

REPUBLIC OF NAMIBIA



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

JUDGMENT

Case no: HC-MD-CIV-CON-2021/02688

In the matter between:

MACHINZA IVY CHIKUSI

PLAINTIFF

and

**MINISTER OF WORKS AND TRANSPORT
EXECUTIVE DIRECTOR OF THE MINISTRY
OF WORKS AND TRANSPORT
RUNDU TOWN COUNCIL**

1ST DEFENDANT

2ND DEFENDANT

3RD DEFENDANT

Neutral citation: *Chikusi v Minister of Works and Transport* (HC-MD-CIV-CON-2021/02688) [2023] NAHCMD 87 (03 March 2023)

Coram: CHRISTIAAN AJ

Heard: 17 and 18 November 2022

Delivered: 03 March 2023

Flynote: Rectification of contracts – Principles relating thereto restated - Prima facie case must be made out on a balance of probabilities.

Summary: Plaintiff praying for rectification of an agreement which she alleges she entered into with the defendants' and in the same breath stating that she signed such agreement under the assumption that the offer of sale provided to her contained the correct erf number as stipulated in the offer. She further stated that she was not aware that the agreement entered into between her and the first defendant did not reflect their common intention. The plaintiff explained that the common intention was for the first defendant to sell to her the property in which she is currently residing under (Erf 1146). The plaintiff discovered upon effecting the transfer that the Erf number 1133 stipulated in the offer to sell was not the Erf Number of the property she currently resides in. The plaintiff claims that despite demand the first defendant failed and /or continues to refuse to rectify the mistake in order for the plaintiff to transfer the property into her name. The defendants in amplification of their denial, pleaded that the written agreement entered to by both parties did reflect the common intention of the parties. The plaintiff was issued with a copy of the agreement to read and no objections were raised. The defendants plead that the plaintiff was erroneously given an offer to buy Erf 1133, Rundu, and that this immovable property is not earmarked for sale as it is reserved for public administration and future governmental use and cannot be sold. The defendants further argued that Erf 1146, Rundu, is not registered at the deeds office and Government does not sell unregistered properties. The defendants therefore proposed a refund of the monies paid in the amount of N\$78 181.75.

Held that, the principles applicable to rectification of contracts must be complied with before a court can order such a rectification.

ORDER

1. The prayers 1, 2 and 3 for rectification sought by the plaintiff are dismissed with costs.

2. The first defendant is ordered to reimburse the plaintiff the total amount of N\$ 78 181.75 paid towards the purchase of Erf 1133, Rundu and costs incurred by the plaintiff in effecting the transfer of the property.
 3. The matter removed from the roll and regarded as finalised.
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JUDGMENT

CHRISTIAAN AJ:

Introduction and background

[1] This action arises from a written agreement¹ for the sale of an immovable property to wit Erf 1133, Rundu between the plaintiff and the 1st defendant duly represented by the second defendant. In terms of the agreement the plaintiff undertook to purchase immovable property at a total amount of N\$73 555.40 from the 1st defendant and to pay the transferring costs.

[2] In terms of the agreement the plaintiff had an obligation to make sure that all the necessary documents to effect the registration of the immovable property are timeously obtained and delivered at the Alienation Unit. In turn, the first defendant would grant the transfer of the property to the plaintiff without delay upon acceptance of the offer and payment of the purchase price. The plaintiff duly performed all her obligations in terms of the agreement by making all the necessary payments for the purchase of the immovable property and the transfer costs.

[3] The plaintiff discovered upon effecting the transfer that the Erf number 1133 stipulated in the offer to sell was not the Erf Number of the property she currently resides in. It is clear from the papers that the written agreement concluded by the plaintiff and the first defendant did not reflect the common intention of the parties. The common intention was for the first defendant to sell the plaintiff the property where the

¹ Annexure IMC 1 and IMC 2 attached to the Plaintiffs particulars of claim.

Plaintiff currently resides in which is Erf 1146 and not Erf 1133 as indicated on the offer to sell.

[4] The plaintiff claims that despite demand the 1st defendant failed and /or continues to refuse to rectify the mistake in order for the plaintiff to transfer the property into her name.

[5] The defendants has however defended the claim and filed a plea to the plaintiff's particulars of claim.

Plea

[6] In his plea the defendants denies that the plaintiff resides on the property specified in the agreement and that Erf 1146 was purchased by the plaintiff. The defendants further denies having been requested by the plaintiff to provide her with the offer containing the correct Erf Number, after she realised that the Erf number specified in the deed of sale is not the same as the Erf number of the property, she resides in. The defendants in amplification of their denial, pleaded that the written agreement entered to by both parties did reflect the common intention of the parties. The Plaintiff was issued with a copy of the agreement to read and no objections were raised.

[7] The defendants plead that the plaintiff was erroneously given an offer to buy Erf 1133, Rundu, and that this immovable property is not earmarked for sale as it is reserved for public administration and future governmental use and cannot be sold. The defendants further argued that Erf 1146, Rundu, is not registered at the deeds office and Government does not sell unregistered properties. The defendants therefore proposed a refund of the monies paid in the amount of N\$78 181.75.

Relief sought

[8] Plaintiff is before this Honourable court seeking the following orders:

1. An order directing the first defendant to rectify the Erf number on the written agreement of sale to reflect Erf Number 1146 as opposed to Erf Number 1133;
2. An order directing the first defendant to take all the necessary steps to ensure that the correct property is transferred to the plaintiff;
3. An order that, if the first defendant within 14 days of the Courts order to take the necessary steps, the Deputy sheriff be authorized to take such steps on behalf of the first defendant;
4. Costs of suit;
5. Further and or alternative relief.

Alternatively, the plaintiff seeks the following:

6. An order directing the first defendant to pay the plaintiff a total amount of N\$ 78 181.75 - which is the amount she paid for the immovable property and costs incurred by the plaintiff in effecting the transfer of the property;
7. Costs of suit;
8. Further and or alternative relief.

1. Plaintiff seeks the relief in that on or about 19 June 2019, at or near Rundu she had entered into a written sales agreement with the first defendant who at the time was duly represented by the then Executive Director Mr. Willem Goeieman to purchase immovable property to wit: -

Certain	Erf 1133 Rundu
Situated	In the town of Rundu Kavango East Region
Measuring	1294 m ²
Held	Deed of Transfer No. T 1735/2000.

Issues of fact

[9] In the pre-trial order² the issues of fact the court was called upon to adjudicate was the following:

2.1 Whether or not the plaintiff purchased Erf 1133 Rundu from the second defendant in June 2019.

2.2 Whether or not the plaintiff paid an amount of N\$78 181.75 which constitutes as the purchase price for Erf 1133 Rundu.

2.3 Whether or not the plaintiff resides at Erf 1146 Rundu.

2.4 Whether or not the plaintiff paid the purchase price of N\$78 181.75 for Erf 1146 or Erf 1133 Rundu.

2.5 Whether or not the offer to purchase provided to the plaintiff reflected the wrong Erf number of the immovable property.

2.6 Whether or not the plaintiff was aware of the administrative error made by the first defendant's office.

2.7 Whether or not the defendants can mero moto sell Erf 1146 to the plaintiff without it being registered to the deed's office.

2.8 Whether or not the defendants can change the material terms of the sales agreement mero moto.'

Issues of law

[10] And the issues of law that the court should resolve at the trial is:

3.1 Whether there was a contract of sale of immovable property.

3.2 Whether or not the plaintiff is entitled to claim reimbursement of the amount of N\$78 181.75.

3.3 Whether the contract was entered into in good faith and mutual understanding of the parties.

3.4 Whether the parties were mistaken about the terms of the contract of sale of immovable property.

3.5 Whether or not the plaintiff complied with all terms of the contract for the sale of immovable property.

3.6 Whether or not the second defendant was in breach of the contract of sale of immovable property.

3.7 Whether or not the plaintiff is entitled to cancel the contract.

² Pre-trial order dated 11 May 2022.

3.8 Whether or not the defendants rectified the said error in order to enable the transfer of the property into her name.'

Common cause facts

[11] The following facts appear to be common cause between the parties:

11.1 The citation of the parties.

11.2 The jurisdiction of the court to entertain the matter.

Evidence adduced

Plaintiff's case

[12] The plaintiff testified herself and did not call any witnesses.

Mazinza Ivy Chikusi

[13] The plaintiff's evidence was that on 19 June 2019 at Rundu, she entered into a written agreement for the sale of an immovable property, to wit, Erf 1133 Rundu with the first defendant who was duly represented by the second defendant. The plaintiff testified that she undertook to purchase the aforementioned immovable property at a total amount of N\$73 555.40 and to pay the transfer costs.

[14] The plaintiff further confirmed in her evidence that she was under an obligation in terms of the agreement to make sure that all the necessary documents to effect the registration of the immovable property are timeously obtained and delivered at the Alienation Unit of the first defendant. The first defendant would then grant the transfer of the property to the plaintiff without delay upon acceptance of the offer and payment of the purchase price.

[15] The plaintiff confirmed under oath that she duly performed all her obligations in terms of the agreement by making all the necessary payments for the purchase of the immovable property and the transfer costs.

[16] The plaintiff testified further and informed the court she instructed the law firm Weder, Kauta and Hoveka to assist with the transfer of the property and that upon effecting the transfer, it was discovered that the transfer of the property to the plaintiff's name was not possible because erf 1133 was allocated for official use as a government office. The plaintiff further testified that she consulted the Rundu Town Council who indicated that they realised that erf 1133 is an office next to the property she was residing in and renting from the first defendant and that the erf numbers were mistakenly switched resulting in the Rundu Town Council issuing and /or allocating the wrong erf number 1133 instead of 1146 to the property over the years. The error was rectified immediately and the first defendant was informed of the error.

[17] The plaintiff informed the court that she is aware that the agreement entered into between her and the first defendant did not reflect their common intention. The plaintiff explained that the common intention was for the first defendant to sell to her the property in which she is currently residing under (Erf 1146). The plaintiff admitted that she was under the assumption that the offer of sale provided to her contained the correct erf number as stipulated in the offer.

[18] The plaintiff informed the court that she is currently residing at Erf 1146 and not Erf 1133, as reflected in the agreement. The plaintiff concluded her testimony, by informing the court that the first defendant failed and neglected to rectify the mistake in order to allow registration and transfer of the property into her name.

Defendants Case

[19] The first and second defendants called one witness Ndahambelela Ellah Hilokwah, a Deputy Director appointed by the first defendant under the Fixed Assets Management division. The witness testified as follows:

Ndahambelela Ellah Hilokwah

[20] Ms Hilokwah testified that her department is responsible for the First Defendant's legal matters, including civil claims that pertain to fixed assets. The witness confirmed that the plaintiff entered into a written agreement with the First Defendant, who was duly represented by their former Executive Director, Mr Goeieman. The agreement according to the witness which was concluded on 19 June, revolved around the sale of immovable property, to wit, Erf 1133 Rundu, for an amount of N\$73 555.40 with costs.

[21] The witness further testified and informed the court that ministerial investigations that were conducted revealed that Erf 1133, which is the subject of the sales agreement between the plaintiff and the first defendant, is not a residential property but an office, which is reserved for public administration and future governmental use and thus cannot be the subject of the sales agreement.

[22] Ms Hilokwah further confirmed to the court that erroneous information was relayed from the Rundu office to the Head office in Windhoek, and this erroneous information was used to inform the written agreement. According to the witness, the information was supplied by a housing officer in their Rundu office, who has since resigned.

[23] The witness in response to the request by the plaintiff to be allocated Erf 1146, Rundu, on which she currently resides, informed the court that Erf 1146, Rundu is not registered at the Deeds Office and the change of Erf numbers in the contract from Erf 1133 to Erf 1146 cannot be done. The witness further testified that Erf 1133, Rundu, listed on the written agreement is an office earmarked for public administration and future governmental use. The contention by the plaintiff that she should instead be offered Erf 1146 wherein she resides cannot be sold to her as it is not registered and the first defendant does not sell properties that are not registered.

[24] Ms Hilokwa concluded her testimony by explaining to the court that before a sales agreement is concluded, the property to be sold should be in the name of the State, and the evaluation would then be done to determine the value of the property before it is offered for sale. The first defendant made an offer to the plaintiff for the refund of the monies paid as per her prayer 12.1 of the particulars of claim.

Closing arguments

[25] Mr Enkali counsel for the plaintiff argued that the plaintiff and the first defendant entered into a written agreement, in which the plaintiff undertook to purchase Erf 1133 at a total amount of N\$73 555.00 and to pay the transfer costs. The agreement entered into between the parties did not reflect the common intention of the parties. The common intention was for the first defendant to sell to the plaintiff the property in which she is residing which is Erf 1146, Rundu, and this was not reflected in the written agreement. The agreement offered her Erf 1133, Rundu.

[26] Counsel for the plaintiff further argued that the saying that the parties had a common intention, which, and as a result of a mistake on the part of both parties, the agreement failed to accurately reflect the common intention. He further contends that the parties clearly intended to sell and purchase the property on erf 1146 despite the erroneous allocation of erf 1133. The parties intended to transact on the property the plaintiff was renting from the first defendant and that the plaintiff was residing on. Both parties discovered the error at the point of registration.

[27] Counsel for the plaintiff in support of his aforementioned argument, and direct the court to the matter of *Shikale N.O. v Universal Distributors of Nevada South Africa (Pty) Ltd*³ and *Denker v Cosak and Others 2006 (1) NR 370 at 374E* and as approved by this court in *Namibia Broadcasting Corporation v Kruger and Others 2009 (1) NR 196 (SC) at 224 F*, in which the principles dealing with rectification of contracts was outlined and further expounded. I will deal with the principles at a later stage during the judgment.

[28] Counsel for the defendants argued that the first defendant cannot sell property to the plaintiff for which they are not the owners, counsel for the plaintiff, highlighted the property concerned is owned by the first defendant as the first defendant controls the property and rents it out to employees. There is no reason in law that prevents the sale of immovable property unless registered, as registration to property creates a rebuttable presumption of ownership.

³ *Shikale N.O. v Universal Distributors of Nevada South Africa (Pty) Ltd* 2015 (4) NR 1065 at paragraphs 27 and 28.

[29] Counsel for the plaintiff concludes his arguments by saying that the error was as a result of a common mistake by both parties to the contract and thus meets the requirements for rectification of a contract.

[30] Mr Kauari, on behalf of the defendants on his part argued that the argument by the counsel for the plaintiff, that the error was as a result of a common mistake by both parties cannot stand, as the property that is the subject matter of the sale is Erf 1133. He further contends that Erf 1133 was found to be an office block and could thus not be sold to the plaintiff.

[31] The counsel for the defendant amplifies the aforementioned argument and claim that plaintiff was never offered Erf 1146 and the rectification sought is unsustainable. Erf 1146 does not feature anywhere in the agreement between the plaintiff and the first defendant, and thus cannot be subject to rectification. The defendant's further argue that the rectification as suggested by the plaintiff in this matter is not a common mistake, but material that goes to the root of the sales agreement and that voids the agreement between the parties.

[32] Counsel for the defendants' appeal to the court, is not to enforce a contract that never existed between the parties, since the offer for sale that is the subject matter is unenforceable. The defendants conclude that the plaintiff has not made out a case for the relief sought and the court must order a refund of the monies paid for Erf 1133.

Applicable legal principles

Rectification of contracts

[33] As promised earlier, I will now look at the law relating to rectification of contracts in order for this court to determine the sustainability of the plaintiff's claim.

[34] The following was said⁴:

⁴ See footnote 3 above at paragraph 27 and 28.

'The court a quo referred to the principles applicable to rectification; so did counsel on both sides, including the principle requiring what a litigant seeking a rectification of a written document must allege and prove as set out in *Denker v Cosak and Others 2006 (1) NR 370 at 374E* and as approved by this court in *Namibia Broadcasting Corporation v Kruger and Others 2009 (1) NR 196 (SC) at 224 F*, namely:

“(a) an agreement between the parties which had been reduced to writing;

(b) That the written document does not reflect the common intention of the parties correctly. In *Benjamin v Gurewitz 1973 (1) SA 418 (A) at 425H Van Blerk JA* says that in reforming an agreement all the Court does is to allow to be put in writing what both parties upon proper proof intended to be put in writing and erroneously thought they had (*cf Meyer v Merchants' Trust Ltd 1942 AD 244 at 253*);

(c) An intention by both parties to reduce the agreement to writing;

(d) That there was a mistake in the drafting of the document. See *Von H Ziegler and Another v Superior Furniture Manufacturers (Pty) Ltd 1962 (3) SA 399 (T) at 411F-H*. Rectification and unilateral mistake are mutually exclusive concepts. See *Sonap Petroleum (SA) (Pty) Ltd (formerly known as Sonarep (SA) (Pty) Ltd) v Pappadogianis 1992 (3) SA 234 (A)*;

(e) The actual wording of the agreement as rectified. See *Levin v Zoutendijk 1979 (3) SA 1145 (W) at 1147H-1148A.*”

[35] A number of these principles are emphasised in the following cases –

'In *Benjamin v Gurewitz*, supra, where *Van Blerk JA* had this to say at 425H-426A:
 “It remains to consider whether on proof of the common intention of the parties and of an error deliberately caused by one of the parties, the respondent would be entitled to claim a rectification of the contract. As *De Villiers JA* says in *Weinerlein v Goch Buildings Ltd*, supra, in reforming an agreement, all the Court does is to allow to be put in writing what both parties upon proper proof intended to put in writing and erroneously thought they had. This dictum postulates, as the same learned Judge says at p 288, the existence of an earlier agreement, an agreement in most cases antecedently arrived at by the parties; and the disparity between the preceding agreement and the subsequent written agreement will generally be the result of a bona fide

mutual mistake made merely by accident. The mistake may, however, also be caused intentionally by one of the parties by dolus of one of the parties.” (Weinerlein’s case at p 291.)

2) *Netherlands Bank of South Africa v Stern N.O. and Another* 1955 (1) SA 667 (W) where Williamson J said at 672 C-F:

“But the party so seeking to rely upon a right to claim a rectification must establish the facts justifying a rectification “in the clearest and most satisfactory manner” The decision in the case of *Meyer v Merchant’s Trust Ltd, 1942 AD 244*, made it clear that, in order to obtain rectification, it was not necessary to show that an antecedent agreement between the parties had by mistake not been embodied in the writing of the document sought to be rectified; it is sufficient if it is proved that the parties did have a common intention in some respect which they intended to express in the written contract but which through a mistake they failed to express”.

3) *Levin v Zoutendijk, supra*, where Coetzee J pointed out at p 1147H:

“The purpose of an action for rectification is to reform a written document in a specific fashion and a wholesome practice has developed over the years to draft the actual wording of the term omitted and to pray that that be inserted at a suitable place in the writing It is essential for any party to a written contract to know what the other party contends regarding the actual wording of the contract. Important rights and obligations may arise or be affected by the form of a written contract”.

The last sentence in this quotation is quite apposite as regards the situation that obtained in the present case. At p 1148A the Learned Judge also stated:

“The very cause of action for rectification postulates that the parties’ agreement or common intention was clear and unmistakable on those aspects in respect whereof the writing is to be reformed. Cf *Anglo-African Shipping Co (Rhod) (Pty) Ltd v Buddeley and Another* 1977 (3) SA 236(R) at 241”

4) *Von Ziegler and Another v Superior Furniture Manufacturers (Pty) Ltd* 1962 (3) SA 399 where Trollip J said at 409H:

“. . . in practice our Courts rigorously insist upon the party who relies on rectification, pleading all the essentials thereof and proving them on a substantial balance of probabilities (see, for

example *Lax v Hotz*, 1913 CPD 261 at p 266; *Venter v Liebenberg*, 1954 (3) SA 333 (T) at p 337; *Senekal v Home Sites (Pty) Ltd*, 1947 (4) SA 726 (W) at p 730; *Bardopoulos & Macrides v Multiadous*, 1947 (4) SA 860 (W) at pp 863-864; *Netherlands Bank of South Africa v Stern, N.O.*, 1955 (1) SA 667 (W) at p 672B-F.”

5) *South Cape Corporation (Pty) Ltd v Engineering Management Services (Pty) Ltd* 1977 (3) SA 534 (AD) where Corbett JA pointed out at 548A-C that the word onus has been used to denote two distinct concepts:

“(i) The duty which is cast on the particular litigant, in order to be successful, of finally satisfying the court that he is entitled to succeed on his claim or defence, as the case may be; and

(ii) The duty cast upon a litigant to adduce evidence in order to combat a prima facie case made by his opponent. Only the first of these concepts represents onus in its true and original sense. In *Brand v Minister of Justice and Another*, 1959 (4) SA 712 (AD) at p 715, Ogilvie Thompson, JA, called it “the overall onus”. In this sense the onus can never shift from the party upon whom it originally rested. The second concept may be termed, in order to avoid confusion, the burden of adducing evidence in rebuttal (“weerleggingslas”). This may shift or be transferred in the course of the case, depending upon the measure of proof furnished by the one party or the other. (See also *Tregea and Another v Godart and Another*, 1939 AD 16 at p 28; *Marine and Trade Insurance Co Ltd v Van der Schyff*, 1972 (1) SA 26 (AD) pp 37-39”).

[36] Considering the above, it is clear that the rectification of contracts is based on a common mistake between the parties to a contract. It is further based on the premise that at the time of executing the written agreement, the parties had a common intention which, as a result of a mistake on the part of both parties, the agreement failed to accurately reflect.

[37] The aforementioned leads me to the discussion of whether the plaintiff’s allegations are sufficient to sustain an entitlement to rectification?

Determination/Discussion

[38] It is common cause that the plaintiff bears the onus to prove on a balance of probabilities that she has complied with the principles applicable to rectification as outlined above. The witness for the plaintiff and the defendants remained consistent in the narration of their respective versions, throughout their testimonies and during cross examination.

[39] In the present case, and on the evidence available, the plaintiff and defendants signed a written agreement for the sale of immovable property, to wit Erf 1133, Rundu. The plaintiff had to pay the purchase price and transfer cost, to enable the transfer of the property in her name. The plaintiff paid the purchase price and the transfer cost and upon transfer realised that Erf 1133, Rundu, which is the subject of the agreement was not registered at the Deeds Office and a further discovery was that Erf 1133, Rundu is zoned at the Rundu Town Council as public administration institution, and thus not residential property. It is clear from the evidence that both the plaintiff and the defendants' when entering into the contract were not mistaken about the subject of the agreement.

[40] In my view, the subject of the agreement, is a contractual term agreed to by the parties. It is not susceptible to rectification unless the requirements for rectification are met. It is correct that the circumstances changed after the payment of the purchase price and transfer cost, at the point where the transfer of the property had to be effected. However, these changes of circumstances do not entitle the plaintiff to succeed with a claim of rectification of the agreement from its inception as there was not mistake on the part of either party or a mistake common to the parties at its inception.

[41] The mistake cannot be termed "common" as between the parties, hence this application before the court. If it were, the parties would have easily resolved the issue without having to resort to instituting court proceedings.

[42] It was incumbent upon the plaintiff to not only plead, but to also prove all the essentials of rectification on a balance of probabilities and she failed to do so.

[43] It is correct that, changes occurred to the agreement between the parties. This was not because of either the plaintiff or the defendants' doing but due to the following: Erroneous information was relayed by a housing officer in Rundu, employed by the defendants', and thus entered into the sales agreement. This housing officer has resigned and left the defendants' employment. It is clear from the evidence that Erf 1133, Rundu was not registered at the Deed's office and zoned at the Rundu Town Council as an office reserved for future administrative and governmental use, and not as residential property. Erf 1133, Rundu, is not the property of the first defendant. Erf 1146, Rundu was not the subject of the agreement between the parties at inception. The correct information was revealed when the agreement between the parties was already in existence.

[44] Whilst it is correct that erroneous information was relayed by a housing officer of the defendants', and thus entered into the sales agreement, there is no legal basis for the defendants' to accept the unilateral attempt by the plaintiff to amend the existing contract between the parties. It is clear from the evidence that there is no consensus between the parties regarding the amendment to the initially agreed subject of the agreement, to wit, Erf 1133, Rundu to Erf 1146, Rundu. Under the current circumstances, the changes in circumstances occasioned by the correct information cannot without more form the basis of a rectification of an agreement which has been in existence.

[45] Considering the evidence and pleadings presented, I am of the view that the plaintiff's reliance on rectification is doomed to fail. The court is inclined to refuse the grant of the prayer for rectification as sought by the plaintiff.

Cost

[46] Similarly, it also follows that costs follow the event. The court thus orders costs, which costs shall include the costs of attorney client scale.

[47] In the result, it is ordered as follows:

1. The prayers 1, 2 and 3 for rectification sought by the plaintiff are dismissed with costs.
2. The first defendant is ordered to reimburse the plaintiff the total amount of N\$78 181.75 paid towards the purchase of Erf 1133, Rundu and costs incurred by the Plaintiff in effecting the transfer of the property.
3. The matter removed from the roll and regarded as finalised.

CHRISTIAAN
ACTING JUDGE

APPEARANCES

For the Plaintiff:

N Enkali

Of Kadhila Amoomo Legal Practitioners, Windhoek

For the Defendant:

N Kauari

Of Government Attorneys, Windhoek

