

N. J. SCHOLTZ, N.O.

v.

Coram : THE LIQUOR LICENSING BOARD OF KRUGERSDORP.
 AMES-
 HOFF, J.
 JORIS-
 SEN, J.
 GREGO-
 ROWSKI, J.

LIQUOR LICENCES—HEARING OF OBJECTIONS—LAW NO. 17,
 1896, SECT. 17.

Where objections are tendered to a Licensing Board against the granting of certain licences, such objections should be as fully considered as the applications for the licences themselves.

1897

19 July.

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THE applicant in this application, as acting chairman of the Randfontein Estate Gold Mining Company, Limited, applied for an order cancelling certain licences granted by the Liquor Licensing Board of Krugersdorp, and ordering the Board to consider *de novo* the licences which had been applied for, and the objections sent in by the applicant thereto, on the ground that the Board when considering the matter at its meeting had paid no attention to the applicant's objections, and had refused to hear evidence in respect thereto. The applicant alleged in his petition that the chairman at the commencement of the meeting notified to the public that the Board had already decided to whom licences should be granted, and declined to consider any objections.

Wessels (with him *Curlewis*), for the applicant, N.O.: The Licensing Board is bound to hear evidence tendered by objectors. Here only the evidence of the applicants for licences was heard. This is contrary to sect. 17 of the Liquor Law, where it is laid down that persons may be heard on oath by the Board.

Esselen (with him *Coster*), for the respondent: The Court will not intervene in this matter, unless gross irregularity bordering on *mala fides* has taken place. Here only certain evidence by the attorney of the objection was refused. The Board is not bound to hear evidence.

Wessels, in reply, referred to *Broeksma v. The Pretoria Licensing Board* (2 Off. Rep. p. 144), where it was laid down that the Licensing Board is bound to hear objectors.

Cur. ad. vult.

Postea. 20th July.

The Court was of opinion that it was the duty of the Licensing Board to hear the evidence tendered by the objector, and referred the consideration of the licences back to the Board, which consideration was to take place within fourteen days, the objections already made to stand.

The respondent was ordered to pay the costs.

Attorneys for applicant: *Tancred and Lunnion.*

Attorney for respondent: *Carl Ueckermann, sen.*

1897
SCHOLTZ
v.
LICENSING
BOARD OF
KRUGERSDORP.

L. LISSACK & CO.

v.

THE SIGMA BUILDING COMPANY.

Coram :
KOTZÉ, C.J.
MORICE, J.
ESSER, J.

PUBLIC SQUARE—GENERAL PLAN AT SALE—REPRESENTATION—NOTICE—*DEDICATIO AD POPULUM.*

1897
26 July.

B., in 1887, caused the portion of the farm Turffontein belonging to him, to be surveyed into stands. The predecessor in title of the plaintiff bought two of these stands. At the time of the sale a plan was shown to the public, on which two open squares, besides the stands and streets, were marked down. According to this plan, the stands of plaintiffs adjoined one of these squares. In 1889, B. sold his portion of the farm to D., and D. in turn sold part thereof, including one of the two squares above mentioned, to the defendant company. The title deeds of D. and the defendant company were free and unburdened by any servitude. The defendant company now notified its intention of having the portion of ground known as a square, surveyed into and sold as stands. The plaintiffs alleged that by exhibiting the plan, and also by verbal representations on behalf of B., it had been represented to their predecessor in title that the ground in question would remain an open square, as long as the lease of the stands for 99 years continued, and they prayed for a declaration of rights accordingly. It appeared that the lease of plaintiffs contained no reference to this square, and that the defendant company was a bonâ fide purchaser for value.

Held, that under the circumstances the onus lay on the plaintiff to prove that the defendant company had knowledge of the alleged representation by its predecessors in title, or that a dedicatio ad populum of the square had been made. In the absence of such proof absolution from the instance was granted.

THIS was an action for a declaration of rights. The facts as set forth in the summons were as follows:—On 16th February, 1887,