

REPUBLIC OF SOUTH AFRICA



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

CASE NO: A5017//17

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: YES
(3) REVISED

4 JULY 2018

FHD VAN OOSTEN

In the matter between

**AUCKLAND PARK THEOLOGICAL SEMINARY
WAMJAY HOLDING INVESTMENTS (PTY) LTD**

**FIRST APPELLANT
SECOND APPELLANT**

and

UNIVERSITY OF JOHANNESBURG

RESPONDENT

LEGAL SUMMARY

VAN OOSTEN J:

APPEAL – DISMISSED – VALIDITY OF CESSION OF RIGHTS IN NOTARIAL LEASE AGREEMENT

This is an appeal against the whole of the judgement and the order granted by the court of quo, which decided in favour of the respondent, to evict the appellants and

cancel and deregister the notarial long term lease. The issue is the validity of the first appellant's cession to the second appellant, of its rights in a notarial lease agreement concluded with the respondent.

The court a quo considered the issue on an interpretation of the lease agreement and concluded that the first appellant was *delectus personae* in relation to the lease, which disentitled it from ceding those rights to the second appellant.

The court a quo held the conduct of the first appellant in ceding the lease rights constituted a repudiation of the lease agreement, which was accepted and the lease agreement duly cancelled.

The court dismissed the appeal.