

IN THE HIGH COURT OF SWAZILAND

PATRICK D. HLOPHE

VS

MCALAGENI COMPANY LIMITED & 2 OTHERS

CIV. CASE NO. 2465/98

CORAM : S.W. SAPIRE

FOR APPLICANT MR. J. MAVUSO

JUDGEMENT (05/05/99)

This is an application in which the applicant seeks an order directing that the 1st Respondent enter the applicant's name in its register of members. In the founding affidavit the applicant Patrick Hlophe describes himself as an adult male residing at Ngwenya. The company concerned is the 1st respondent, the 2nd respondent is the Registrar of Companies, the 3rd respondent is the Attorney General. There really is no need for the 2nd and 3rd respondents to have been joined in these proceedings.

The applicant describes the 1st respondent as a property company whose objective is to carry on business as proprietor of fixed property and to do all other activities related to the ownership of land. The applicant alleges that in 1994 he purchased shares held by Amos Matsebula in the first respondent. He does not say how many shares were involved or what the numbers of the shares are. He also claims to have made certain payments both to Matsebula and to the company in respect of the have made certain payments both to Matsebula and to the company in respect of the outstanding balance on the shares. The applicant seeks to have Matsebula's shares transferred to him.

An essential allegation is missing from the founding papers namely that a transfer form has been completed and signed by Amos Matsebula. Without such a document it is not possible to order the company to transfer the shares in question. The procedure for transfer of shares is prescribed in the Articles of Association. This procedure has not been followed.

I therefore am constrained, apart from any other considerations, to dismiss this application with costs.

S. W. SAPIRE

CHIEF JUSTICE