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

Case no: 8528/2017

In the matter between:

FRANZ-JOSEF LINK	First Applicant
THOMAS LINK	Second Applicant
ERNST ALOYS DORNSEIFER	Third Applicant
MARIA BRIGITTE LEONIE DORNSEIFER	Fourth Applicant
v	
THE DIRECTOR-GENERAL: DEPT HOME AFFAIRS	First Respondent
THE DEPUTY DIRECTOR-GENERAL:	
IMMIGRATION SERVICES	Second Respondent
THE MINISTER OF HOME AFFAIRS	Third Respondent
VFS VISA PROCESSING (SA) (PTY) LTD	Fourth Respondent

Coram: Justice J Cloete

Heard: 12 September 2017

Delivered: 23 November 2017

JUDGMENT

CLOETE J:

Introduction

[1] This is an application to review and set aside the decisions of the second respondent (the "DDG") made on behalf of the first respondent to reject the permanent residence applications of the first and third applicants, coupled with relief to compel the first respondent (the "DG") to issue them with permanent residence permits subject to the provisions of s 25(3) and (4) as well as s 28 of the Immigration Act 13 of 2002 (the "Act").

[2] The second and fourth applicants are their respective spouses. Their applications for permanent residence were based on this fact and therefore also rejected as a consequence. They accordingly "piggyback" on the relief sought by the first and third applicants respectively.

[3] The applicants also seek an order exempting them from having to first exhaust their internal remedies contained in s 8(6) of the Act.

Background

[4] Sections 25 to 27 of the Act deal with permanent residence permits. Section 27(e) relates to retired foreigners. The first applicant applied for permanent residence in terms of s 27(e)(ii) as *'a foreigner of good and sound character who…intends to retire in the Republic, provided that such foreigner proves to the satisfaction of the Director General that he has a minimum prescribed net worth'.*

[5] The third applicant applied in terms of s 27(e)(i), the only difference being that instead of relying on a minimum prescribed net worth, he applied as one who *'has the right to a pension or an irrevocable annuity or retirement account which will give such foreigner a prescribed minimum payment for the rest of his life'*.

[6] Regulation 24(12) of the applicable Immigration Regulations[1] deals with the qualifying amounts for purposes of s 27(e)(i) and (ii) and provides that:

> *'The payment contemplated in section 27(e)(i) of the Act shall be, per month, the amount determined from time to time by the Minister by notice in the Gazette and the net worth contemplated in section 27(e)(ii) of the Act shall be a combination of assets realising, per month, the amount determined by notice in the Gazette.'*
>
> [Emphasis supplied].

[7] The prevailing minimum amount per month, which was published in the Gazette on 3 June 2014, is R37 000.[2]

[8] There is no dispute that the applicants are all foreigners *'of good and sound character'*. All are German citizens. The first and second applicants reside in Paarl and have lived in South Africa since 2012. On 10 January 2012 they were issued with a business visa(s) which expired on 16 January 2017.[3] They still operate a business and have also invested approximately R9 million in property

---

1 Regulation Gazette No 10199 (22 May 2014).
2 GN 451, GG 37716 dated 3 June 2014.
3 Annexure *'FJL3'*, record p30.

in Paarl. Since their visas expired they reside in South Africa on visitors visas which require them to leave the Republic every six months.[4]

[9] The third and fourth applicants reside in Sandbaai near Hermanus. During October 2014 they were granted temporary residence in South Africa. The third applicant was issued with a retired person visa under s 20 of the Act and the fourth applicant with a consequent visitors visa. The third applicant's visa expires on 30 December 2018 and the fourth applicant's visa expires on 30 December 2017.

[10] The first and second applicants lodged their applications for permanent residence on 24 June 2015. The third and fourth applicants did so earlier on 20 January 2015. Given the DG's failure to make a decision on their applications within a reasonable period they were eventually forced to approach court and on 23 February 2017 they obtained an order with the consent of the DG and the third respondent (the Minister) directing the DG to determine their applications within 30 calendar days. The decisions were subsequently provided, albeit outside of the 30 day period. All of their applications were rejected.

The first applicant

[11] Although at the time he lodged his application the first applicant was receiving a pension income of just over R13 000 per month, he applied for permanent residence on the basis that his assets realise an income exceeding R37 000 per month. At the time (when the value of the rand was stronger against the euro) his

[4] Record p463 para 22.

monthly income from his assets alone was some R62 000 per month and he thus clearly met the prescribed minimum. This is not in dispute. What is at issue is whether the first applicant provided *'proof to the satisfaction'* of the DDG of his minimum prescribed net worth – or, as the DDG put it in his letter of rejection dated 3 April 2017 – *'adequate proof'.* No other reasons were provided by the DDG for his decision.

[12] The first and second applicants engaged IBN Business & Immigration Solutions to assist them in their applications. The covering letter of IBN to which their applications were annexed included the following information:

> *'*[The first applicant] *holds a property in Germany. This property is rented out altogether to two tenants respectively and he receives a monthly income thereof. The address of the property in Germany is* [the full street address was provided].
>
> *The monthly income available to* [the first applicant] *is 4.520.40 Euro per month when all rental income from the tenants are combined, is equivalent to approx. ZAR 62 321.40 per month (please refer to the currency converter printout attached). Please refer to deeds register, rental agreements and bank statements attached…*
>
> *Furthermore he receives a monthly pension in the amount of 957,08 Euro which is equivalent to approx. ZAR 13 195.00 per month. Altogether* [the first applicant] *receives monthly an amount of* ***ZAR 75,516.40****. The permanent residence based on retirement is thus based on the income which he receives on a monthly basis…*
>
> *In terms of the information given, we deem the applicants to be suitable candidates for permanent residence and submit the applications on their behalf.*

Should you require any additional information, kindly contact the writer by telephone, fax or e-mail…'[5]

[13] The property in Germany is a commercial property. The DG was provided with a copy of the extract from the relevant Deeds Register and a sworn translation thereof, as well as the lease agreements and bank statements reflecting payment of the amounts in the two lease agreements into the first applicant's bank account.

[14] The relevant portion of the DDG's letter of rejection reads as follows:

'The pension, irrevocable annuity or retirement account stipulated in Section 27(e)(i) must amount to at least R37 000 per month and the net worth contemplated in Section 27(e)(ii) of the Act shall be a combination of assets realising R37 000 per month. You have failed to produce adequate proof that you meet the financial requirements therefore you do not qualify for permanent residence in terms of section 27(e) of the Immigration Act.

You may, within 10 working days from the date of receipt of this notice, make written representations for a review or appeal of the decision. Should you fail to make representations, the decision set out above shall remain effective. It is your responsibility to follow up with the Department after 90 days, should you not have received a response on your representation for a review or appeal of the decision.'

[Emphasis supplied].

[15] In response to this communication the first applicant stated that:

---

[5] Annexure *'FJL3'*, record pp30-31.

'The second respondent has provided no basis for the bald statement that I have not provided adequate proof that I meet the financial requirements set out in the legislation. It is not clear what I failed to prove. He does not, for example, dispute the veracity of the supporting documents. He does not dispute the calculation of my net worth.

Without this information I am not able to make written representations for [an internal] *review or appeal of the decision, as I was invited to do in the fourth paragraph of the decision.'*[6]

[16] In a letter dated 12 April 2017 the first applicant's attorney pertinently drew all of this to the attention of the DDG, going so far as to spell out the following:

'Any decision that materially and adversely affects the rights of any person shall be communicated to that person in the prescribed manner ***and shall be accompanied by the reasons for that decision****. We refer to the provisions of the Promotion of Administrative Justice Act, 3 of 2000 in this regard.*

Your letter has provided no basis for the bald statement that our client has not met the financial requirements.

On the face of the documents submitted to you, our client receives an income from his asset of R62 321.40 per month:-

- *Are you disputing the veracity of the supporting documents?*
- *Are you disputing the calculation of our client's net worth?*
- *Without this information our client is not in a position to exercise his rights to just administrative action.*
- *The "reasons" as given in your letter merely serve to delay the matter and frustrate our client.'*[7]

[17] From the papers it appears that the DDG has yet to respond to this letter.

---

6 Record p21 paras 53 and 54 read with *'PJL5'*, i.e. the decision, record p122, dated 3 April 2017.
7 Annexure *'FJL6'*, record p125.

The third applicant

[18] It is not in dispute that the financial requirements for a retired person temporary residence permit (or visa) are identical to those for applicants who wish to retire in South Africa as permanent residents. It is also not in dispute that the supporting documentation that accompanied the third applicant's application for a temporary residence visa in October 2014 was accepted by the DG as proof that he had met the financial requirements of the Act. The third applicant applied for permanent residence a mere three months after securing his temporary residence visa on the basis of the same type of documentation.

[19] The third and fourth applicants similarly engaged IBN to assist them in their permanent residency applications. The covering letter of IBN to which their applications were annexed included the following information:

> '[The second applicant does] *have the sufficient funds which enables him to sustain himself during the retirement years he plan to spend in South Africa on a permanent basis. Mr. Dornseifer receive a monthly pension incomes from various policies/insurance funds. First Mr. Dornseifer receive a monthly retirement pension from Deutsche Renteversicherung WestFalen of 248.02 Euro. Secondly he receive a monthly amount of 857.19 Euro from his insurance policy, Provinzial. Thirdly Mr. Dornseifer receive a monthly pension of 1,785.19 Euro from Deutsche Telekom. In total Mr. Dornseifer receive R39, 342.90 with the current exchange rate, see attached currency converter printout…*'[8]

[20] Bank statements from their joint Postbank account were annexed as proof of payment of the various pension amounts, together with proof of the third applicant's entitlement to receive such payments from the pension funds

---

[8] Annexure *'EAD4'*, record pp225-226.

concerned. Specific reference is made in two of these documents to the word "pension" which is defined in the Concise Oxford English Dictionary as meaning *'a regular payment made by the state to people of or above the official retirement age…a regular payment made during a person's retirement from an investment fund to which that person or their employer has contributed during their working life…'*. There is no suggestion by the DG or DDG that the third applicant's pension payments will cease on a date prior to his death. The final paragraph of the covering letter from IBN extended the same invitation to the DG and/or DDG that *'should you require any additional information, kindly contact the writer by telephone, fax or e-mail'.*

[21] The letter of rejection from the DDG is couched, in the relevant paragraphs, in identical terms to the one received by the first applicant. Accordingly a similar letter was addressed by the third applicant's attorney requesting reasons. The DDG was pertinently asked to explain whether he disputed the veracity of the supporting documents or the calculation of the monthly payment.[9]

[22] The State Attorney responded on the DDG's behalf on 11 April 2017 and the relevant portion of that letter reads as follows:

> *'2. The reason for the rejection of the application for* [the third applicant] *in the letter mentioned above* [i.e. the DDG's letter of rejection] *is clearly stated: The applicant failed to produce adequate proof that he meets the financial requirements and therefore does not qualify for permanent residency in terms of Section 27(e) of the Immigration Act, No 13 of 2002, as amended ("The Act").*

[9] Annexure *'EAD9'*, record pp299-301.

3. *The decision maker who has rejected the application has discharged his office and is now as you are well aware* functus officio *in the matter and cannot revoke or change his decision.*

4. *The Applicant has been advised of his right to appeal the decision within 10 working days from date of delivery of this notice (5 April 2017) by making written representations to the Department of Home Affairs.*

5. *The written representation by the applicant should be in the form of a written appeal to the Minister of Home Affairs in terms of Section 8(6) of the Act.*

6. *The applicant is legally required to exhaust his internal remedies by appealing his rejection to the Minister of Home Affairs before approaching a judicial court for any relief, even if his views are that the reasons given for the rejection of his application are "not adequate", or arbitrary or capricious.*

7. *It would be improper and premature of the applicant to approach the court for any relief if he has failed to exhaust his internal remedies first.*

8. *Our instructions are to oppose any application to court as alluded to in the last paragraph of your letter dated 10 April 2017, and will any such application be opposed on the grounds set out above…'*[10]

[23] The respondents did not deliver answering affidavits. The first to third respondents instead filed a notice in terms of rule 6(5)(d)(iii) in which they contended that, as a matter of law, the applicants are precluded from approaching court for relief without first exhausting their internal remedies.

[24] The first applicant subsequently sought leave to introduce a supplementary affidavit which was opposed by the first to third respondents. The purpose of the

[10] Annexure *'C'*, record pp439-440.

supplementary affidavit was twofold. First, to place relevant information before the court which only came to the attention of the applicants after the application was launched. Second, to place facts before the court in anticipation of the first to third respondents being unsuccessful in their opposition based only on a point of law.

[25] Leave to introduce the supplementary affidavit was granted, given that the applicants were properly required to bring the new information to the attention of the court (particularly in circumstances where the first to third respondents had failed to do so).

[26] The information was that it had recently come to their attention that the DG may be labouring under the misapprehension that an applicant for a s 27(e) permit must submit a certificate by a chartered accountant that he or she *'has the right to a pension or irrevocable retirement annuity with a minimum value of R20 000 per month or a net worth of at least R12 000 000… providing a minimum income of R20 000 for the rest of his/her life'.*

[27] The first applicant stated that:

> *'12. As can be seen from the page from the website of the Department of Home Affairs (Department) attached hereto marked "FJL1", the Department has lost 4 616 permanent residence applications. Affected applicants have been asked to resubmit their applications by 31 July 2017. What is relevant for our purposes is the application form, which is contained in a link "downloaded here".*

13. *A copy of the form is attached hereto marked "FJL2". It is marked B1-947. The sub-heading refers to sections 26 and 27 of Act No. 13 of 2002; Regulation 33.*

14. *The form contains numerous errors and inconsistencies which will be referred to at the hearing of this matter. At this stage, it is important to point out that the form is different in a number of respects from the Form 18 (DHA-947), which forms part of the 2014 Immigration Regulations.*

15. *The "requirement" of a certificate by a chartered accountant is found at 15.10.1 on page 17 of the form at "FJL2".*

16. *There is no reference to certification by a chartered accountant in Form 18, which forms part of the Regulations; or in Regulations 23 or 24. The only reference to this requirement is in respect of an application contemplated in section 27(c) of the Immigration Act, and is found in Regulation 24(5) and in the correct version of Form 18. For convenience, I have attached a copy of pages 175 and 176 of the Regulations marked "FJL3".*

17. *… Should the applicants be mistaken and the third respondent has in fact promulgated amended regulations with requirements that specify the manner in which we are required to prove that we meet the financial requirements, the respondents should file answering affidavits and place this information before the Court.*

18. *It will be argued that the "new form" (referred to above and attached hereto), strengthens our case for relief in terms of section 7(2)(c) of PAJA. Had we exercised our internal remedies all we would have been able to do was re-submit the documentary proof that we met the financial requirements, or submit updated documents. The second respondent, having regard to the "new requirements" would have rejected our applications on the basis that the proof was inadequate. We would then have to re-submit our documentation to the third respondent, who would also reject our applications. At best, they would have advised us that we had not provided certification by a chartered accountant. In either case*

we would be in the same position we are now, having to take the decision of the Minister on review.'[11]

[Emphasis supplied].

Discussion

[28] Section 27(e) provides as follows:

*'**27. Residence on other grounds.** – The Director-General may, subject to any prescribed requirements, issue a permanent residence permit to a foreigner of good and sound character who---…*

(e) intends to retire in the Republic, provided that such foreigner proves to the satisfaction of the Director-General that he or she---

(i) has the right to a pension or an irrevocable annuity or retirement account which will give such foreigner a prescribed minimum payment for the rest of his or her life; or

(ii) has a minimum prescribed net worth;…'

[29] The degree or nature of the proof required for purposes of s 27(e) is not prescribed in the body of either the Act or the regulations. Regulation 23(1) however stipulates that an application for a permanent residence permit contemplated in s 25(2) of the Act *'shall be made on Form 18 illustrated in Annexure A…'*. Section 25(2) in turn provides that:

'Subject to this Act, upon application, one of the permanent residence permits set out in sections 26 and 27 may be issued to a foreigner.'

[30] Regulation 23(2) to (7) sets out the documents that are required to accompany such an application. No reference is made to any financial documentation other

[11] Record pp461-462.

than in relation to applications under s 26(c) and (d) and 27(g) of the Act which do not apply to the first and third applicants.

[31] Form 18 – completed by the first and third applicants – bears the heading *'Application for Permanent Residence Permit [Section 25(2): Regulation 23(1)]'.* The form contains a schedule listing the documents which must be submitted *'for all categories of applicants'*. Under the block referring to s 27(e) the documents are described as follows:

> *'Proof of a pension fund or an irrevocable retirement annuity or a net worth or a combination of assets realising the minimum amount per month as determined from time to time by the Minister by notice in the Gazette.'*

[32] By contrast, the requirement on the Departmental website[12] reflects, under the block for category s 27(e) applicants, that what must be submitted is a certificate by a chartered accountant *'that applicant has the right to a pension or irrevocable annuity with a minimum value of R20 000 per month or a net worth of at least R12 000 000…providing a minimum income of R20 000 for the rest of his/her life'.*

[33] It is thus evident that the Departmental website purports to contain a requirement for a s 27(e) application which is not prescribed by the Act or the regulations, and in turn, Form 18. There is simply no prescribed requirement for a certificate by a chartered accountant to accompany such an application and this was properly conceded by counsel for the first to third respondents. Clearly, a list of

[12] Annexures *'FJL1'* and *'FJL2'*, record pp465-483 especially block 15.10, p482.

requirements generated by the officials of the Department – purporting to have been produced pursuant to s 26 and s 27 and *'regulation 33'* – can never override the provisions of the Act or the regulations issued thereunder. In any event there is no regulation 33 – which is presumably meant to be a reference to regulation 23 – and the latter, as I have said, does not refer directly or indirectly (by way of Form 18) to any such requirement. Moreover the financial requirements stipulated on the Departmental website for s 27(e) applicants conflict with the provisions of regulation 24(12) and the amount determined by the Minister herself of R37 000 per month.

[34] Accordingly, and to the extent that the DDG might have placed reliance, in rejecting the applications, on the absence of a certificate by a chartered accountant, such reliance was and is misplaced. Of course, neither the applicants nor the court know whether such reliance caused the DDG to reject the applications because no reasons were given for the rejection, other than the bald statement that the applicants failed to provide *'adequate proof'*.

[35] It was argued on behalf of the first to third respondents that the *'reasons given'*, in the context in which the applications were rejected, were adequate, because they are *'objectively discernible'*. However this cannot be the case when regard is had to the plain requirements of Form 18 itself, and particularly where, in respect of the third applicant, the DG accepted, without demur, the "proof" that he submitted for a temporary residence visa – the identical type of proof – only a few months before submission of his application for a permanent residence visa.

[36] Furthermore, s 27(e) requires a foreigner to *'prove to the satisfaction'* of the DG that he or she has met the prescribed minimum financial requirements. In these circumstances, and given the apparent confusion within the Department itself – as evidenced by its own website – the "reasons" provided by the DDG were grossly inadequate.

[37] As was held in *Bato Star*:[13]

> *'[40] What constitutes adequate reasons has been aptly described by Woodward J, sitting in the Federal Court of Australia, in the case of* Ansett Transport Industries (Operations) Pty Ltd and Another v Wraith and Others *(1983) 48 ALR 500 at 507 (23-41), as follows:*
>
> *"The passages from judgments which are conveniently brought together in* Re Palmer and Minister for the Capital Territory *(1978) 23 ALR 196 at 206-7; 1 ALD 183 at 193-4, serve to confirm my view that s 13(1) of the Judicial Review Act requires the decision-maker to explain his decision in a way which will enable a person aggrieved to say, in effect: 'Even though I may not agree with it, I now understand why the decision went against me. I am now in a position to decide whether that decision has involved an unwarranted finding of fact, or an error of law, which is worth challenging.'*
>
> *This requires that the decision-maker should set out his understanding of the relevant law, any findings of fact on which his conclusions depend (especially if those facts have been in dispute), and the reasoning processes which led him to those conclusions. He should do so in clear and unambiguous language, not in vague generalities or the formal language of legislation. The appropriate length of the statement covering such matters will depend upon considerations such as the nature and importance of the decision, its complexity and the time available to formulate the statement. Often those factors may suggest a brief statement of one or two pages only."*
>
> *To the same effect, but more brief, is Hoexter* The New Constitutional and Administrative Law v*ol 2 at 244:*
>
> *"[I]t is apparent that reasons are not really reasons unless they are properly informative. They must explain* why *action was taken or not taken; otherwise they are better described as findings or other information." '*

---

[13] *Minister of Environmental Affairs and Tourism and Others v Phambili Fisheries (Pty) Ltd; Minister of Environmental Affairs and Tourism and Others v Bato Star Fishing (Pty) Ltd* 2003 (6) SA 407 (SCA).

[38] An affected person must exhaust his or her available internal remedies prior to judicial review of an administrative action, unless exceptional circumstances are found to exist by a court under s 7(2)(c) of PAJA:[14] see *inter alia Koyabe and Others v Minister of Home Affairs and Others (Lawyers for Human Rights as Amicus Curiae).*[15]

[39] Section 8(6) of the Act provides that an applicant aggrieved by a decision of the DG has the right to *'make an application in the prescribed manner to the Minister for the review or appeal of that decision'.*

[40] The parties are *ad idem* that an appeal or review in terms of s 8(6) is a hearing *de novo*.[16] The form which an applicant is required to complete for this purpose is Form 49.[17] This form in turn requires an applicant to state the reason(s) for the *'appeal'* and expressly stipulates that the *'completed form must be accompanied by the relevant documents in support of your appeal'.*

[41] Apart from the obvious reason of the rejection of their applications, the only other reason which the first and third applicants will be able to give is that, according to the DDG, they have failed to provide *'adequate proof'* that they meet the prescribed financial requirements. They cannot defend their position in any way and they cannot say whether the DDG's decision has involved an unwarranted finding of fact, an error of law, or a flawed reasoning process. At best, they can

---

14 Promotion of Administrative Justice Act 3 of 2000.
15 2010 (4) SA 327 (CC) paras [34] to [38].
16 This issue was raised with counsel by way of a written directive before the hearing and dealt with in supplementary heads of argument.
17 In terms of regulation 7(3).

only speculate. Given that this is all they can do, they are in no position to exercise their right to just administrative action.

[42] What is also relevant is that the Minister herself is a party to these proceedings but has chosen to given no input whatsoever. It will be the Minister or her delegated appointee who will consider and decide the appeals. Yet the Minister has permitted a website, which is both legally and factually incorrect – at least for s 27(e) applicants – to be set up for purposes of conveying crucial information to the public at large.

[43] Moreover, there can be no question that the first and third applicants have produced objectively adequate proof that they meet the financial requirements. Indeed it is difficult to conceive what more they could have done, having regard to the Act, regulations and Form 18. Perhaps the strongest indicator of this is the DG's acceptance of the identical type of documentation in the case of the third applicant when granting him a temporary residence visa just three months before he applied for permanent residence.

[44] This is also not one of those cases where the subject matter of an administrative action is very technical or of a kind where a court has no particular proficiency, as for example in fishing allocations or the award of tenders.

[45] In giving content to *'exceptional circumstances'* for purposes of s 7(2)(c), a court must consider the availability, effectiveness and adequacy of the existing internal

remedies.[18] The remedy under s 8(6) of the Act is clearly technically available. However, its effectiveness and adequacy are neutralised by the fact that, in the absence of adequate reasons, the applicants cannot give any content to their right of appeal or, put differently, the internal remedy available under the Act is in substance no remedy at all.

[46] I am thus persuaded that the first and third applicants have met the high threshold of "exceptional circumstances" and that they are entitled to the exemption under s 7(2)(c) of PAJA.

[47] Sections 25(3) and (4) of the Act provide that:

> *'(3) A permanent residence permit shall be issued on terms and conditions that the holder is not a prohibited or an undesirable person, and subject to section 28.*
>
> *(4) For good cause, as prescribed, the Director-General may attach reasonable individual terms and conditions to a permanent residence permit.'*

[48] Section 28 of the Act provides that the DG may withdraw a permanent residence permit on various specified grounds. The order that I shall make will take these statutory provisions into account. Costs will follow the result.

---

[18] *Koyabe* at para [39].

[49] **In the result the following order is made:**

1. **The first and third applicants, and consequently the second and fourth applicants, are exempted from the obligation to exhaust the internal remedies available to them in terms of section 8(6) of the Immigration Act 13 of 2002 ("the Act").**
2. **The following decisions of the second respondent (made on behalf of the first respondent) are reviewed and set aside:**
   - **2.1 The decision made on 3 April 2017 to reject the first applicant's application for a permanent residence permit in terms of section 27(e)(ii) of the Act;**
   - **2.2 The consequent decision made on 1 June 2017 to reject the second applicant's application for a permanent residence permit in terms of section 26(b) of the Act;**
   - **2.3 The decision made on 3 April 2017 to reject the third applicant's application for a permanent residence permit in terms of section 27(e)(i) of the Act; and**
   - **2.4 The consequent decision made on 21 April 2017 to reject the fourth applicant's application for a permanent residence permit in terms of section 26(b) of the Act.**
3. **The first respondent is ordered to issue the first applicant with a permanent residence permit in terms of section 27(e)(ii) of the Act, and the second applicant with a consequent permanent residence permit in terms of section 26(b) of the Act, within 30 (thirty) calendar days from date of this order, and to make same available at the Cape Town offices**

of the fourth respondent (subject to the provisions of sections 25(3) and (4) as well as section 28 of the Act).

4. **The first respondent is ordered to issue the third applicant with a permanent residence permit in terms of section 27(e)(i) of the Act, and the fourth applicant with a consequent permanent residence permit in terms of section 26(b) of the Act, within 30 (thirty) calendar days from date of this order, and to make same available at the Cape Town offices of the fourth respondent (subject to the provisions of sections 25(3) and (4) as well as section 28 of the Act).**
5. **The first to third respondents shall pay the costs of this application jointly and severally, the one paying the others to be absolved, and including all reserved costs orders.**

_____

J I CLOETE

For applicants: Adv Lee Anne **De la Hunt** – 4245301

Instructed by: Scheibert and Associates, Mr H-P Scheibert – 4220660

For respondents: Adv Adiel **Nacerodien** – 424 4875

Instructed by: State Attorney, Ms S Karjiker – 4410200