

REPUBLIC OF NAMIBIA



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

JUDGMENT

Case no: I 2730/2011

EDWARD BIKEUR

PLAINTIFF

and

THE MASTER OF THE HIGH COURT OF NAMIBIA

FIRST DEFNDANT

PHILLIPUS KAARONDA

SECOND DEFNDANT

Neutral Citation: *Bikeur v The Master of the High Court* (I 2730-2011) NAHCMD 234
(27 July 2018)

CORAM UEITELE J
HEARD: 23 & 27 July 2018
DELIVERED: 27 July 2018

Flynote: *Practice and Procedure* – Absolution from the instance – Test - Not whether the evidence led by the plaintiff establishes what would finally be required to be established, but whether there is evidence upon which a court, applying its ‘mind reasonably’ to such evidence, could or might find for the plaintiff.

Will — Validity of — Testamentary capacity of testator — Party disputing validity of will bearing *onus* to prove that testator lacked testamentary capacity at time of execution of will — Court not satisfied that plaintiff in reconvention proved that deceased lacking mental capacity when will executed — Action disputing validity of will dismissed with

costs.

Summary: The plaintiff instituted action against the defendants challenging the decision by the 1st defendant to appoint the 2nd defendant as the executor of the estate of the late Hiskia Kaaronda and rejecting the last will and testament of the late Hiskia Kaaronda on the grounds of a doctor's letter submitted by the 2nd defendant indicating that the late Hiskia Kaaronda suffered from Alzheimer disease.

On 27 March 2003, the late Hiskia made a Will. In the Will, he nominated a certain Job Ndukireepo as the sole Executor of his estate and bequeathed Erf 2269 Katutura to the plaintiff. He directed that the residue of his estate devolve according to Herero Law and Custom. After the death of the late Hiskia on 9 February 2007, the plaintiff lodged the Will with office of the Master. On 12 July 2007 the Master endorsed on the Will that she registered the Will but the Will was not accepted because of a letter dated 12 May 2006, from Dr. Burger. The letter was submitted to the Master by the second defendant.

After a brief testimony by the second defendant, Ms Gaes for the plaintiff applied for absolution from the instance. The plaintiff based its application for absolution on the basis that the second defendant failed to lead admissible evidence that his late father was suffering from *Alzheimer* disease, *cerib dementia* and *ostheo arthroses*. Ms Gaes furthermore argued that the second defendant's failure to call an expert witness to testify as to the mental state of Hiskia at the time when he made the Will is fatal to Phillipus case.

Mr Krenz for the second defendant however argued that he led evidence that the late Hiskia sold his Ford Bakkie for an amount of N\$ 1 500, this he submitted is prove of the fact that Hiskia was not aware of the value of property in his possessions. He further argued that the late Hiskia mistook his daughter for his late wife and that he was also forgetful and accused his son of having given him instructions when Hiskia had not given any instructions at all. Mr Krenz thus submitted that the second defendant has on a balance of probabilities made out a case that the late Hiskia was of unsound mind and that the application for absolution from the instance must thus be dismissed.

Held that the test on absolution is well established in our courts. Moreover, 'the phrase 'applying its mind reasonably' requires the Court not to consider the evidence in *vacuo* but to consider the admissible evidence in relation to the pleadings and in relation to the requirements of the law applicable to the particular case.

Held further that our courts have over the years been confronted with disputes relating to the validity of Wills and the courts have over those years formulated a number of tests for testamentary capacity. It is apparent that all these tests are an elaboration of the principles spelt out in s 4 of the Wills Act, 1953.

Held furthermore that there is no admissible evidence on record that Hiskia suffered from the Alzheimer disease at the time when he made his Will on 27 March 2003. Furthermore, there is no evidence showing that Hiskia failed to appreciate the nature and effect of making a will; or that he was at the time unaware of the nature and extent of his possessions.

ORDER

- a) The defendant in reconvention, Edward Bikeur, is absolved from the instance.
- b) The plaintiff in reconvention, Phillipus Kaaronda, must pay the costs incurred by the defendant in reconvention.
- c) The Letters of Authority (434/07) dated 11 October 2007, issued by the Master of the High Court of Namibia, appointing Phillipus Kaaronda as the Estate Representative to take control of the estate of the Late Hiskia Kaaronda are hereby set aside.

JUDGMENT

UEITELE J:

Introduction

[1] Mr Hiskia Kaaronda died aged 81 on 9 February 2007. He left a Last Will and Testament dated 27 March 2003 (I will in this judgment refer to this Last Will and Testament as 'the Will'). This case concerns the validity of the Will. The plaintiff, Mr Edward Bikeur, approached this Court seeking, amongst other orders, an order directing the Master of the High Court of Namibia, to consider accepting the Will without her having regard to a letter dated 12 May 2006, allegedly authored by Dr Burger, in which letter it is alleged that Hiskia Kaaronda was not in a state to make a valid Will.

[2] Edward Bikeur's claim was resisted by Phillipus Kaaronda, whom it is accepted is a son of the late Hiskia Kaaronda. He disputes the validity of the Will on the strength of the letter of 12 May 2006, by Dr Burger, in which letter it is alleged that Hiskia Kaaronda suffered from the Alzheimer disease. Phillipus Kaaronda thus contended that Hiskia Kaaronda did not have the necessary testamentary capacity to make a Will. The other party to the litigation before me is the Master of the High Court of Namibia, who is cited in her official capacity.

[3] For the sake of convenience, I will, in this judgment refer to parties by their first names and to the Master of the High Court of Namibia as the Master. I do not intend any disrespect to the parties by referring to them by their first names, it is simply as I said for convenience.

Factual history

[4] Hiskia was born on the 15 December 1926. From the pleadings, it is not clear whom he married and when he married that person, but what is clear is that his wife pre-deceased him because the death certificate indicates that he was a widow at the time of his death. It is also not clear how many children he had but from the pleadings and the evidence, it is clear that he had at least two children namely Phillipus and a certain Batseba Menongongo Kaura (Batseba).

[5] During his lifetime, Hiskia was employed as a prison warder and he later worked for Windhoek Maschinenfabrik. At the age of 63, during 1989, Hiskia retired from active employment. During his employment career spanning over the period of 1960 to 1989, Hiskia resided at Erf 2269, Katutura. During 1993 the Municipal Council of Windhoek donated Erf 2269 Katutura to Hiskia which donation he accepted and took transfer of Erf 2269 into his name. It appears that at some point before Hiskia retired, the plaintiff, Edward, resided with him at Erf 2269 Katutura.

[6] Upon his retirement Hiskia decided to relocate to a village known as Anichab, which is situated between Uis and Omatjete in the Erongo Region of Namibia. When he relocated to Anichab, Hiskia left Edward and Phillipus as the occupants of Erf 2269. Despite the fact that Hiskia relocated to the rural areas of Namibia, he occasionally visited Windhoek. On the occasions that Hiskia visited Windhoek, he would stay at Erf 2269 Katutura.

[7] On 27 March 2003, Hiskia made the Will. In the Will, he nominated a certain Job Ndukireepo as the sole Executor of his estate and bequeathed Erf 2269 Katutura to Edward. He directed that the residue of his estate devolve according to the Otjiherero Law and Custom. As I indicated above, Edward died on 9 February 2007. After the death of Hiskia, Edward lodged the Will with office of the Master. On 12 July 2007 the Master endorsed the Will and she registered the Will but the Will was not accepted because of a letter dated 12 May 2006, from Dr. Burger. The letter was submitted to the Master by Phillipus. The letter from Dr Burger reads as follows:

'This is to certify that Hiskia Kaaronda was my patient since 1986. He suffered from *serile dementia and osteo arthroses* since 1986 for which he saw me at regular intervals.

His mental state deteriorated to such an extent that during 1995 the diagnoses was changed to the *Alzheimer* disease.'

[8] On 11 October 2007 the Master, acting in terms of s 18(3) of the Administration of Estates Act, 1965¹, appointed (by Letters of Authority) Phillipus as the Estate

¹ Administration of Estates Act, 1965 Act No. 66 of 1965.

Representative (the Executor) to take control of the assets of the estate of the late Hiskia. Aggrieved by the decision of the Master, Edward commenced proceedings in this Court in terms of which, after amending his initial prayers, he amongst other things asked this Court to direct the Master to consider accepting the Will without regard to Dr. Burger's letter of 12 May 2006 and to declare any further act taken by the Master or by Phillipus in consequence of the issuance of the Letters of Authority void and of no force and effect.

[9] After Edward issued and served summons on the Master and Phillipus, the Master drafted a report in terms of s 96(2) Administration of Estates Act, 1965 (as amended) to the registrar of the High Court. In the report, the Master amongst other things states that:

'The deceased died testate having left a will dated 27 March 2003 (a copy thereof attached and marked "A"). The said will was registered in our office but not accepted, as a result of a letter received from Medical Practitioner, Dr. F G Burger (a copy thereof attached and marked "B").

The said will should have been considered on face value only. We can however not alter our own decision as we are *functus officio*.'

[10] After exchanges of pleadings the parties agreed to, in terms of Rule 63, agree on a written statement of facts in the form of a special case for adjudication by the managing judge. On 28 June 2017 Justice Oosthuizen, heard arguments in respect of the special and after he heard arguments he made the following Order:

1.1 The Master of the High Court of Namibia (First Defendant) is directed to accept the Last Will and Testament of Hiskia Kaaronda (Master's reference No. 434/07).

1.2 Second Defendant [Phillipus] is directed to institute a counterclaim attacking the validity of the aforesaid testament, if so advised, on or before 31 August 2017.

1.3 Plaintiff [Edward] shall file his plea to second defendant's counterclaim on or before 7 September 2017.

1.4 Second Defendant [Phillipus] shall file his replication to plaintiff's plea on or before 21 September 2017.

1.5 The matter is postponed to Monday, 25 September 2017 at 14h00 for a status hearing.'

[11] On 31 August 2017 Phillipus instituted a counterclaim in which he challenges the validity of the Will. Phillipus' counterclaim is resisted by Edward. In his counterclaim Phillipus alleges that:

(a) Hiskia didn't make a valid Will during 2003 as alleged in Edward's Particulars of Claim, because during 1986 Hiskia was diagnosed with *cerib dementia and osteo arthroses*, consequently he developed a poor health condition.

(b) Due to poor health conditions the family of Hiskia took him to Omatjete, and while residing in Omatjete he has been treated by Dr. Floris Gerhardus Burger, a General Practitioner in Outjo, Republic of Namibia.

(c) The mental state of the Hiskia deteriorated, and as a consequence the diagnosis changed to *Alzheimer* disease during 1995 and that the *Alzheimer* disease persisted until Hiskia's death on 9 February 2007.

[12] Edward contended that the Will made by Hiskia is valid. The dispute then came before me for trial on 23 July 2018. Phillipus was the only witness in his case. The dispute before me is whether the Will is a valid Will.

Phillipus' evidence at the trial

[13] Phillipus' evidence was very brief. He testified that during the time his late father resided on Anichab he was a patient of a certain Dr. Burger, practicing as Dr. F. G. Burger, Hage Geingob Avenue 20, Outjo. He further testified that on or about 1993 he started noticing that his late father (Hiskia) was getting increasingly forgetful. He testified that he noticed the forgetfulness of his father when he visited the farm and his

father gave him instructions or questioned why Phillipus didn't do certain things Hiskia falsely remembered to have previously requested Phillipus to do.

[14] Phillipus continued and testified that he remembers an occasion (although he couldn't say when exactly this happened), where Hiskia sold his old Ford Bakkie for amount of N\$ 1 500 in Uis, which was far below its value. Phillipus also testified that he refunded the purchaser the N\$ 1 500 and repossessed the Ford Bakkie. Phillipus further testified that during 2006 Hiskia's health had deteriorated, he was frail and as result his health condition, his family members resolved to permanently move him back to Windhoek for Hiskia to stay with his daughter, Batseba.

[15] Phillipus proceeded to testify that Hiskia's stay with Batseba proved to be problematic as he started arguments with his son-in-law. The arguments were allegedly triggered by an accusation which Hiskia levelled against his son-in-law that the latter was sleeping with his (Hiskia's) wife. Hiskia was allegedly confusing his own daughter for his late wife. Phillipus further testified that because of the arguments that were recurring between Hiskia and his son-in-law, the family members again decided to move Hiskia from Batseba's residence to Erf 2269 Katutura where he would be taken care of by a certain Maria Kaaronda, who is Phillipus' niece. It is while he resided at Erf 2269 that during February 2007 he fell sick and died on the 9th day of that month.

[16] After his testimony, Phillipus closed his case and did not call any other witness. This prompted Ms Gaes who appeared for Edward to apply for absolution from the instance. Mr Krenz who appeared for Phillipus, indicated that he hold instructions to oppose the application for absolution from the instance. Before I deal with the question of whether or not I must or must not grant the application for absolution, I will briefly set out the legal principles governing applications for absolution from the instance at the close of the plaintiff's case and the legal principles governing the determination of whether or not a document purporting to be a Will is indeed a valid Will.

The Legal principles

Absolution from the instance at the close of the plaintiff's case

[17] Rule 100 of the Rules of this Court provides that at the close of the case for the plaintiff, the defendant may apply for absolution from the instance. The counsels who appeared for the Edward and Phillipus agreed as to the test to be applied. The test on absolution is well established and was formulated in the now well-known case of *Claude Neon Lights (SA) Ltd v Daniel*² by Miller, A.J.A as follows:

'... when absolution from the instance is sought at the close of plaintiff's case, the test to be applied is not whether the evidence led by the plaintiff establishes what would finally be required to be established, but whether there is evidence upon which a Court, applying its mind reasonably to such evidence, could or might (not should, nor ought to) find for the plaintiff.'³

[18] In the matter of *Aluminium City CC v Scandia Kitchens & Joinery (Pty) Ltd*⁴ Silungwe AJ said:

'It is often said that, in order to escape absolution from the instance, a plaintiff has to make out a *prima facie* case in that it is on *prima facie* evidence - which is sometimes reckoned as evidence requiring an answer (*Alli v De Lira* 1973 (4) SA 635 (T) at 638B - F) - that a court could or might decide in favour of the plaintiff. However, the requisite standard is less stringent than that of a *prima facie* case requiring an answer. *Prima facie* evidence does not necessarily have to call for an answer, it is sufficient for such evidence to at least have the potential for a finding in favour of the plaintiff.'

[19] The authors Schwikkard & Van der Merwe⁵ argue that 'a *prima facie* case is made out when there is evidence upon which a court, applying its mind reasonably, could or might find for the plaintiff.' In order for a *prima facie* case to exist there must be evidence in respect of each essential element of the claim on which a court would find in favour of a party if it believed the evidence to be true...'

² 1976 (4) SA 403 (A) at 409G – H — D.

³ The formulation of test in this fashion was approved by the Supreme Court in the matter of *Stier and Another v Henke* 2012 (1) NR 370 (SC) at 373.

⁴ 2007 (2) NR 494 (HC) at 496E.

⁵ In their book: *Principles of Evidence*. 3rd Ed at p 578.

[20] In the matter of *Bidoli v Ellistron Truck & Plant*,⁶ Levy AJ stated that 'the phrase 'applying its mind reasonably' requires the Court not to consider the evidence in *vacuo* but to consider the admissible evidence in relation to the pleadings and in relation to the requirements of the law applicable to the particular case.

Testamentary capacity

[21] Section 4 of the Wills Act, 1953⁷ provides as follow:

'4 **Competency to make a will**

Every person of the age of sixteen years or more may make a will unless at the time of making the will he is mentally incapable of appreciating the nature and effect of his act, and the burden of proof that he was mentally incapable at that time shall rest on the person alleging the same.'

[22] Our courts have over the years been confronted with disputes relating to the validity of Wills and the courts have over those years formulated a number of tests for testamentary capacity. It is apparent that all these tests are an elaboration of the principles spelt out in s 4 of the Wills Act, 1953 (the Act).⁸ Corbett, Hofmeyr and Kahn⁹ further argue, with reference to Voet 28.1.34 and 28.1.35, that mental incapacity may arise because the testator is of unsound mind or as a result of disease or drunkenness.

[23] In our jurisdiction the Supreme Court, in the matter of *Vermeulen and Others, v Vermeulen and Another*¹⁰ recognised the formulation of the test as set out in the English case of *Banks v Goodfellow*,¹¹ where Cockburn CJ said:

'(A) testator shall understand the nature of the act and its effect; shall understand the extent of the property of which he is disposing; shall be able to comprehend and appreciate the claims to which he ought to give effect; and, with a view to the latter object, that no disorder to the mind shall

⁶ 2002 NR 451 (HC) at 453.

⁷ Wills Act, 1953 (Act No. 7 of 1953).

⁸ Also see Corbett, Hofmeyr and Kahn: *The Law of Succession in South Africa* 2nd Ed at p74.

⁹ *Ibid.*

¹⁰ *Vermeulen and Others, v Vermeulen and Another* 2014 (2) NR 528 (SC).

¹¹ *Banks v Goodfellow* (1870) LR 5 QB 549, (at 564).

poison his affections, pervert his sense of right, or prevent the exercise of his natural faculties — that no insane delusion shall influence his will in disposing of his property and bring about a disposal of it which if the mind had been sound, would not have been made.'

[24] The Supreme Court furthermore gave recognition to the test for testamentary capacity as stated in the South African case of *Tregea and Another v Godart and Another*¹² where Tindall JA said —

'... in cases of impaired intelligence caused by physical infirmity, though the mental power may be reduced below the ordinary standard, yet if there be sufficient intelligence to understand and appreciate the testamentary act in its different bearings, the power to make a will remains. Voet (28.1.36) states that not only the healthy but also those situated in the struggle of death, uttering their wish with a half-dead and stammering tongue, can rightly make a will provided they are still sound in mind.'

[25] The Supreme Court furthermore gave its approval to the formulation of the test in the matter of *Lerf v Nieft NO and Others*¹³ wherein Van Niekerk J with reference to the dictum in *Harlow v Becker NO and Others*¹⁴ said:

'Obviously, it is a prerequisite to the execution of a valid will that the person who executes the will has to intend it to be his will. But the mental capacity or competency to execute a valid will embraces more than a mere intention on the part of the testator that the draft will to which he puts his signature should be his will. He may appreciate the meaning of the document and approve of its contents and yet may lack the understanding or mental capability necessary for the execution of a valid will.'

[26] After an examining some authorities on the question of a testator's capacity to make a will, Van Niekerk J said:

'In order to show that the deceased ... did not have the necessary mental capacity it must be shown that he failed to appreciate the nature and effect generally of the testamentary act; or that he was at the time unaware of the nature and extent of his possessions; or that he did not

¹² *Tregea and Another v Godart and Another* 1939 AD 16 at 49.

¹³ *Lerf v Nieft NO and Others* 2004 NR 183 (HC) at 190J.

¹⁴ *Harlow v Becker NO and Others* 1998 (4) SA 639 (D) at 644A.

appreciate and discriminate between the persons, whom he wished to benefit and those whom he wished to exclude from his bounty; or that his will was inofficious in the sense that it benefited persons to the exclusion of others having higher equitable claims to the estate.’

Application of the legal principles to facts of this case

[27] Section 2 of the Act sets out the formalities required in the execution of a will. Some of the formalities are that the will must be signed at the end thereof by the testator; and that the signature is made by the testator in the presence of two or more competent witnesses present at the same time; the witnesses must attest and sign the will in the presence of the testator and of each other and, if the will consists of more than one page, each page other than the page on which it ends, must also be so signed by the testator and the witnesses anywhere on the last page. The section furthermore states that no deletion, addition, alteration or interlineation made in a will shall be valid unless the deletion, addition, alteration or interlineation is identified by the signature of the testator, in the presence of two or more competent witnesses present at the same time.

[28] The Will in this matter was attached as Annexure “HK-1” to the plaintiff’s particulars of claim. The Will consist of one page and was signed by the testator, Hiskia, at the end of that page and two people also signed as witnesses. On the face of it, the Will complies with the formalities required in the execution of a will.

[29] In my view the burden starts with the propounder of a will to establish capacity, but where the will is duly executed and appears rational on its face, then the court must presume that the testator had the capacity to make the will. In such a case the evidential burden then shifts to the objector to raise a real doubt about the capacity of the testator. If a real doubt is raised, the evidential burden shifts back to the propounder to establish capacity nonetheless.

[30] In *Lerf v Nieft NO and Others*¹⁵ Van Niekerk J stated that as regards the burden of proof, the requirement is also, in matters of this nature, as in all civil matters, discharged

¹⁵ *Supra* footnote 13.

on a preponderance of probabilities. The plaintiff in reconvention, Phillipus in this matter, is therefore required to satisfy me on a balance of probability that on 27 March 2003, when Hiskia made the will, he was mentally incapable of appreciating the nature and effect of the will. Thus the question that needs to be answered in this matter is whether Phillipus placed evidence before me upon which a court, applying its mind reasonably to such evidence, could or might (not should or ought to) find for him.

[31] Mr Krenz who appeared for Phillipus argued that Phillipus led evidence that Hiskia sold his Ford Bakkie for an amount of N\$ 1 500, this he submitted is prove of the fact that Hiskia was not aware of the value of property in his possessions. He further argued that Phillipus led evidence that Hiskia mistook his daughter for his late wife and that he was also forgetful and accused his son of having given him instructions when Hiskia had not given any instructions at all. Mr Krenz thus submitted Phillipus has on a balance of probabilities made out a case that Hiskia was of unsound mind and that the application for absolution from the instance must thus be dismissed.

[32] Ms Gaes who appeared for the Edward argued that Phillipus failed to lead admissible evidence that his late father was suffering from *Alzheimer* disease, *cerib dementia* and *ostheo arthroses*. She furthermore argued that Phillipus' failure to call an expert witness to testify as to the mental state of Hiskia at the time when he made the will is fatal to Phillipus' case.

[33] Phillipus did not lead evidence as to the circumstances under which Hiskia made his will on 27 March 2003. He did not lead any evidence showing that Hiskia failed to appreciate the nature and effect generally of making a will; or that he was at the time unaware of the nature and extent of his possessions. The evidence that Hiskia sold his Ford Bakkie for N\$ 1500 cannot be accepted as evidence demonstrating Hiskia's lack of appreciation for the nature and extent of his possessions because first, the evidence with respect to the alleged sale of the Ford Bakkie was not given in relation to any time period. Phillipus could not tell the court as to what date Hiskia allegedly sold the vehicle. Secondly, Phillipus did not testify as to circumstances of the alleged sale of the Ford Bakkie and the identity of the alleged Purchaser of the Ford Bakkie.

[34] Similarly the evidence that Hiskia allegedly mistook his daughter for his late wife and that he was forgetful and accused his son of having given him instructions when Hiskia had not given any instructions at all, is not prove of the fact that Hiskia failed to appreciate the nature and effect of making a will; or that he was as on 27 March 2003 unaware of the nature and extent of his possessions. I say so because the alleged mistaking of his daughter for his wife appears to have occurred in 2006 this is three years after he had made the will.

[36] In his particulars of claim, Phillipus alleges that his father suffered from the *Alzheimer* disease since 1995 and did therefore not have the mental capacity to make a will. Phillipus bases his allegation that his father suffered from the Alzheimer disease on the letter of 12 May 2006, from Dr Burger (which I quoted in full in paragraph 7 of this judgment). Dr Burger did not testify at the trial of this matter and as a result, his evidence remains inadmissible hearsay evidence. Phillipus thus failed to lead evidence upon which a Court, applying its mind reasonably to such evidence, could or might find for him. Phillipus can therefore not escape absolution from the instance.

[35] To sum up there is no admissible evidence on record that Hiskia suffered from the Alzheimer disease at the time when he made his Will on 27 March 2003. Furthermore, there is no evidence showing that Hiskia failed to appreciate the nature and effect of making a will; or that he was at the time unaware of the nature and extent of his possessions. For all these reasons no reasonable Court could or might give judgment in Phillipus' favour.

Costs

[36] There is no reason why costs should not follow the result. The plaintiff in reconvention, Phillipus Kaaronda, must therefore be ordered to pay the costs of the defendant in reconvention, Edward Bikeur.

Order

[37] I accordingly make the following order:

- a) The defendant in reconvencion, Edward Bikeur, is absolved from the instance.
- b) The plaintiff, in reconvencion, Phillipus Kaaronda, must pay the costs incurred by the defendant in reconvencion, Edward Bikeur.
- c) The Letters of Authority (434/07) dated 11 October 2007, issued by the Master of the High Court of Namibia appointing Phillipus Kaaronda as the Estate Representative to take control of the estate of the Late Hiskia Kaaronda are hereby set aside.

SFI Ueitele
Judge

APPEARANCES:

PLAINTIFF: F Gaes
of Uanivi Gaes Inc, Windhoek

FIRST DEFENDANT no appearance

SECOND DEFENDANT: F Krenz
of Theunissen, Louw & Partners, Windhoek