IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL LOCAL DIVISION, DURBAN

CASE NO: D1696/2020

In the matter between :

CINDY NAIDOO	**FIRST APPLICANT**
JENI DHARAMPAL	**SECOND APPLICANT**

and

ESTELLE CLAUDIA SANDERS	**FIRST RESPONDENT**
SHERIFF OF THE COURT, PINETOWN	**SECOND RESPONDENT**

ORDER

The following order shall issue:

1. Condonation is granted in respect of the late filing of the applicant's replying affidavit, with no order as to costs.

2. The first respondent is ordered to comply with, and perform all obligations as contained in the agreement of sale affixed to the founding affidavit marked as Annexure 'CN2', within 30 (thirty) days of this order.

3. The first respondent shall take all steps necessary which shall include, but shall not be limited to, signing all documentation including the application to obtain planning approval of the building plans in respect of the dwellings on Erf 2[...],

Queensburgh, Registration Division FT in the Province of KwaZulu-Natal being 1473 meters in extent, situated at 2[...] P[...]'s H[...], Northdene, Queensburgh, necessary or associated with passing transfer of the property into the names of the first applicant and second applicant;

4. In the event that the first respondent fails, neglect or refuses to comply with paragraph 2 and 3 above, the Sheriff of the Court, Pinetown is directed to take all steps necessary, but not limited to signing documentation that is required, necessary or associated with passing transfer of the property into the name of the first applicant and second applicant;

5. The first respondent is directed to pay the applicants' costs on a party and party scale.

JUDGMENT

Chetty J:

[1] The first and second applicants are educators who operate a school under the name of Excel Academy School of Learning located at 1[...] P[...]'s H[...], Northdene, Queensburgh. On or about 2 October 2019 they concluded a written agreement ('the sale agreement') for the sale of an adjacent property at 2[...] P[...]'s H[...], Northdene with Ms Sanders, the first respondent ('the seller'). The latter is the registered owner of the property. The intention of the applicants is to extend their schooling operation into the adjacent property. Whether they are entitled to, in terms of the relevant municipal town planning scheme, is not a matter that is necessary for this court to consider.

[2] The sale agreement contained two terms or conditions of relevance to the dispute between the parties. The first required the applicants to obtain a bank guarantee for the full purchase price of R1 350 000 within 30 days of the date of signature. According to the applicants, at the time they inspected the property and prior to entering into negotiations with the seller, they noticed certain newly erected buildings in respect of which they were advised that building plans were at the

'approval stage' with the municipality. Based on the representations made to them by the first respondent, the applicants contend that they entered into a binding sale agreement on 2 October 2019. At the time of doing so, the applicants anticipated delivery of the approved building plans as well as the necessary certificates of occupation by the first respondent. It is for this reason that the applicants submit that clause 3.4, which is referred to below, was included as part of the sale agreement.

[3] The second aspect relates to conditions imposed by the bank issuing the bond guarantee. Despite the sale agreement containing a *voetstoets* clause, Nedbank Limited required verification of the structural integrity of dwellings on the property and that the buildings on the property complied with the relevant building standards. The attorney attending to the registration of the bond (Beharie & Company) addressed an email to the transferring attorney (Parisha Bhika Attorneys) on 30 October 2019 stating that the bond was subject to, amongst others, special conditions that rotten facia boards and exposed timber boards to the main dwelling, where damaged, be repaired. In addition, as referred to earlier, the bank required approved plans for the main dwelling and the granny flat on the property.

[4] More importantly, in the context of the issue giving rise to the litigation between the parties, the sale agreement contains a special condition, appearing as an addendum to clause 3 of the sale agreement, which reads as follows:

'The sale of the aforesaid property is subject to approval of building plans by the municipality as well as the permission granted by the building Inspector from the municipality. If the approval is not obtained from the municipality and the relevant building inspector, the offer to purchase is deemed null and void. The seller or purchaser will be free of any repercussions or obligations in this respect.'

[5] At first glance the provisions of clause 3.4 could easily be construed as a term of the sale agreement, rather than a 'special' condition. The ordinary grammatical interpretation[1] of the clause, read in its context, aims to protect the purchaser from

[1] *Natal Joint Municipal Pension Fund v Endumeni Municipality* 2012 (4) SA 593 (SCA) para 25
'Courts say in such cases that they adhere to the *ordinary grammatical meaning* of the words used. **However that too is a misnomer**. It is a product of a time when language was viewed differently and

concluding a sale agreement in respect of a property of which the buildings thereon have been constructed without the necessary planning authorization and/or the issuance of a certificate of occupation, in terms of the National Buildings Regulations and Building Standards Act 103 of 1977 ('the Act').[2] As will appear from the argument raised on behalf of the applicants, it is contended that the provisions of clause 3.4 constitute a 'resolutive' condition. It is apposite at this point to have regard to what *Christie's Law of Contract*[3] says in regard to the terms of a contract:

'In *R v Katz*, De Villiers AJ set out the essential difference between terms which, being promissory, are enforceable, and conditions, which are not:

"The word 'condition' in relation to a contract, is sometimes used in a wide sense as meaning a provision of the contract, ie an accepted stipulation, as for example in the phrase 'conditions of sale'. In this sense the word includes ordinary arrangements as to time and manner of delivery and of payment of the purchase price, etc - in other words the so called *accidentalia* of the contract. In the sense of a true suspensive or resolutive condition, however, the word has a much more limited meaning, viz of a qualification which renders the operation and consequences of the whole contract dependent upon an uncertain event. . . In the case of true conditions the parties by specific agreement introduce contingency as to the existence or otherwise of the contract, whereas provisions which are not true conditions bind the parties as to their fulfilment and on breach give rise to ordinary contractual remedies of a compensatory nature, ie (depending on the circumstances) specific performance, damages, cancellation or certain combinations of these."'

[6] The author went on to refer to the decision of Botha J in *Design and Planning Service v Kruger* 1974 (1) SA 689 (T) at 695B-D where the following was said as to the meaning of a suspensive and a resolutive condition in a contract:

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regarded as likely to have a fixed and definite meaning, a view that the experience of lawyers down the years, as well as the study of linguistics, has shown to be mistaken. Most words can bear several different meanings or shades of meaning and to try to ascertain their meaning in the abstract, divorced from the broad context of their use, is an unhelpful exercise. The expression can mean no more than that, when the provision is read in context, that is the appropriate meaning to give to the language used.''

[2] See sections 7 and 14 of the National Buildings Regulations and Building Standards Act 103 of 1977.

[3] G B Bradfield *Christie's Law of Contract* 8 ed (2022) at 171.

‘In the case of a suspensive condition, the operation of the obligations flowing from the contract is suspended, in whole or in part, pending the occurrence or non-occurrence of a particular specified event (cf *Thiart v Kraukamp* 1967 (3) SA 219 (T) at p. 225). A term of the contract, on the other hand, imposes a contractual obligation on a party to act, or to refrain from acting, in a particular manner. A contractual obligation flowing from a term of the contract can be enforced, but no action will lie to compel the performance of a condition (*Scott and Another v Poupard and Another,* 1971 (2) SA 373 (A) at p 378 *in fin*).’

[7] The following extract from *R v Katz* [1959] 1 All SA 524 at 533-534 is also instructive:

‘Where the qualification defers the operation of the contract, the condition is suspensive, and where it provides for dissolution of the contract after interim operation, the condition is resolutive. The exact dividing line between the two classes is sometimes difficult to draw, because failure of a suspensive condition may have a resolutive effect, and a resolutive condition in a sense suspends dissolution of the contract. But for present purposes that aspect of the matter need not be pursued. What is of importance is the distinction between true conditions of either kind and ordinary stipulations falling outside their category. . . . A purchaser of land is usually not prepared to part with the full purchase price until he has received due transfer, nor usually is the person who buys goods by description or sample prepared to pay until he has had an opportunity of satisfying himself that the goods delivered conform to the contract description or the sample as the case might be. But in neither of the last-mentioned cases would the arrangement result in the contract being regarded as conditional in the true sense: indeed I think the purchasers themselves would, in the event of defective delivery, be surprised to hear that they are obliged to resign themselves to the position that the contract has failed to come into operation through failure of a suspensive condition, and that they have no claim for specific performance and damages or cancellation and damages. The withholding of part of the purchase price in such cases merely results from ordinary stipulation of contractual terms, the purpose thereof being to safeguard the purchaser against the

risk of parting with his money and thereafter being unable either to obtain delivery in conformity with the contract or even to get back his money.'

[6] Upon being provided with the bond guarantee, the first respondent refused to accept the conditions attached thereto, in particular the requirement that she was obliged to effect certain necessary repairs to the buildings, as well as obtaining the certificates of occupation in respect of the dwellings. The first respondent relied on the *voetstoets* clause in the agreement, contending that there was no obligation on her to do anything more once the applicants had inspected the property and signed the agreement. In light of the first respondent's response, the applicants attempted to secure the necessary occupation certificates and proof of the approval of the building plans through the first respondent's architect, who was ostensibly responsible for the drawing and submission of the plans. Those attempts proved futile.

[7] It bears noting that throughout the exchange of correspondence, the position of the applicants has been that a binding agreement was concluded between the parties, resulting in duties and obligations on both sides. The applicants interpreted the stance of the first respondent in refusing to produce the approved building plans as an attempt to resile from the sale agreement, which they contended would result in her being in breach. This is evident from the letter dated 28 November 2019 addressed by the conveyancing attorney, Ms Bhika, to the first respondent in which the latter was placed on terms to comply with her obligations in terms of the agreement.

[8] In response, the first respondent through her legal representative at the time indicated that the blame for non-compliance with clause 3.4 lay with her architect and not herself. The attempt to shift blameworthiness is of no assistance to the first respondent as the sale agreement imposes a personal obligation on her. It is also necessary to record that the correspondence exchanged between the parties indicates that the applicants were at all times prepared to grant the first respondent further time to obtain the necessary documentation in order to ensure compliance with clause 3.4 in an attempt to resolve the matter amicably. Those attempts too were futile, resulting in the applicants instituting the present application.

[9] The applicants seek the following relief:

‘a. The first respondent is ordered to comply and perform all obligations as contained in the agreement of sale affixed to the founding affidavit marked as Annexure “CN2” hereto, within seven days of delivery of the order;

b. The first respondent shall take all steps necessary which shall include, but is not limited to, signing all documentation that is required, necessary or associated with passing transfer of the property into the names of the first applicant and second applicant;

c. In the event that the first respondent fails, neglect or refuses to comply with paragraph 1 and two above, the sheriff of the court, Pinetown is directed to take all steps necessary, but not limited to signing all documentation that is required, necessary or associated with passing transfer of the property into the name of the first applicant and second applicant;

d. The first respondent to pay the cost of the application on an attorney [and] own client scale.’

[10] The first respondent opposed the application and raised a number of points in *limine*, which in my view, constitute ordinary defences that go to the merits of the matter and which are not in and of themselves, dispositive of the application. I therefore considered the defences in the context of a determination of the merits as a whole.

[11] The first defence raised is that the provisions of clause 3.4 of the sale agreement stipulate that in the event of the approval of building plans, as well as a certificate of occupation, *not* been obtained from the municipality and the building inspector, the *offer to purchase is deemed null and void*. In its heads of argument the first respondent accepts that the provisions of clause 3.4 constitute a suspensive condition and submits that a contract only comes into full force and effect on the condition is fulfilled. It submits further that the applicants cannot enforce any rights arising from the agreement until the condition has been fulfilled. It will be recalled

that the agreement was signed by both parties on 2 October 2019. The first respondent relies on a letter from the Department of Planning Environment and Management at the eThekwini Municipality dated 15 August 2019, which informs that no building work may proceed until such time as a building plan has been approved. On that basis it is contended by the first respondent that no building plans have been approved and no permission has been obtained by the building inspector to occupy the buildings on site.

[12] Accordingly, it is submitted on behalf of the first respondent that the applicant's correct course of action should have been to ensure fulfilment of the special conditions by either bringing an application to compel compliance therewith or by taking action themselves to ensure fulfilment, prior to the launching of this application. It was further contended that the sale agreement does not place any obligation on either the seller or the purchaser to fulfil the special condition, and to obtain the necessary approvals from the municipality. This omission, it was submitted, renders clause 3.4 void for vagueness, and therefore unenforceable.

[13] In my view, the defences raised by the first respondent in relation to clause 3.4 are specious and without merit. Firstly, it would appear that the first respondent had knowledge at the time that she concluded the sale agreement that no building plans had been approved in respect of the buildings on her property. There is nothing in the papers to suggest that she had brought this to the attention of the purchasers (the applicants), or that even subsequent to the agreement being concluded, brought to their attention the contents of the letter received from the municipality. At the time of the hearing, nothing was placed before the court to indicate that the first respondent had ever followed up on the issue of the approved plans.

[14] I turn to the first respondent's argument that to the extent that it (the first respondent) has not been able to secure the approval of the planning authorisations from the municipality, and the attendant certificates of occupation, the sale is null and void, and that no basis lies for the application launched by the applicants. In other words, as I understood this leg of the first respondent's argument, she contends that to the extent she has been unable to comply with clause 3.4 the

agreement falls away, without any further obligations on her part. The submission on behalf of the first respondent is that the applicants have acted prematurely – 'jumping the gun' – as it where, without first seeking an order to compel the first respondent to comply with clause 3.4.

[16] I am not persuaded by this argument, which I consider to be circuitous.[4] The applicants seek that the first respondent comply and perform all obligations as contained in the sale agreement, including and particularly clause 3.4 which is considered the main stumbling block to the finalisation of the sale of the property. The first respondent's response to this contention is that the special condition 'is silent as to which party bears the onus of approval'. I raised this issue during the course of the hearing with Mr *Boden*, who appeared on behalf of the first respondent.

While the provisions of clause 3.4 do not place an express obligation on either the applicants or the first respondent to obtain the approved plans, the answer must be sought in terms of the relevant planning legislation.

[17] Section 4(2) of the Act provides for the following:

'4 Approval by local authorities of applications in respect of erection of buildings.—

(1) No person shall without the prior approval in writing of the local authority in question, erect any building in respect of which plans and specifications are to be drawn and submitted in terms of this Act.

(2) Any application for approval referred to in subsection (1) shall be in writing on a form made available for that purpose by the local authority in question.

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[4] I also consider the views expressed in *Comwezi Security Services (Pty) Ltd and Another v Cape Empowerment Trust Ltd* (182/13) [2014] ZASCA 22 (28 March 2014) para 12 to be apposite:
'A party to a contract should not by its own unlawful conduct be allowed to obtain an advantage for himself to the disadvantage of his counterpart. "It is a fundamental principle of our law that no man can take advantage of his own wrong" and "to permit the repudiating party to take advantage of the other side's failure to do something, when that failure is attributable to his own repudiation, is to reward him for his repudiation".'

(3) Any application referred to in subsection (2) shall—

(*a*) contain the name and address of the applicant and*, if the applicant is not the owner of the land on which the building in question is to be erected, of the owner of such land*;

(*b*) be accompanied by such plans, specifications, documents and information as may be required by or under this Act, and by such particulars as may be required by the local authority in question for the carrying out of the objects and purposes of this Act.

(4) Any person erecting any building in contravention of the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R100 for each day on which he was engaged in so erecting such building.' (my italics)

[18] The first respondent has never disputed that she is the registered owner of the property which is the subject matter of the sale agreement. Moreover, she does not take issue with the Deeds Office search, which reflects her name and identity number as the owner of the property being Erf 2[...] Queensburgh. Correspondingly, s 1 of the Act defines an 'owner' in relation to a building or land, as 'the person in whose name the land on which such building was or is erected or such land, as the case may be, is registered in the deeds office in question. . . .'. It follows therefore that the default position must be that person competent to apply for the approval of building plans is the 'owner' of the land on which the buildings are sought to be erected.

[19] The wording of s 4 however permits a person other than the owner to apply for the approval of building plans. However, such an application can only be made with the consent or authorisation of the owner. It follows that the owner of the property, being the first respondent in the present matter, must either seek the approval from the municipality herself, or authorise any other person to do so on her behalf. On either interpretation, the owner (the first respondent) is the pivotal person for the purpose of obtaining approved building plans from the municipality.

[20] The wording of the section precludes a prospective owner (in the position of the applicants) from applying for such approval, in the absence of consent from the owner. The applicants have no legal title to the property in question until registration of transfer into their names. They were not the owners of the property at the time when the buildings in question were constructed, they did not occupy the property at the material time, nor were they otherwise in possession of the property at the said time.

[21] Accordingly, in my view the first respondent has misinterpreted the provisions of clause 3.4 in concluding that there is no onus on her to obtain the approved building plans, and the basis for her opposition in this regard must fail. It is clearly evident from the correspondence that it is the first respondent who engaged an architectural draughtsman to prepare certain plans, and to submit them to the municipality. This much is evident from the correspondence between the parties, in particular the email exchanges between her legal representative and that of the applicants between 25 and 27 November 2019.

[22] It bears noting that the sale agreement between the applicants and the first respondent refers in the special conditions in clause 3.4 to the 'permission granted by the Building Inspector from the municipality'. Subsequent correspondence (including the conditions attached by Nedbank Limited in granting the bond for the purchase price) refer to '*approved plans for the main dwelling and granny flat*' as well as to an '*occupation certificate*'. Having regard to the sale agreement, read together with the pleadings, it appears to me that both parties have operated under a mutual misconception of the role of the 'building inspector' in the plan approval process.

[23] Properly interpreted, what the parties intended to refer to, in my view, are the permissions granted by the 'building control officer' as contemplated in s 5 of the Act. Section 6 of the Act importantly provides that the functions of the 'building control officer' are to :

‘(*a*) make recommendations to the local authority in question, regarding any plans, specifications, documents and information submitted to such local authority in accordance with section 4 (3);

(*b*) ensure that any instruction given in terms of this Act by the local authority in question be carried out;

(*c*) inspect the erection of a building, and any activities or matters connected therewith, in respect of which approval referred to in section 4 (1) was granted;

(*d*) report to the local authority in question, regarding non-compliance with any condition on which approval referred to in section 4 (1) was granted.’

In contrast, the role of the ‘building inspector’ is limited to an inspection of the building site to ensure that what is erected is in conformity with the approved plans.

[24] The second and third grounds of opposition pertained to the requirement that the applicants had to secure a bond within 30 days of the date of signature of the sale agreement. It is not in dispute that the applicants had secured the necessary bond guarantees. However, the bond came with stipulations which had to be met prior to the payment of the purchase price. It is in this regard that the first respondent contends that the applicants have failed to comply with the provisions of the agreement, and she states that in any event she was not prepared to meet the financial implications of all of the requirements stipulated by the bank which put up the necessary bond guarantee.

[25] Allied to this argument is the reliance by the first respondent on the *voetstoets* clause, in respect of which she contends that the applicants had inspected the buildings on site, and concluded an agreement to purchase the property with the buildings in the condition that they were in. Accordingly, the first respondent’s position is that she was not willing to effect the necessary repairs or maintenance to the buildings, and that the applicants (through the bank which granted the necessary bond guarantee) were not in a position to impose conditions on her which were not part of the written sale agreement. In my view, there is much merit in that argument.

[26] Insofar as the bank's insistence of repairs being carried out to the building is concerned, rendering it structurally safe, at the hearing of the matter the applicants undertook to absorb the financial costs of any necessary repairs and maintenance, in the interests of finalising the sale and transfer of the property into their names. It should be pointed out that the concession made by the applicants was without any acknowledgment that they (the applicants) bore any obligation to pay for the cost of repairs in terms of the agreement. It was simply tendered to remove any obstacles standing in the way of the transfer of the property to them. The concession is duly recorded.

[27] Much argument was devoted by Ms *Naidoo*, who appeared for the applicants, in persuading the court that the provisions of clause 3.4 constituted a resolutive condition rather than a suspensive condition. Reliance was placed on the decision *Gravitek CC v Cartmel Investments CC and Others* (7526/2015) [2019] ZAKZDHC 11 (21 June 2019) where the court was confronted with an application to direct the respondents to sign all documents and do all things necessary to give effect to the re-registration of a close corporation and to the enforcement of a purchase and sale agreement in respect of an immovable property, which had been subject to the fulfilment of a resolutive condition.[5] Not unlike the present matter, it was contended on behalf of the respondents in *Gravitek* that the failure to comply with a condition rendered the sale agreement ineffective with the result that the agreement fell away, thereby releasing the respondent of any obligations under the contract.

[20] Henriques J considered the differences between suspensive and resolutive conditions in *Gravitek,* paras 16-20 :

'[16] Suspensive conditions suspend the rights and obligations of contracting parties until an uncertain future event occurs. Upon the occurrence of the event, the contract is brought into existence and the rights and obligations of the parties become enforceable.

[5] The Court ultimately referred the issues for determination to oral evidence in light of disputes of fact on the papers.

[17] The effect of the non-fulfilment of a suspensive condition is that the suspended rights and obligations of the contracting parties never come into existence. The following dictum in *Mia v Verimark Holdings (Pty) Ltd* [2010] 1 All SA 280 (SCA) para 1 concisely sets out the legal effect of a suspensive condition.

"The conclusion of a contract subject to a suspensive condition creates 'a very real and definite contractual relationship' between the parties. Pending fulfilment of the suspensive condition the exigible content of the contract is suspended. On fulfilment of the condition the contract becomes of full force and effect and enforceable by the parties in accordance with its terms. No action lies to compel a party to fulfil a suspensive condition. If it is not fulfilled the contract falls away and no claim for damages flows from its failure. In the absence of a stipulation to the contrary in the contract itself, the only exception to that is where the one party has designedly prevented the fulfilment of the condition. In that event, unless the circumstances show an absence of *dolus* on the part of that party, the condition will be deemed to be fulfilled as against that party and a claim for damages for breach of the contract is possible."

[18] To summarise, the general effect of the non-fulfilment of a suspensive condition in a contract is that such contract is unenforceable. To quote Shakespeare "life cannot be breathed into a corpse".

[19] A resolutive condition is the antithesis of a suspensive condition. The contract concluded between the parties is immediately binding with all rights and obligations coming into existence at the inception of the contract and will remain binding subject to the future event in the stipulated condition being fulfilled.

[20] If a resolutive condition is subsequently fulfilled, the agreement will terminate immediately with retrospective effect, with the contracting parties being lawfully required to be restored to the position they were in prior to the conclusion of the agreement, that is the *status quo ante.'*

[21] Mr *Boden* on behalf of the first respondent expressed concern that were the court to direct the first respondent to obtain the necessary planning approvals, it would be tantamount to the 'opening of Pandora's box', which I understood as referring to there being insurmountable obstacles standing in the way of the fulfilment of the sale agreement. Even if that were the case, I do not consider it an impediment to me determining the issues in dispute before me, which are restricted essentially to determining whether the first respondent has the onus to obtain the plan approvals referred to in clause 3.4. In light of the applicants' concession that they will absorb the liability for the costs of repairing the rotten facia and exposed timber boards; repairs to the ceiling in the main dwelling and that of the granny flat,[6] I am satisfied that the primary ground of opposition advanced by the first respondent to the fulfilment of the special conditions of clause 3.4 is removed in terms of the order I make below. The applicants did not raise the contention that the first respondent was acting for ulterior motive in not seeking to obtain the approval of the building plans from the municipality. Accordingly, it is not necessary for me to deal with the doctrine of fictional fulfilment in the context of this matter. I am however of the view that properly interpreted, clause 3.4 is a suspensive condition, which the first respondent is under an obligation to fulfil.

[22] In concluding, it is necessary to record that this matter unfortunately was characterised by the parties churning out volumes of 'pleadings' addressing issues entirely unrelated to the core issues for determination by the court. This is typified by an application for condonation for the late filing of the replying affidavit. Instead of simply setting out the circumstances leading to the late delivery of the affidavit and the submission that good cause exists to justify non-compliance with the time periods, the deponent dwelled on extraneous matters, annexing unnecessary correspondence between the parties. The reasons for non-compliance should be concise. It is not necessary to detain the court's time with unnecessary repetition of facts and to engage in argument in affidavits. Eventually, the application was unopposed. For those reasons, the application for condonation was granted with no order as to costs.

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[6] As itemised in conditions 6-9 of the letter from Beharie & Company dated 30 October 2019, pp.27-28 of indexed papers.

[23] As regards the costs of the main application, I am satisfied that the applicants were driven to institute these proceedings owing to the first respondent's misconceived reliance that she had no obligation to secure the approved building plans in terms of the special condition in clause 3.4 of the sale agreement. The applicants are entitled to their costs.

Order

[19] I make the following order:

1. Condonation is granted in respect of the late filing of the applicant's replying affidavit, with no order as to costs

2. The first respondent is ordered to comply with and perform all obligations as contained in the agreement of sale affixed to the founding affidavit marked as Annexure 'CN2',within 30 (thirty) days of this order;

3. The first respondent shall take all steps necessary which shall include, but shall not be limited to, signing all documentation including the application to obtain planning approval of the building plans in respect of the dwellings on Erf 2[...], Queensburgh, Registration Division FT in the Province of KwaZulu-Natal being 1473 meters in extent, situated at 2[...] P[...]'s H[...], Northdene, Queensburgh, necessary or associated with passing transfer of the property into the names of the first applicant and second applicant;

4. In the event that the first respondent fails, neglect or refuses to comply with paragraph 2 and 3 above, the Sheriff of the Court, Pinetown is directed to take all steps necessary, but not limited to signing documentation that is required, necessary or associated with passing transfer of the property into the name of the first applicant and second applicant;

5. The first respondent is directed to pay the applicants' costs on a party and party scale.

Chetty J

Appearances

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Date reserved:	3 March 2023
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