

**IN THE HIGH COURT OF SOUTH AFRICA**

**WESTERN CAPE DIVISION, CAPE TOWN**

CASE NO.:19630/16

In the matter between:

**FRANCIS BUKELWA MLANDU**

Applicant

and

**ABSA BANK LIMITED**

First Respondent

**NKOSINATHI CHRISTOPHER MPOTULO**

Second Respondent

**THE SHERIFF FOR THE DISTRICT OF KHAYELITSHA**

Third Respondent

**THE CAPE LAW SOCIETY**

Fourth Respondent

**REGISTRAR OF DEEDS, CAPE TOWN**

Fifth Respondent

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**AFFIDAVIT**

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I, the undersigned

<sup>1</sup> I.F.  
B7M

**BUKELWA FRANCIS MLANDU**

hereby make oath and state:

1. I am an adult female, domestic worker (ID number 6810101523088) currently residing at 36 Dike Street Khayelitsha, Cape Town.
2. The contents of this Affidavit are true and within my personal knowledge unless the context indicates otherwise. Where I make submission of a legal nature I do so upon the advice of my legal representatives whose advice I believe to be correct.
3. I am the Applicant herein and duly authorized to depose to this affidavit. On 17 September 2019, the above Honourable Court handed down an order, by agreement, between myself the Applicant, First Respondent and the Second Respondent, declaring that I am the rightful owner of the property situated at 36 Dike Street Khayelitsha. The cadastral description of the property is erf 39336 Khayelitsha, Cape Town. A copy of the order is attached marked "Annexure BFM1".
4. Following from the above-mentioned Order, I confirm that I am the registered owner of the property situated at erf 39336. A copy of the title deed is attached marked "Annexure BFM2".

2 IF  
BFM

5. I ask that the Legal Practitioners Fidelity Fund, make the necessary payment to the First Respondent, in line with the court order attached hereto marked "Annexure BFM1"

*B.F. Mlandu*

**BUKELWA FRANCIS MLANDU**

I hereby certify that the deponent has acknowledged that they:

- (a) Know and understand the contents of this affidavit; *yes*
- (b) Have no objection to taking the oath; *no*
- (c) Consider the oath to be binding on their conscience. *yes*

Thus signed and sworn to before me, at *Cape Town* on this *29* day of *October* 2021.

*Fortune*

**COMMISSIONER OF OATHS**

Name: *IAN FORTUNE*

Capacity: *(Ex officio)*

Address: *28 Buitenkant Street, Cape Town*

Area: *Cape Town*



"BFM1"

Fee endorsement		Office fee
	Amount	
Purchase price/Value	R. _____	R. 371,00
Mortgage capital Amount	R. _____	R. _____
Reason for exemption		Exempt i.t.o.

1-4-6  
 1  
 3

DMH  
 17/09/2019

IN THE HIGH COURT OF SOUTH AFRICA  
 WESTERN CAPE DIVISION, CAPE TOWN

Before the Honourable Justice Hlophe (Judge President)  
 Cape Town: Tuesday 17 September 2019

CASE NO: 19630/16

In the matter between:

FRANCIS BUKELWA MLANDU

and

ABSA BANK LIMITED

NKOSINATHI CHRISTOPHER MPOTULO

THE SHERIFF FOR THE DISTRICT OF KHAYELITSHA

THE CAPE LAW SOCIETY

REGISTRAR OF DEEDS, CAPE TOWN

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA  
 WESTERN CAPE DIVISION,  
 CAPE TOWN  
 Private Bag X8020, Cape Town 8000

2019 -10- 02

WCD-029

GRIFFFIER VAN DIE HOOGGEREGSHOF SUID-AFRIKA,  
 WES-KAAP AFDELING,  
 KAAPSTAD

Applicant

BC 000038991 / 2021

First Respondent

Second Respondent

Third Respondent

Fourth Respondent

Fifth Respondent

ORDER



14-09-2021  
 DIGNOPELLE L. LEEUW

By agreement between the Applicant, the First Respondent and the Second Respondent, it is ordered that:

DATA / CAPTURE  
 14 -09- 2021  
 NOLUVO MTYATYAMBA



I.F.  
 BFM

1. The offer to purchase and deed of sale agreement concluded between the Applicant and the Second Respondent on 24 April 2014 and the addendum thereto signed 11 June 2014 are declared invalid, unlawful and of no force and effect.
2. The transfer of Erf 39336 Khayelitsha, Cape Town ("the property") to the Second Respondent on or about 4 December 2014 by way of Deed of Transfer No. T69886/2014, is set aside.
3. It is declared that the Applicant is the lawful owner of the property.
4. The Fifth Respondent is ordered to cancel Title Deed T69806/2014 in terms of Section 6 of the Deeds Registries Act 47 of 1937 ("the Act"), and to amend his/her records to reflect the Applicant as the registered owner of the property. ✓
5. The mortgage loan agreement entered between the First Respondent and the Second Respondent in respect of the acquisition of the property is set aside.
6. The Fifth Respondent is ordered to cancel Mortgage Bond No. B35756/2014 in terms of Section 6 of the Act.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA WESTERN CAPE DIVISION, CAPE TOWN		
Private Bag X9020, Cape Town 8000		
	2019 -10- 0 2	
WCD-029		
GRIFFIER VAN DIE HOOGGEREGSHOF SUID-AFRIKA, WES-KAAP AFDELING, KAAPSTAD		

I.F.  
BAM

7. The parties hereby nominate and appoint Marais Muller Hendricks Inc, with its addresses at 1<sup>st</sup> Floor, Tyger Forum A, 53 Willie Van Schoor Avenue, Tygervalley as the attorneys of record, who will attend to the cancellation and registration of the abovementioned deeds, as well as any additional legal acts which may be required in pursuance of the above.
8. In the event of the Second Respondent failing and or refusing to sign any documentation necessary to give effect to paragraphs 1 to 7 above, the Third Respondent is hereby authorised and ordered to sign such documentation on behalf of the Second Respondent.
9. The default judgment and order granted on 20 June 2016 in this Court under Case Number 1111/2016 in favour of the First Respondent, insofar as it relates to the declaration that the property be specially executable, is set aside.
10. The property is released from the judicial attachment in terms of the interdict under number I2966/2016AT and the Third and Fifth Respondent are directed to take all necessary steps to ensure that the property is released from attachment and all interdicts and / or endorsements relating to the attachments of the property are cancelled.
11. Upon compliance with paragraph 4 above the Applicant is ordered to cause the Legal Practitioners Fidelity Fund (the Fund) to pay the amount of R 200

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA CAPE TOWN		
Private Bag X0020, Cape Town 8000		
	2019 -10- 0 2	
WCD-029		
GRIFFIER VAN DIE W	DOGGEREGBHOF SUID-APRIKA, KAAP AFDELING, KAAPS IAD	

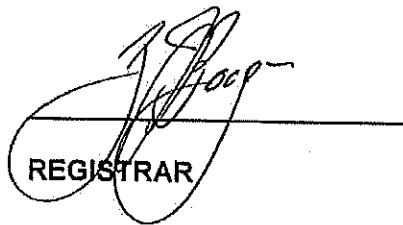
I.F.  
B.F.M

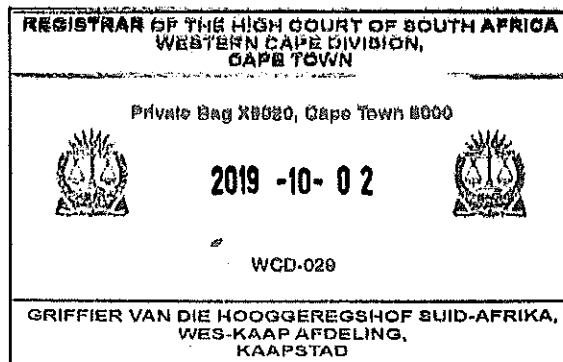
067.00 due to her in respect of her claim against the Fund, without deduction or set off, directly into a bank account held with the First Respondent with number 80-7883-6423, in accordance with the letter from the Attorney's Fidelity Fund dated 9 October 2018, a copy of which is attached hereto marked "A", which shall be in full and final settlement of any claims she may have against the Fund.

12. There is no order as to costs.

BY ORDER OF THE COURT

COURT

  
REGISTRAR



84 Legal Resources Centre  
CAPE TOWN

/avz

I.F.  
B.A.M



**LEGAL  
PRACTITIONERS  
FIDELITY FUND**  
SOUTH AFRICA

Annexure A

Your Ref: SK/zm/Mlandu

Our Ref: PN/em/fw/8139/C16/Van Der Schyff

4 July 2019

Legal Resource Centre  
CAPE TOWN

[steve@lrc.org.za](mailto:steve@lrc.org.za)

Dear Sirs

**Claim no. 16: Francis Mlandu re Rugaya van der Schyff (R Van Der Schyff Attorney)**



I refer to your e-mail of 7 May 2019 and apologise for the late response thereto. I refer to the Fund's letter of 9 October 2018 and advise that once the claimant is again registered owner of the property she should advise the Fund of such, by way of an affidavit. The affidavit must be accompanied by the necessary proof that the property is now in the name of the claimant, as well as the copy of the settlement agreement between your client, purchaser and ABSA.

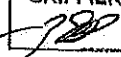
The Fund would also appreciate receiving written advices from ABSA as to the details of the account into which the money should be paid.

I trust that the above is in order.

Yours faithfully

  
**P. NDIMA**  
**SENIOR CLAIMS MANAGER**

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA WESTERN CAPE DIVISION, CAPE TOWN		
Private Bag X9020, Cape Town 8000		
	2019 -10- 0 2	
WCD-028		
GRIFFIER VAN DIE HOOGGEREGSHOF SUID-AFRIKA, WES-KAAP AFDELING, KAAPSTAD		



Cape Town Office  
Tel +27 (0) 21 424 5351 Fax +27 (0) 86 549 2050  
Email [attorneys@fidfund.co.za](mailto:attorneys@fidfund.co.za) Website [www.fidfund.co.za](http://www.fidfund.co.za)  
Physical 5th Floor, Waalburg Building, 28 Wale Street, Cape  
Town, 8001, South Africa  
Postal P O Box 3062, Cape Town, 8000, South Africa, Docex  
154, Cape Town

Centurion Office  
Tel +27 (0) 12 522 3900 Fax +27 (0) 86 804 8452  
Email [attorneys@fidfund.co.za](mailto:attorneys@fidfund.co.za) Website [www.fidfund.co.za](http://www.fidfund.co.za)  
Physical 1256 Heunel Avenue, Centurion, 0127, South Africa  
Postal P O Box 12169 Die Hoewes, 0163 Docex 24 Centurion

D.M. Maitse (Chief Executive Officer), J.M. Lesner (Claims Executive), J. De Beer (Fund Management Executive), P.Z. Ndima (Senior Claims Manager),  
R. Burawung (Investment Executive), S.D. Maitse (Head Secretary), M. Tsengiso (Chief Information Officer), E.N. Kraai (Senior Human Resources Manager)

IF.  
B.F.M



117 " 29/10/2020pa

BOX 88  
IN THE HIGH COURT OF SOUTH AFRICA  
(WESTERN CAPE DIVISION, CAPE TOWN)

CASE NO: 19630/2016



BEFORE THE HONOURABLE MS JUSTICE ALLIE  
CAPE TOWN: THURSDAY, 29 OCTOBER 2020

In the matter between:

ABSA BANK LTD

and

FRANCIS BEKELWA MLANDU

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA WESTERN CAPE DIVISION CAPE TOWN	
Pinariv Baq K0000, Cape Town 8000	
	
2020 -11- 03	
WOD-006	
REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA WESTERN CAPE DIVISION CAPE TOWN	

Applicant/First Respondent

First Respondent/Applicant

NKOSINATHIS CHRISTOPHER MPOTULO

Second Respondent

THE SHERIFF FOR THE DISTRICT OF KHAYELITSHA

Third Respondent

THE CAPE LAW SOCIETY

Fourth Respondent

REGISTRAR OF DEEDS, CAPE TOWN

Fifth Respondent

**DRAFT ORDER**

Having heard Counsel for the Applicant and having read the documents filed of record,

**IT IS HEREBY ORDERED THAT:**

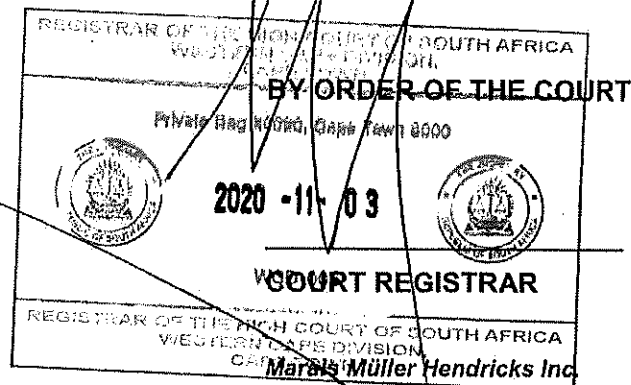
Marais Müller Hendricks Inc.  
c/o Marais Müller Hendricks Inc.  
4th Floor, General Building, 42 Burg Street  
Cape Town  
Tel: 021 943 5800  
Email: merfinn@mmha.co.za

I.F.  
B.F.M

1. The Order granted on 17 September 2019 by this Court under the abovementioned case number ("the Order") is hereby amended;
2. The content of paragraph 4 of the Order is deleted and replaced with the following:

*The Fifth Respondent is ordered to cancel Title Deed T69886/2014 in terms of Section 6 of the Deeds Registrations Act 47 of 1937 ("the Act"), and to amend his/her records to reflect the Applicant as the registered owner of the property.*

3. No order as to costs.



**C/O Marais Müller Hendricks Inc.**  
4<sup>th</sup> Floor  
General Building  
42 Burg Street  
Cape Town  
(Ref: MJ Titus/IYS/ZA9887)

Marais Müller Hendricks Inc.  
c/o Marais Müller Hendricks Inc.  
4<sup>th</sup> Floor, General Building, 42 Burg Street  
Cape Town  
Tel: 021 943 5800  
Email: merinn@mmha.co.za

88

J.F.  
B.F.M

197

LAUBSCHER & HATTINGH  
(IN CO-OPERATION WITH BKS (PTY) LTD)

*Swanepoel*  
PREPARED BY ME.

CONVEYANCER  
HATTINGH L  
SWANEPOEL ES

WEI REG DUY	.....
FOCI SEE	<i>55, 0, 0</i>

WIR ENDOSSEMENTE KYK BLADSY  
FOR ENDORSEMENTS SEE PAGE 3

**DEED OF TRANSFER NO T.**

(In terms of the provisions of section 13(1) of Act 112 of 1991)

37642 - 2000

Whereas I, Rudolf van Oirschot, authorised agent of the  
**Province of the Western Cape**  
declared that the transferor had on the 30th of June 1986 truly and legally sold to the  
transferee/s the undermentioned property for the purchase price of R7 496,00 (Seven  
Thousand Four Hundred and Ninety Six Rand), which purchase price have been duly  
paid or secured;

Now, therefore, I hereby cede and transfer all rights and title in full and free  
property, State, however, reserving its rights, to and on behalf of

Mncedisi Victor Mlandu  
IDENTITY NUMBER : 6408095696083

and  
Bukelwa Francis Mlandu  
IDENTITY NUMBER : 6810101523088

.....	.....
<i>25/5</i>	<i>Ⓢ</i>

Married in Community of Property to each other

Erf 39336 Khaye-itsha, situated in the City of Tygerberg,  
Division Cape, Western Cape Province  
In extent 142(One Hundred and Forty Two) Square metres

*Rvd*

IF.  
B.F.M

As will more fully appear from General Plan 475/1992, and held by CERTIFICATE OF REGISTERED TITLE NO. T.81711\93.

A. SUBJECT to the reservation in favour of the State of all rights to precious stones, precious metals, base minerals and natural oil as defined in the Mining Right Act 1967 [Act No. 20 of 1967], for which CERTIFICATE OF RIGHTS TO MINERALS NO. K.17\92RM has been issued.

B. SUBJECT to the special condition imposed in terms of Section 57B of Act 4 of 1984, namely:

"This erf shall be used solely for the purposes indicated in the Town Planning Scheme of the Local Authority and subject to the conditions stipulated by the Town Planning Scheme."

Signed at CAPE TOWN on 18th of October 1999

*Handwritten signature*

Transferor/  
duly authorised agent

Before me *Pharoel*  
Conveyancer / Authorised officer

Registered at CAPE TOWN on 16 May 192000

*Handwritten signature*  
Registrar of Deeds

I.P.  
B.F.M

T31642/2000

<b>VERBIND</b>		<b>MORTGAGED</b>		<b>BC</b> 017029/11
VIR FOR R <u>21 000 00</u>				
<b>B</b> 068195/07				REGISTRATEUR/REGISTRAR
2007-07-19		REGISTRATEUR/REGISTRAR		12 APR 2011

INTESTATE

ENDOSSEMENT KRAGTENS ARTIKEL 45 (1) VAN WET 47 VS 1 1937	ENDORSEMENT BY VIRTUE OF SECTION 45 (1) OF ACT 47 OF 1937
BUKELWA FRANCIS MLANDU ID. NO: 681010 1523 088 - WIDOW	
VAT IN GEMEENSAP VAN GOED GETROUD WAS MET	W/O WAS MARRIED IN COMMUNITY OF PROPERTY TO LATE
<b>M V MLANDU</b>	
IS BEVOEGD OM HET ERVENDE GODE GENDOM TE HANDEL ONDERMINDIG AAN TESTAMENTERE VOORWAARDES.	IS ENTITLED TO DEAL WITH THE WITH MENTIONED PROPERTY SUB- JECT TO TESTAMENTARY CONDITIONS.
T 000069885 / 2014	
04 DEC 2014	REGISTRATEUR/REGISTRAR

ACT 81/09

GETRANSPORTEER AAN	TRANSFERRED TO
<b>NC MPOTULO</b>	
RESTANT/REMAINDER	
T 000069886 / 2014	
04 DEC 2014	REGISTRATEUR/REGISTRAR

FOR FURTHER ENDORSEMENTS  
SEE PAGE..... 4 .....

I.F.  
R.F.M

T 3-642/2000

B-4

VA 000004981/2021

Certified a true copy of the duplicate original filed of record in this Registry, issued to serve in place of the original thereof under the provisions of Deeds Regulation No 68. (1)

Deeds Registry  
Cape Town

*[Signature]*

ASST REGISTRAR OF DEEDS 08 SEP 2021

FOR FURTHER ENDORSEMENTS  
SEE PAGE.....5.....

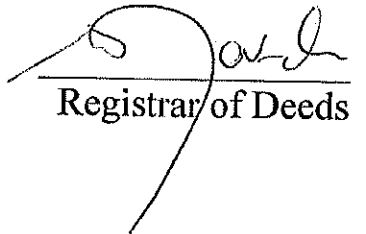
I.F.  
B.F.M

**REVIVAL OF TITLE IN TERMS OF SECTION 6(2) OF ACT 47 OF 1937**

In terms of Section 6(2) of Act 47 of 1937 this transfer deed is revived in view of the cancellation of Deed of Transfer no. T 69886/2014 by virtue of the Order of the HIGH COURT OF SOUTH AFRICA (WESTERN CAPE DIVISION, CAPE TOWN) handed down on the 17<sup>th</sup> of September 2019 under case no. 19630/2016, read with the Order handed down on the 29<sup>th</sup> of October 2020. The transfer endorsement on page 3 herein dated 4 December 2014 is hereby cancelled.

As will more fully appear from the order of court filed with BC \_\_\_\_\_.

Deeds Registry  
Cape Town  
Date:

  
Registrar of Deeds