifest ─ the other party may well be prejudiced because evidence may have been available to it to refute the new case on the facts. A party cannot be expected to trawl through annexures to the opponent's affidavit and to speculate on the possible relevance of facts therein contained.

46. The Court said that, the Court had to decide whether the Applicant's founding affidavit contains sufficient allegations for the establishment of his case. Courts do not normally countenance a mere skeleton of a case in the founding affidavit, which skeleton is then sought to be covered in flesh in the replying affidavit[1].

47. I was referred to the case of **City of Johannesburg v AD Outpost** (2012)(4) SA 325 (SCA) at para 20 by the Respondents. In that case the Court held that: "*However this Court has regularly stressed, an administrative decision declared to have been invalid is to retrospectively regard as if it had never been made. Accordingly, if the decisions of the appellants are to be set aside as all parties are agreed should occur, the matter is to be considered on the basis that no valid decision in respect of the respondents' renewal applications were ever taken. Those applications must therefore still be regarded as still awaiting a decision and, that being so, they are clearly pending and have been since they were lodged in March 2007. They were therefore pending when the 2009 By-laws came into effect and by reason of clause 39 (3) of such By-laws, must be dealt with in terms of those By-laws rather than the 2001 By- laws".*

48. In **Absa Bank BPK v Janse van Rensburg** 2002 (3) SA 701 (SCA), Brand J, held that in order to succeed in a claim for the delivery and debatement of account a party would have to prove either one of the following categories of relationships: (1) the existence of a fiduciary relationship between the parties,

(2) a contractual obligation to do so; (3) the existence of a statutory duty obliging the other party to deliver and debate an account.

49. In **Moila v City of Tshwane Metropolitan Municipality** (2017) SA 702 (SCA), the Court dealt with section 95 of the Municipal Systems Act and found that section 95 does not entitle a ratepayer to the debatement of a Municipality account. At paragraph 10 the Court held as follows: " The right to debate an account is not confused with the right to receive the same. The two are not co-extensive. The rights of those who are liable for the payment of Municipal services to receive accounts from the relevant municipality is made clear in section 95 and 102 of the Local Government Municipal Systems Act 32 of 200…" ("LGMSA"). At paragraph 11 the Court stated that: "…..section 95 (f) provides for public law rights for a person liable for the payment of accounts for Municipal services to receive "prompt redress for inaccurate accounts, not for any 'debate' thereof ; section 95 (g) for a right to 'prompt replies' to complaints and to 'corrective action' but also no right to a debate of account.

50. Sections 95 and 102 of the Act provides for mechanisms to dispute a Municipal account. In **Moila** (supra) at paragraph 12 the Court stated as follows: "The Court a quo usefully referred to those provisions of sections 95(f) and (g) of the LGMSA which provide for 'accessible' mechanisms respectively to 'query or verify accounts', 'appeal procedures', and 'the dealing with complaints', together with 'corrective action'. Much that could be in dispute is governed by Municipal by-laws. As that Court noted, the deceased would not have been without equitable remedies if he had wished to resort to them. His remedy would have been to avail of his rights under section 95 of the LGMSA.

51. I was referred to the case of ***Ganes and Another v Telecom Namibia Ltd***, **2004 (3) SA 615 (SCA**), on behalf of the Applicants. In that case, at para 19, Streicher JA in similar circumstances stated that: '*In my view, it is irrelevant whether Hanke had been authorised to depose to the founding affidavit. The deponent to an affidavit in motion proceedings need not be authorised by the party concerned to depose to the*

affidavit. It is the institution of the proceedings and the prosecution thereof which must be authorised'.

52. The leading case in proving of authority in this regard is ***Tattersall and Another v Nedcor Bank Ltd*** **1995 (3) SA 222 (A),** in which the authority of a bank manager to launch proceedings on behalf of the bank was placed at issue. The Court held (at 228G-H): "A copy of the resolution of a company authorising the bringing of an application need not always be annexed".

F. APPLICATION OF THE LAW TO THE FACTS

53. The Applicants abandoned their contempt of Court application. This application is moot and ought to be set aside.

54. The general rule is that the Applicant has to make out its case in its founding affidavit. This means that the founding affidavit must make out a *prima facie* case. To determine whether an Applicant has done so, the founding affidavit is taken on its own and those allegations are presumed to be correct, and the question is then whether they are sufficient to warrant a finding in favour of the Applicant.

55. It is trite that an Applicant must stand or fall by his/her founding affidavit. The Applicant should disclose facts in the founding papers that would make out a case for the relief sought, and sufficiently inform the other party of the case it was required to meet. Thus, the filing of further affidavits in motion proceedings is permitted only with the indulgence of the Court, which has the sole discretion whether or not to allow such affidavits. Where there are no reasons placed before the Court for requesting it to permit the filing of further affidavits, any such application ought to be refused.

56. The Applicant cannot be permitted to make out its case in the replying affidavit. In casu, the Applicants failed to canvass the issue of the statement and debatement of accounts in their founding papers. The submission regarding the statement and debatement of accounts was made for the first

time in the replying affidavit, heads of argument and oral submission but not on the founding papers. The heads of argument themselves do not constitute pleadings but are based on the pleadings filed. In *casu* the case about statement and debatement of account was not made in the founding affidavit.

57. In addition the Applicants filed a further affidavit of Prof Johannes Daniel van Romburgh which was said to be a confirmatory affidavit to the Applicants' replying affidavit. This affidavit was in fact another founding affidavit trying to make out a case about statement and debatement of accounts. The Applicants did not make an application to Court for filing of further affidavits.

58. This is prejudicial to the Respondents as they missed the opportunity to rebut the submissions made about statement and debatement of account in the Applicants' replying affidavit. However the Respondents should have applied to Court to file a supplementary affidavit in response to the Applicants' new evidence in their replying affidavit which the Respondents did not do. This would not have resolved the issue of the Applicants failing to make out their case in their founding papers.

59. A party is not permitted to introduce new matters in its replying affidavit, including attaching annexures to its replying affidavit. The annexures attached to the replying affidavit are introduced as new evidence to the Applicants' replying affidavit which denied the Respondents an opportunity to answer or reply to averments contained in such annexures.

60. The Applicants relied on section 27 (1) of the Municipal Property Rates Act for asking for the detailed account. However section 27(1) does not deal with debatement of accounts. In *casu,* the Applicants failed to allege and prove the nature of the relationship between the First Respondent and the Applicant that would entitle the Applicants to the statement and debatement of accounts. The Applicants failed to plead the existence of a fiduciary relationship or a contractual relationship. A submission was made on behalf of the Applicants arguing the existence of a statutory duty in terms of section 95 of the Municipal System Act for the first time on the day of the hearing.

61. In terms of section 27 (3) of the Municipality Property Rates Act the furnishing of accounts for rates is subject to section 102 of the Municipal System Act. However section 102 of the Municipal System Act does not apply where there is a dispute between the Municipality and the person applying for the account. Therefore the Applicants ought to have relied on section 95 of the Municipality Systems Act in their founding papers not in their replying affidavit, heads of argument or lastly making submissions on the day of the hearing for the first time.

62. Section 62 of the Municipality Systems Act, provides a remedy in terms of an appeal process against a decision taken by the Respondents which the Applicants were not happy about. There are mechanisms to dispute Municipality accounts based on the provisions of the Municipal Systems Act as stated above.

63. I am of a considered view that the Applicants failed to make out a case about the statement and debatement of accounts in their founding papers and that the application ought to be refused.

64. It is my view, based on the authorities stated above, that the First Applicant is duly authorized to depose to the affidavits on behalf of the other thirteen Applicants. The First Applicant stated in the founding affidavit that she/he is "duly" authorized to depose to both the founding and replying affidavits. The Respondents offered no valid explanation why they alleged that the First Applicant is not authorized to depose to the affidavits and no evidence is tendered in support of why the Respondents alleged that the First Applicants is not authorized to depose to the affidavits. My view is that the argument by the Respondents that the First Applicant is not authorized to depose to the affidavits on behalf of the other thirteen Applicants is a tactical one and should be rejected.

65. Regarding the 2013 GVR, it was declared invalid and set aside with regard to the re-categorization of the affected properties, no valuation roll in respect of those properties existed until such time as the affected properties were

appropriately and lawfully re-categorized in terms of the provisions of the Municipal Property Rates Act.

66. The 2013 Valuation roll in respect of the affected properties had to be implemented afresh by way of the EVR subsequent to the appropriate re-categorization of such properties. The Respondents had to make sure that the decisions of the Tuchten and SCA orders are implemented and should finalize outstanding issues if there are any. This will be a way of complying with the said orders.

67. In light of the preceding I therefore make the following order:

67.1 Paragraphs 4A, 4B, 4C, 4D and 5 of the Applicants' amended Notice of Motion are dismissed with costs, such costs to include the costs of two Counsel.

67.2 The Applicants are ordered to pay the Respondents' costs incurred in opposing the previous contempt of Court application from 30 November 2018 to the date of the hearing, which is 2 June 2021, such costs to include the costs of two Counsel.

67.3 Paragraphs 1,2,and 3 of the Applicants' amended Notice of Motion of the contempt of Court application, are declared moot and set aside.

67.4 The Applicants' condonation application of the late filing of the replying affidavit is granted.

E.K. Tsatsi

Acting Judge of the High Court, Gauteng, Pretoria

For Applicants: Adv. N. Ferreira

Instructed by: Adams and Adams Attorneys

For the First and Second Respondents: Adv. T. Strydom SC

With Adv. L.Kotze

Instructed by: Ndombela and Lamola Inc.

Date of hearing: 2 June 2021

Date of judgment: 5 August 2021

This judgment was handed down electronically by circulation to the parties' representatives via email and by uploading on case lines.

1. Tittys Bar and Bottle Store (PTY) LTD v ABC Garage (PTY) LTD and Others; 1974 (4) SA 362 (T)