

A Preventable Tragedy? The Legal Limits of Accountability in School Camps

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17 June 2026

INTRODUCTION

In the matter of *RTO and Others v Member of the Executive Council*¹, the Western Cape High Court had to consider a tragic event in which two schoolchildren drowned whilst attending a school camp in Strandfontein. The aggrieved parents of the deceased children proceeded to institute a delictual claim against the Western Cape Department of Education on the basis that the school staff who attended the school camp were negligent in their conduct, which resulted in the deaths of the two children.

The Defendants, being the Member of the Executive Council (“MEC”) responsible for Education in the Western Cape and the Minister of Education, applied for absolution, and submitted that the Plaintiffs (the parents of the schoolchildren) failed to establish sufficient evidence to meet all the elements of delict. The Court had to determine on whether evidence established the school staff’s conduct was negligent and whether reasonable steps could have been taken to prevent the deaths of the two children.

EVIDENCE BEFORE THE COURT

The Court relied on the evidence of two witnesses, one was a learner (“Mr S”) who attended the school camp and the other witness was a teacher (“Mr J”) who attended the camp.

Mr S testified that the learners attended the school camp and were instructed by the teachers to be in bed by 22h00. The learners were repeatedly told not to swim in the pool and no time had been set aside in the camp programme for swimming. Mr S further testified that the learners were not aware before arriving at the camp that there was a swimming pool on the premises.

Mr J testified that he was one of the teachers on site who warned the scholars to not go swimming. Between 22h00 - 00h20 he had done rounds at the camp site to ensure that all the children were in bed.

He left the camp site and had advised the security guard and camp manager to not permit the students to walk around the camp site during the night. Mr J was informed the next day that the two children were missing and could not account for what occurred after he had left the camp.

WERE THE DEFENDANTS NEGLIGENT?

For purposes of the application for absolution, the Court accepted that the defendants were in *loco parentis* at the time of the incident and had to consider the “reasonable person” test in *Kruger v Coetzee*² to determine whether the Defendants;

- failed to properly supervise the learners who attended the school camp;
- whether they should reasonably have foreseen that the learners could go swimming and be at risk of drowning; and
- that they failed to take reasonable steps to prevent the incident.

The Defendants submitted that the learners’ decision to swim in the pool was deliberate and independent, and that the school staff could not reasonably foresee or prevent their disobedience. The school had supervised the children throughout the day, had repeatedly instructed them not to swim and conducted checks throughout the evening until approximately 00h20. The Defendants had submitted that the school staff had acted reasonably in their duty of care towards the learners and could not reasonably be expected to exercise exhaustive, constant supervision throughout the night.

Accordingly, the Court held that the Plaintiffs had not presented sufficient evidence upon which a Court could find that the Defendants were negligent and granted absolution from the instance.

CONCLUSION

This judgement serves as a cautionary tale to aggrieved litigants that liability in negligent claims depends on whether the harm was reasonably foreseeable and whether reasonable steps were taken that could have prevented a tragic event.

Please note: this article is for general public information and use. It is not to be considered or construed as legal advice. Each matter must be dealt with on a case-by-case basis and you should consult an attorney before taking any action contemplated herein.

¹ *R.T. NO and Others v Member of the Executive Council, Western Cape Department of Education and Another* (20392/2015) [2026].

² *Kruger v Coetzee* 1966 (2) SA 428 (A).



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