IN THE HIGH COURT OF SOUTH AFRICA

(WESTERN CAPE DIVISION, CAPE TOWN)

CAPE TOWN: Tuesday 10 July 2018
Before the Honourable Mr Justice Parker

CASE NO: 10175/18

In the application of:

JUANITO MARTIN DAMONS N.O. First Applicant

SOPHIE THABANG KEKANA N.O. Second Applicant

(in their capacity as the by the court appointed Curators of the Municipal Councillor's Pension Fund)

and

ISAGO AT N12 DEVELOPMENT (PTY) LTD Respondent

(Registration number: 2006/029695/07)

DRAFT ORDER

By agreement between the parties it is ordered that

1. The settlement agreement annexed hereto as Annexure "A" be made an order of Court.

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION,
CAPE TOWN
Private Bag XS020, Cape Town 8000
2018 -07- 12
BY ORDER OF THE COURT
WCD-032
GRIFFIER VAN DIE HOOGGEREGSHOF SUID-AFRIKA,
WES-KAAP AFDELING,
KAAPSTAD

401 Jeff Gowar Inc.
CAPE TOWN

/avz

COURT REGISTRAR

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

CASE NUMBER: 10175/2018

In the application of:

JUANITO MARTIN DAMONS N.O.	First Applicant
SOPHIE THABANG KEKANA N.O.	Second Applicant
(in their capacity as the by the court appointed curators in terms of section 5(1) of the Financial Institutions (Protection of Funds Act, 2001 for the whole whole of the business of the Municipal Councillor's Pension Funds)	

and

ISAGO AT N12 DEVELOPMENT (PTY) LTD (Registration number: 2006/029695/07)	Respondent

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SETTLEMENT AGREEMENT

The First and Second Applicants and the Respondent have reached a settlement with regard to the above application, on the following terms:

1.

The Respondent accepts the cancellation of the written Memorandum of

Agreement of Sale of Immovable Property entered into by and between the Respondent and the Municipal Councillor's Pension Fund dated 10 June 2015.

2.

2.1 The Respondent admits that it is liable to and undertakes to pay to the Applicants the following:

2.1.1 R136,800,000.00 ("**the capital amount**");

2.1.2 Interest on the amount of R136 800,000.00 at a rate of 9,5% per annum, compounded monthly and calculated from 19 April 2018, to date of payment ("**the interest**");

2.1.3 The wasted costs of the Applicants of the postponement of the hearing of the application on 10 July 2018 ("**the costs**");

3.

The Respondent shall pay the capital by no later than 1 October 2018 and the interest referred to in paragraphs 2.1.1 shall be paid within 10 (ten) business days thereafter. The Respondent shall pay the costs referred to in clause 2.1.3 on date of taxation or agreement.

4.

Payment of the capital, interest and costs is to be made to the trust account of Rorich Wolmarans & Luderitz Incorporated with account details as below:

Rorich Wolmarans & Luderitz Inc
FNB
Branch Code 251 445
Account Nr. 514 246 84285
Ref: M65682/B1

5.

5.1 The application for the liquidation of the Respondent is postponed to the 9th day of October 2018;

5.2 Should payment of the capital amount not be made by 1 October 2018, the Respondent consents that an order be granted on 9 October 2018 in terms of which the Respondent is placed under provisional winding-up.

6.

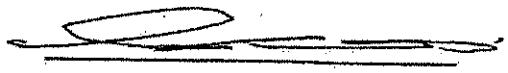
Applicants agree to withdraw the liquidation application once payment of the capital and interest have been made.

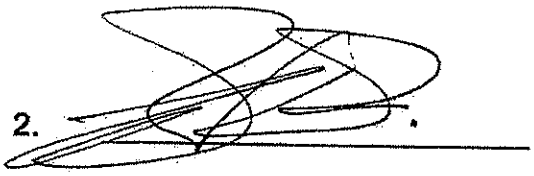
7.

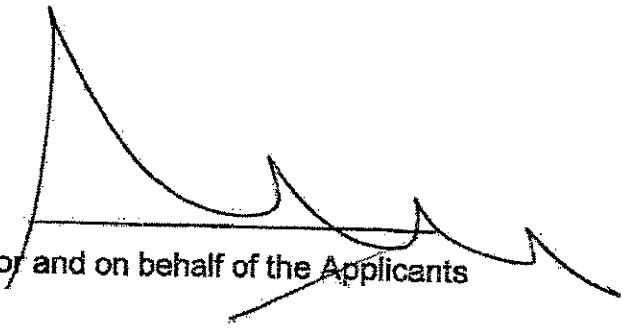
Payment of the capital amount, interest and costs as per the terms of this Settlement Agreement shall be in full and final settlement of any and all claims between the Applicants and the Respondent arising out of the Memorandum of Agreement of Sale of Immovable Property.

SIGNED AT PRETORIA ON THIS THE 9th DAY OF JULY 2018.

AS WITNESSES:

1. 

2. 

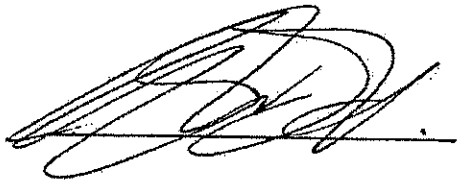


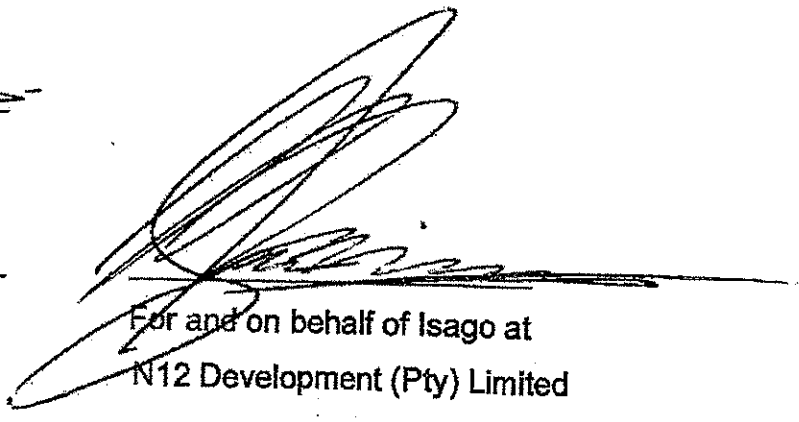
For and on behalf of the Applicants

SIGNED AT JOHANNESBURG ON THIS THE 9th DAY OF JULY 2018.

AS WITNESSES:

1.

2. 



For and on behalf of Isago at
N12 Development (Pty) Limited

BEMBRIDGE MINNAAR
ATTORNEYS

Your ref: Mr. vd Burg/al/M65682/B1

Our ref: Mr I B Minnaar
ISA054/MAT5707

Date: **9 July 2018**

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Dear Sirs,

RE: ISAGO AT N12 DEVELOPMENT (PTY) LTD // JUANITO MARTIN DAMONS N.O. & SOPHIE THABANG KEKANA N.O. – CASE NUMBER 10175/2018

1. The above matter refers.

2. Kindly find the signed Settlement Agreement attached hereto.

3. We confirm that we are instructed to consent to the attached Settlement Agreement being made an order of Court tomorrow, 10 July 2018.

4. We trust that you find the above in order and look forward to receipt of a copy of the countersigned and duly executed Settlement Agreement in due course.

Yours faithfully

IAN MINNAAR
MANAGING PARTNER
BEMBRIDGE MINNAAR ATTORNEYS