Republic of South Africa

IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)

Case No: A 50/2014

Before: The Hon. Mr Justice Yekiso
The Hon. Mr Justice Binns-Ward
The Hon. Mr Justice Dolamo

Date of hearing: 28 November 2014
Date of judgment: 5 December 2014

In the matter between:

WEB CALL (PTY) LTD Appellant

And

STEPHAN ANDRÉ BOTHA First Respondent
OCULUSIP (PTY) LTD Second Respondent

JUDGMENT

BINNS-WARD J:

[1] The appellant has come on appeal against the judgment of Savage AJ on the return date of an 'Anton Piller' application[1] setting aside the search and seizure order obtained earlier by the appellant on application to a duty judge in chambers without

[1] The label derives from the judgment in *Anton Piller KG v Manufacturing Processes Ltd & Ors*. [1975] EWCA Civ 12, [1976] 1 All ER 779 (CA), [1976] Ch 55. An Anton Piller order is directed at securing the preservation of evidence in proceedings already instituted or to be instituted by the applicant; see e.g. *Van Niekerk and Another v Van Niekerk and Another* 2008 (1) SA 76 (SCA) at para 10.

notice to the respondents. Leave to appeal to the Full Court was granted by the Supreme Court of Appeal.

[2] The respondents had contended for the setting aside of the order on several grounds in the court a quo. The learned acting judge upheld their contentions on two of those grounds, finding it unnecessary in the circumstances to treat of the others. The judge did, however, indicate, albeit without discussion, when she subsequently gave judgment refusing leave to appeal, that at least some of the other grounds argued before her could have led her to the same conclusion. The grounds upheld by the judge a quo were that the applicant had acted in breach of its duty of full and frank disclosure when making the application *ex parte* and that it had failed to show that the extraordinary remedy of search and seizure was sufficiently necessary for the purpose of enabling it to effectively prosecute the litigation that it held out it wished to pursue against the respondents for breach of a restraint of trade agreement and unlawful competition.

[3] The factual background to the case is a familiar one in the context of search and seizure applications. It concerned the applicant, as a former employer, intent on suing the first respondent, its erstwhile employee, and the second respondent, a business in which the first respondent is now engaged, for damages arising out of alleged unlawful competition. The unlawful competition is alleged to be founded on the use of the applicant's confidential information, said to have been filched by the first respondent when he left the applicant's employ. By the return day of the order, it had become common ground that the first respondent had left the appellant's employment taking with him the information related to his business dealings when he was the appellant's manager: indirect sales, which had been saved on his laptop computer in the ordinary course of his work. The appellant's managing director had alleged in the founding papers that the information had been copied and removed illicitly. It was eventually undisputed, however, that the first respondent had been permitted to take his work computer with him when he left and that, to the knowledge of the responsible officer at the appellant, it had contained the appellant's aforementioned business information.

[4] It was alleged in the appellant's replying papers that the first respondent's computer had not been reformatted at the time as the responsible officer would have wished to have done. This was because the first respondent had protested that

formatting the disk would result in the deletion of his personal information that was also stored on the computer. It was also alleged in reply that the first respondent had undertaken to delete the appellant's information. This had not happened. Instead, the information had been kept in a folder which the first respondent had named 'Legacy'. The first respondent alleged that the name had been chosen because in computer jargon 'legacy' was a word used to describe old or redundant information.[2] The first respondent had stated in his answering affidavit that he had not been required to delete the information. It also became common ground that the content on the computer's hard drive had been backed up by the appellant on the day of the first respondent's departure from its offices and that the allegation in the founding papers to the effect that he had deliberately avoided backing up his computer for some months before he left was unfounded.

[5] It would appear from the appellant's replying papers that the deponent to the appellant's founding affidavit had been ignorant of some of the material facts when he made the affidavit. His ignorance resulted in the aforementioned material misrepresentations, which suggested an illicit taking of the information by the first respondent when he left the appellant's employ. It may be accepted for present purposes that the deponent to the founding affidavit did not act perjuriously in making the aforementioned false averments, but that does not excuse the appellant from the consequences of having put up a materially misleading case. It was incumbent upon someone in the position of the appellant's managing director to have taken the greatest care to get the facts right in making an affidavit in an *ex parte* application for a search and seizure order. The policy of the courts to insist on the highest standard of care and circumspection in applications for search and seizure orders, which are virtually invariably brought without notice to the affected respondent party, is because of the extremely invasive effect of such orders and the attendant infringement of the affected party's fundamental right to privacy and dignity.

[6] A further material shortcoming in the appellant's founding papers was the representation therein that the volume of business transacted by the appellant with Nashua Communications had dropped off considerably after the first respondent had left its employment. The inference that the appellant sought to persuade the court to

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[2] The *Oxford Dictionary of English* defines the word as an adjective in computing use '*denoting or relating to software or hardware that has been superseded but is difficult to replace because of its wide use*'.

draw from the presented facts was that the first respondent had poached the business for his new venture with the second respondent. The deponent to the founding affidavit omitted to disclose, however, that the demonstrated drop-off in trade followed a directive by the relevant group of companies to its staff to cease using outside service providers like the appellant and to internalise the provision of VoIP[3] services. The omission resulted in a material misrepresentation of relevant facts in the circumstances.

[7] The flaws in the founding papers are characterisable as material because they are such that had the duty judge been apprised of the true or full facts, he might well have refused the application, or granted relief in differently formulated terms. A strict policy is adopted in the treatment of material misrepresentations or non-disclosures on the return days of orders taken without notice.[4] The approach is considered appropriate as an incentive to applicants in such matters to ensure that the court is properly equipped, on the basis of full and correct information, to afford the protection to which respondents against whom relief is granted without a hearing are entitled. The granting of relief against any party without first giving them an audience (‘*audi alteram partem’*) represents a fundamental departure from the natural rules of justice. It is justifiable only in exceptional circumstances. It has been authoritatively confirmed that exceptional relief such as search and seizure orders or freezing (anti-dissipation) orders in applications made without notice to the affected party should be subject to stringent control and exacting standards; cf. *Knox D'Arcy Ltd and Others v Jamieson and Others* 1996 (4) SA 348 (A) ([1996] 3 All SA 669), at 379E-380B (SALR).

[8] For these reasons I consider that the court a quo was justified, on account of the material non-disclosure or misrepresentation in the appellant’s founding papers, in revoking the Anton Piller order on the return day; cf. *Hall v Heyns & Others* 1991 (1) SA 381 (C), at 397B. That conclusion would, by itself, be enough to result in the dismissal of the appeal. But there were also other aspects of the matter that support that result.

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[3] Voice over Internet Protocol.

[4] Compare, for example, *Schlesinger v Schlesinger* 1979 (4) SA 342 (W) at 349 at 348-350, *Phillips and Others v National Director of Public Prosecutions* 2003 (6) SA 447 (SCA) (2003 (2) SACR 410; [2003] 4 All SA 16) at para 29 and *Hassan and Another v Berrange NO* 2012 (6) SA 329 (SCA) at para 14.

[9] By reason of their infringing effect on the rights to privacy and dignity of the affected respondent party, Anton Piller orders are constitutionally compatible, and thus lawful, only to the extent that they comply with law of general application that passes muster in terms of s 36 of the Constitution; see *Mathias International Ltd and Another v Baillache and Others* [2010] ZAWCHC 68 (8 March 2010), at para 11-18. In this country, as was originally the case in England, the applicable law is judge-made. It has been developed in the exercise by the superior courts of their inherent jurisdiction to regulate their own procedures and develop the common law; cf. *Universal City Studios Inc and Others v Network Video (Pty) Ltd* 1986 (2) SA 734 (A) at 754E-F and *Shoba v Officer Commanding, Temporary Police Camp, Wagendrift Dam, Maphanga v Officer Commanding, SA Police Murder & Robbery Unit, Pietermaritzburg* 1995 (4) SA 1 (A) ([1995] 2 All SA 300), at 8G (SALR). In the result it is beyond the power of a judge to purport to make such an order in circumstances that do not comply with the established requirements for the relief and where the well established protections for the affected respondent party are not built into the provisions of the order; see e.g. *Memory Institute SA CC t/a SA Memory Institute v Hansen and others* 2004 (2) SA 630 (SCA) at para 2-3.

[10] The requirements that must be satisfied to make out a competent application for an Anton Piller order were confirmed in *Shoba* supra, at 15H-I (SALR) as follows:

> '…what an applicant for such an order, obtained *in camera* and without notice to the respondent, must *prima facie* establish, is the following:
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> (1) That he, the applicant, has a cause of action against the respondent which he intends to pursue;
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> (2) that the respondent has in his possession specific (and specified) documents or things which constitute vital evidence in substantiation of applicant's cause of action (but in respect of which applicant cannot claim a real or personal right); and
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> (3) that there is a real and well-founded apprehension that this evidence may be hidden or destroyed or in some manner be spirited away by the time the case comes to trial or to the stage of discovery.'

[11] Counsel for the respondents argued that the appellant had not satisfied any of the requirements. They pointed to the fact that the documentation attached to the appellant's supporting affidavits suggested that the customer connections and business transactions relied upon by the appellant were in fact those of Mobifin (Pty) Ltd, the appellant's holding company, rather than those of the appellant. It was

contended that any claim based on unfair competition would vest in Mobifin, not the applicant. In reply, the appellant alleged that it conducted business on a profit sharing basis with Mobifin. The position in this connection is not altogether clear on the papers. It is apparent that both companies traded using the same trade name, Web Call and that the first respondent in the course of his employment by the appellant was engaged in work that contributed to the conclusion of contracts by customers with Mobifin. I am willing for the purposes of this judgment to assume, without so holding, that the appellant did have standing to bring the application. All it was required to do to satisfy the first of the aforementioned requirements was to demonstrate the existence of a *prima facie* case in the intended action. It is in respect of the second and third requirements that I consider that the appellant's application was non-compliant to a fatal degree.

[12] The appellant sought, and was provisionally granted, the right to obtain the search and seizure of the following documents (I quote from the schedule to the appellant's notice of motion):

1. All and any e-mails, letters, postings (i.e. the entering of electronic data messages), quotations, SMSs, facsimiles or other electronic communications between the First Respondent and any clients, agents or suppliers of the Applicant, who were clients/agents/supplies at the time that the First Respondent was employed by the Applicant, and which are in the possession of, or under the control of, or were created by either or both First and Second Respondent, and more specifically in respect of the following businesses which trade, as, and are commonly known as:
   1.1 Itec Cape Town;
   1.2 Strategic IT;
   1.3 Maxtel;
   1.4 Minet;
   1.5 Allcom; and
   1.6 Nashua.
2. All and any invoices, way bills, business proposals, receipts, electronic funds transfers, delivery notes, shipping documents, quotations and/or other similar documentation recording and reflecting the transaction of business (or attempts to do so) between the First and Second Respondent and any clients and/or agents of the Applicant and more specifically the following businesses which trade as, and are commonly known as:
   2.1 Itec Cape Town;
   2.2 Strategic IT;
   2.3 Maxtel;
   2.4 Minet;

2.5 Allcom; and

2.6 Nashua.

3. Any documents in hard copy or electronic form which are proprietary to Applicant and either used or likely to be used by either or both First and Second Respondent to complete with the Applicant.
4. All and any contracts concluded between the First and/or Second Respondent and the Applicant's suppliers and/or customers and/or Applicant's agents.
5. The Excel spreadsheet described in the notice of motion as a "savings calculator".
6. Any of the above stored in cloud-based storage(s).

[13] The documentation identified in paragraphs 1 to 4 of the schedule is generically defined; nothing is specifically described. The formulation of those paragraphs conjures the image of a trawl net rather than a laser pointer. Any search conducted in accordance with their all-encompassing breadth would bear the hallmarks of a search for evidence to make out a case, rather than one for specific documents that the appellant had identified it would need for an already made out case. In *Mathias International* supra, at para 20, the point was made that '(t)he impermissibility of the use of the [Anton Piller] procedure to enable searches to be undertaken to look for evidence to identify or found a case, as distinct from the preservation of evidence for use in an already identified claim is fundamental. The strict limitation of the use of the procedure to the preservation of evidence, as distinct from, say, a search for evidence (the so-called fishing expedition), is a feature that is essential to the legality of the procedure established with regard to the requirements of s 36(1) of the Constitution. An application for authority to search for evidence in the nature of a fishing expedition should flounder at the first hurdle for want of compliance with the specificity requirement mentioned as the second of the three essential requirements for the grant of an Anton Piller order in *Shoba*, quoted … above.[5] The specificity requirement is a material factor in accepting that the limitation of basic rights inherent in the Anton Piller procedure is reasonable and justifiable as required by s 36(1) of the Constitution'.

[5] In *The MV "Urgup": The Owners of the MV "Urgup" v Western Bulk Carriers (Australia) (Pty) Ltd* 1999 (3) SA 500 (C) at 508 I, Thring J expressed, aptly in my respectful view, albeit *obiter*, the requirement thus: *The object of an* Anton Piller *order is not to sanction a search for evidence which may or may not exist and which may or may not go to found a cause of action, but to preserve specific evidence which is known to exist, which* prima facie *constitutes vital substantiation of a known cause of action, and whose concealment, loss or destruction is feared by the applicant for the order*.'

[14] There was a material non-compliance with the specificity requirement in the current matter. The order obtained was thus non-compliant with the applicable law and on that account too fell to be set aside on the return date.

[15] There was also no demonstrated necessity for the use of a search and seizure order to obtain the evidence that might be provided by the documentation described in paragraphs 1-4 of the schedule. It could all have been obtained by means of discovery by the respondents and/or by subpoenaing the appellant's clients or agents *duces tecum*.

[16] An application for the delivery up of the 'savings calculator' mentioned in paragraph 5 of the schedule would have been a more appropriate remedy than the extreme measure of an Anton Piller order. It was known that the first respondent left the appellant's employment with the spread sheet on his computer. It appears doubtful that the calculator was in fact the property of the appellant. It had been developed by one Keith Mould at the instance of Mobifin (Pty) Ltd. But even assuming for present purposes that the appellant could establish an entitlement to vindicate it, it needs to be stressed that the *sole* purpose of the Anton Piller procedure is the preservation of evidence; it is not a substitute for possessory or proprietary claims (*Memory Institute* supra, at para. 3).

[17] Paragraph 6 of the schedule is nothing more than a catch-all of any material falling under paragraphs 1–5 thereof that might be stored off computer and be accessible remotely.

[18] The appellant's counsel argued that the appellant's clients and agents had built up close personal relationships with the first respondent and were sympathetic to the respondents' position. He contended that their relationships detracted from the likely effectiveness of the aforementioned conventional procedural remedies available in terms of the rules of court. No such allegations had been made in the founding papers. It would not have been sufficient to allege a mere suspicion that a party would not comply with a subpoena. Paranoia or vaguely postulated conspiracy theories do not afford justification for resort to extreme procedural remedies; a 'real and well-founded apprehension' that the evidence to which the intended search and seizure operation is directed will be destroyed or concealed unless the remedy is afforded is what any applicant for such relief must establish. Were it otherwise, the exceptional remedy of a search and seizure process would become a commonplace,

rather than an exceptional, procedure in the preparation of an action for hearing. The appellant's counsel's submissions in this connection call to mind the selected extracts from the judgment of Hoffmann J in *Lock International plc v Beswick and Others* [1989] 1 WLR 1268 (Ch) at 1280-1283 that were cited quite recently by Tugendhat J in *CBS Butler Ltd v Brown & Ors* [2013] EWHC 3944 (QB) (16 December 2013), at para 32:

> Some employers seem to regard competition from former employees as presumptive evidence of dishonesty. Many have great difficulty in understanding the distinction between genuine trade secrets and skill and knowledge which the employee may take away with him.
>
> Even in cases in which the plaintiff has strong evidence that an employee has taken what is undoubtedly specific confidential information, such as a list of customers, the court must employ a graduated response. To borrow a useful concept from the jurisprudence of the European Community, there must be proportionality between the perceived threat to the plaintiff's rights and the remedy granted. The fact that there is overwhelming evidence that the defendant has behaved wrongfully in his commercial relationships does not necessarily justify an Anton Piller order. People whose commercial morality allows them to take a list of the customers with whom they were in contact while employed will not necessarily disobey an order of the court requiring them to deliver it up. Not everyone who is misusing confidential information will destroy documents in the face of a court order requiring him to preserve them.
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> In many cases it will therefore be sufficient to make an order for delivery up of the plaintiff's documents to his solicitor or, in cases in which the documents belong to the defendant but may provide evidence against him, an order that he preserve the documents pending further order, or allow the plaintiff's solicitor to make copies. The more intrusive orders allowing searches of premises or vehicles require a careful balancing of, on the one hand, the plaintiff's right to recover his property or to preserve important evidence against, on the other hand, violation of the privacy of a defendant who has had no opportunity to put his side of the case. It is not merely that the defendant may be innocent. The making of an intrusive order *ex parte* even against a guilty defendant is contrary to normal principles of justice and can only be done when there is a paramount need to prevent a denial of justice to the plaintiff. The absolute extremity of the court's powers is to permit a search of a defendant's dwelling house, with the humiliation and family distress which that frequently involves….

[19] Mr Justice Hoffmann, a judge with considerable commercial experience, also noted in *Lock International* that he had 'learned to approach such applications with a certain initial scepticism'. His observations quoted in the preceding paragraph stress the need for proportionality in matters of this nature. The learned judge's sentiments in this respect were echoed in the local context by the Chief Justice in *Shoba* supra, at

p.16B-C (SALR);[6] see also *Knox D'Arcy Ltd* supra at 379J-380B[7]. The exercise includes considering why conventional procedures would not suffice. An approach entailing a 'certain initial scepticism' can be useful in that context. In the current case the appellant failed to establish that it could not obtain what it needed by way of the ordinary, less invasive, civil procedures. In *Krygkor Pensioenfonds v Smith* 1993 (3) SA 459 (A)[8] at 469E-I reference was made to the traditional reluctance of the Courts

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[6] Corbett CJ remarked '*The Court to which application is made for … an Anton Piller order has a discretion whether to grant the remedy or not and, if it does, upon what terms. In exercising this discretion the Court will pay regard, inter alia, to the cogency of the prima facie case established with reference to the matters listed (1), (2) and (3) above* [i.e. the three requirements described in para [10] above]*; the potential harm that will be suffered by the respondent if the remedy is granted as compared with, or balanced against, the potential harm to the applicant if the remedy is withheld; and whether the terms of the order sought are no more onerous than is necessary to protect the interests of the applicant*'.

[7] E.M. Grosskopf JA, dealing with an anti-dissipation application brought *ex parte*, cited the following *dicta* of Stegmann J in the court of first instance in that matter with approval: '*The exercise of such powers must be attended with due caution; with all practical safeguards against abuse; and with a careful attempt to visualise the ways in which the order may prove to be needlessly oppressive to the intended defendant. Consideration must also be given to the manner in which the order may interfere with the rights and obligations of third parties, such as banks or other debtors of the intended defendant, or other custodians of the intended defendant's assets. Both the oppressiveness of the order to the intended defendant and its interference with the rights and obligations of third parties must be kept to the minimum. . . .*'.

[8] The relevant issue for present purposes in *Krygkor* was the question of whether a superior court in the exercise of its inherent jurisdiction could order a pension fund to provide information to a member's former wife when no provision for such a remedy existed in terms of the ordinary rules of procedure. The court of first instance had granted the remedy. On appeal it was held that the remedy should not have been granted because the former wife could have achieved what she needed to by appropriate use of the available conventional procedures. E.M. Grosskopf JA dealt with the matter as follows at 469 in *fine*- 470G:

> *Mev Smith het 'n reg tot 'n helfte van die pensioengeld gehad. Hierdie reg kon sy by wyse van aksie of aansoek teen mnr Smith afdwing. Watter prosedure sy ook al gevolg het, sou sy deur blootlegging kon vasstel watter bedrae mnr Smith ontvang het (sien Reël 35 en veral Reël 35(13) van die Eenvormige Hofreëls). Verder sou sy enige ongeprivilegieërde inligting van die Pensioenfonds kon bekom deur middel van 'n getuiedagvaarding selfs, in 'n gepaste geval, in mosie-verrigtinge. Sien Harms Civil Procedure in the Supreme Court para G27. Vir 'n gewone Hofproses het sy dus geen buitengewone regshulp nodig gehad nie.*
>
> *Sy het egter om verstaanbare redes besluit om 'n dringende aansoek aan te vra. Haar eerste bede was om 'n bevel wat mnr Smith gelas om die helfte van die bedrag wat hy van die Pensioenfonds ontvang het, aan haar te lewer. As sy bang was dat hy haar sou bedrieg en minagting van die Hof sou pleeg deur 'n bedrag oor te betaal wat minder as die helfte is, sou sy ook in hierdie aansoek die Hof kon gevra het om terselfdertyd blootlegging te gelas ingevolge Hofreël 35(13). Dit sou haar in staat gestel het om insae te kry in alle relevante dokumente wat in sy besit was, soos byvoorbeeld korrespondensie met die Pensioenfonds, bankstate, en dies meer. Geen rede blyk uit die stukke om te vermoed dat mnr Smith 'n meinedige blootleggingsverklaring sou geliasseer het nie. Ook in die dringende aansoek het sy dus myns insiens nie buitengewone regshulp nodig gehad nie. Veral was dit nie nodig om die Pensioenfonds, 'n buitestaander, in hierdie stadium in te trek in die geskil tussen haar en haar voormalige man nie. Die Pensioenfonds was nie die enigste wat die inligting gehad het nie. Mnr Smith het dit ook gehad, en van hom kon sy dit kry sonder om af te wyk van die erkende praktykreëls, behalwe miskien insoverre dit nodig mag gewees het om hulle aan te pas weens die dringendheid van die saak. En as dit uiteindelik onmoontlik geblyk het om reg te laat*

to depart from the procedures laid down by the rules of court and to the fact that only in exceptional cases will they exercise their inherent jurisdiction to follow procedures not so laid down. With reference thereto, E M Grosskopf JA, delivering the judgment of the Court, stated (at 469H-I):

> 'Die uitsonderlike gevalle word op verskillende maniere omskryf in die beslissings wat hierbo aangehaal is. Vir huidige doeleindes is dit egter genoeg om te sê dat die Hof hierdie bevoegdheid sal uitoefen net waar geregtigheid vereis dat afgewyk word van die gewone prosedure-reëls. En selfs waar 'n afwyking nodig mag wees, sal die Hof natuurlik altyd poog om so naby as moontlik aan die erkende praktyke te bly.'[9]

[20] In my judgment the duty judge who granted the order appears to have overlooked that the appellant could obtain the information it contended it needed for its case against the respondents by conventional procedures. In the circumstances no or inadequate consideration was given to the proportionality requirement when the order was made. This constituted a material misdirection and resulted in the judge purporting to exercise a power that was beyond his remit because it was incompatible with the applicable law and thus unconstitutional. The court a quo essentially found as much.

[21] It is not necessary in determining the outcome of this appeal to do so, but I nevertheless consider it appropriate also to comment on the execution of the order. The order allowed for the copying by an IT technician and removal by the sheriff of copies of the documentation falling within the general description set out in the several paragraphs of the schedule quoted above. It transpired that the task of isolating identified documents for copying purposes would be very time consuming. The technician apparently indicated that a number of days would be required. He suggested that it would be more efficient to make a mirror image of the entire content of the electronic devices that he was asked to search. The supervising attorney agreed to allow this and the mirror images were consequently made. A deviation of this nature from the terms of the order obtained from the court was most irregular. It does not matter that the respondents and the affected third parties whose cellular telephone

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geskied sonder die inligting van die Pensioenfonds, sou die Hof kon gelas het dat 'n gepaste amptenaar van die fonds viva voce getuienis aflê. Sien Harms (op cit).
Om op te som: as ek veronderstel dat die Hof wel die inherente bevoegdheid het om bekendmaking van hierdie soort inligting deur 'n buitestaander tot 'n geskil te gelas, meen ek nogtans nie dat die Hof dit in hierdie geval behoort te gedoen het nie.

[9] *Shoba* supra, at 17 I- 18B (SALR).

data was copied did not object. The invasive effect of search and seizure orders with their attendant infringement of the affected parties' fundamental rights is such that it is of importance that the orders must be executed strictly in accordance with their tenor. It is the role of the supervising attorney to ensure that that is done. The supervising attorney has no authority to vary the order or of his own accord to permit any form of substituted execution thereof. If the form of the order granted proved to be impractical to execute, the court should have been approached to review the relevant terms thereof. In the current case a review of the order might, and, in my view, should, have resulted in it being recalled at an early stage.

[22] The appeal is therefore dismissed with costs, including the fees of two counsel.

A.G. BINNS-WARD
Judge of the High Court

YEKISO *et* DOLAMO JJ:

We concur.

N.J. YEKISO
Judge of the High Court

M.D. DOLAMO
Judge of the High Court

Date of hearing:	**28 November 2014**
Date of judgment:	**5 December 2014**
Applicant's counsel:	**A.D. Maher**
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