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SUMMARY OF JUDGEMENT: BODY CORPORATE THE S[...] VS. JANSEN MADIKE KATISI

Court Information

- **Court:** High Court of South Africa, Gauteng Local Division, Johannesburg
- **Case No:** 2023-031774
- **Date of Judgment:** 3rd January 2025

Parties Involved

- **Applicant:** The Body Corporate
- **Respondent:** Jansen Madike Katisi

Key Points of the Case

Introduction

- The Body Corporate sought a monetary judgment of **R107,940.63** against the respondent for unpaid levies and electricity charges, alongside interest and costs.
- The Body Corporate requested permission to disconnect the respondent's electricity supply until the owed amount was paid in full.

Court Proceedings

- On **14 November 2024**, an order was mistakenly granted allowing the disconnection of the electricity supply until the total judgment amount was paid. The intention was only to disconnect for unpaid electricity charges.
- The court identified and corrected this mistake, proposing an amendment to reflect that disconnection would occur only until the outstanding electricity charges were settled.

Background

- The Body Corporate, established in **2007**, consists of **86 units**. The respondent, as a unit owner since **30 June 2014**, is a member of the Body Corporate.
- The Body Corporate relies on the collection of levies and municipal charges to manage and maintain the property.

Respondent's Indebtedness

- The respondent admitted to his debt, amounting to **R107,940.63** for 25 months of unpaid levies and electricity charges. He attributed his financial struggles to the COVID-19 pandemic and proposed a payment plan of **R8,000.00** monthly.



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Disconnection of Electricity Supply

Contentious Relief

- The Body Corporate sought court authorization to disconnect the electricity supply due to the respondent's non-payment. The respondent argued that such disconnection would violate his constitutional rights.

Legal Precedents Cited

- **Lion Ridge Body Corporate v Alexander:** Established that disconnection without prior agreement could infringe on constitutional rights.
- **Joseph v City of Johannesburg:** Highlighted the need for procedural fairness and adequate notice before disconnection.

Body Corporate's Justification

- The Body Corporate argued for a tacit agreement that obligates owners to reimburse for electricity charges. They asserted that if they cannot recover these amounts, it could jeopardize the financial stability of the entire scheme.

Court's Evaluation

- The court acknowledged the tension between the Body Corporate's need for reimbursement and the respondent's right to electricity.
- The Body Corporate successfully established a tacit agreement concerning the payment of utilities, allowing them to disconnect for non-payment.
- The judgment emphasized that the disconnection would not only address the respondent's non-payment but also protect the interests of other unit owners.

Final Order

- **Monetary Judgment:** The respondent was ordered to pay R107,940.63.
- **Interest Rate:** Interest on the judgment amount at 11.25% per annum until paid in full.
- **Electricity Disconnection:** Authorization was granted for the Body Corporate to disconnect the respondent's electricity supply if payment wasn't made within 10 days.
- **Continued Disconnection:** The electricity supply would remain disconnected until the full amount and interest were paid.
- **Costs:** The respondent was ordered to pay the costs of the application on Scale B.

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