

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CASE NUMBER: CCT 42/12

CASE NUMBER A QUO: 1413/2009

In the matter between:-

PONTSHO DOREEN MOTSWAGE

First Applicant

FOURTEEN OTHERS

Second to Fifteenth Applicants

and

RUSTENBURG LOCAL MUNICIPALITY

First Respondent

PROMTIQUE TR 9 CC

Second Respondent

FOUNDING AFFIDAVIT

I, the undersigned,

LOUISE DU PLESSIS

do hereby declare under oath as follows:

1.

1.1 I am an adult female attorney practising as such at Gilfillan Du Plessis Attorneys, 2nd Floor, 357 Visagie Street, Pretoria.

1.2 The contents of this affidavit fall within my personal knowledge, unless the contrary is stated and are both true and correct

1.3 I am the attorney of record for the applicants and am as such, duly authorised to depose to this affidavit on behalf of the applicants.

2.

I depose to this affidavit in order to seek an order condoning the late filing of the applicants' written submissions.

3.

In terms of the directive issued by this Honourable Court on 6 August 2012, the applicants' written submissions had to be filed by 11 September 2012.

4.

4.1 When it became apparent on 3 September 2012, that the applicants will not be in a position to file their written submissions timeously, I immediately addressed a letter to the senior registrar of this Honourable Court detailing the reasons for the delay and requesting that a new directive be issued to

accommodate the applicants' predicament.

4.2 I attach a copy of the letter hereto as annexure "L1".

5.

In the intervening period a researcher together with junior counsel, endeavoured to obtain and analyse the amendments to the legislation and regulations pertaining to Proclamation R. 293 of 1962, in terms of which Certificates of Occupation were issued to the applicants.

6.

In view of the applicants claims that they were treated differently from their male counterparts in so far as the allocation of houses were concerned, the research was aimed at determining the reason for the alleged difference in tenure rights.

7.

Notwithstanding the fact that all research sources have been exhausted, it was not possible to find all the amendments to the legislation and the regulations, in order to present the correct legislative position to court.

8.

I humbly submit that the delay was not caused due a willful disregard for the rules of this Honourable Court. The delay was occasioned by a *bona fide* attempt to establish the exact nature of the alleged discriminatory housing practices of the past and the implications it might have on the applicants' right to housing.

9.

Unfortunately, it was not possible within the time available to establish an accurate legislative history of Proclamation R 293 while it was being administered by Bophutatswana, when the allocations, with one exception, were made to the Applicants. Accordingly, the heads of argument filed herewith focus on the remaining constitutional issues raised, which are also issues of substance.

10.

I submit that the constitutional issue raised in the applicants' application is of significant importance to justify an order condoning the late filing of the written submissions.

WHEREFORE the applicants pray for an order as set out in the notice of motion.

I certify that the deponent has acknowledged that he/she knows and understands the contents of this affidavit which was signed and sworn to before me at _____ on this _____ day of _____ 2012, and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended, have been complied with.

COMMISSIONER OF OATHS

FULL NAMES:
STREET ADDRESS:
CAPACITY:
AREA: