IN THE SUPREME COURT OF NAMIBIA

In the matter between:

DAWID BEUKES	**First Appellant**
MARKUS NOABEB	**Second Appellant**
ELFRIEDE GAROES	**Third Appellant**
WILLEM HAAKSKEEN	**Fourth Appellant**
MARIA TSUSES	**Fifth Appellant**
PETRUS KASTOOR	**Sixth Appellant**
JOHANNES WAMBO	**Seventh Appellant**
MARKUS GAUSEB	**Eight Appellant**
TIMOTHEUS GARISEB	**Ninth Appellant**
SWARTBOOI TRADITIONAL AUTHORITY	**Tenth Appellant**

and

KUBITZAUSBOERDERY (PTY) LTD   **Respondent**

Coram: SMUTS JA, HOFF JA and FRANK AJA

Heard: **IN CHAMBERS**

Delivered: **20 July 2020**

_____

JUDGMENT IN RESPECT OF COSTS
_____

FRANK AJA (SMUTS JA and HOFF JA concurring):

[1]   In this matter the appeal was struck from the roll 'with costs inclusive of the costs of one instructing and one instructed legal practitioner'.

[2]   The legal practitioner of the appellants in a letter to the registrar points out that the costs order was an error as appellants were legally aided litigants and that the respondent, for this reason, did not seek a costs order. The legal practitioner for the respondent had understandably not taken issue with the contents of this letter.

[3]   As the error relates to the costs order only and there can be no prejudice or injustice to anyone if the order contained in the judgment is altered so as to accord with the concession made on behalf of the respondent it will be so altered.[1]

[4]   In the result the order contained in paragraph 39 of the judgment of 1 July 2020 is altered to read as follows:

        'The appeal is struck from the roll.'

_____
FRANK AJA

_____
[1] *Standard Bank v Jacobsen's Trustee* (1899) 16 SC 352, *Estate Garlick v Commissioner for the Inland Revenue* 1934 AD 499, *West Rand Estate Ltd v New Zealand Insurance Co. Ltd* 1926 AD 173 at 194 and *Zondi v MEC, Traditional and Local Government Affairs* & others 2006 (3) SA 1 (CC) paras 34, 35 and 46.

_____

SMUTS JA

_____

HOFF JA

APPEARANCES

APPELLANTS: R Mondo

Of Nixon Marcus Public Law Office, Windhoek

RESPONDENT: J Diedericks

Instructed by Conradie & Damaseb Legal Practitioners, Windhoek