

In the matter between:

PETLANE OILS (PTY) LIMITED

Applicant

and

SHELL SOUTH AFRICA (PTY) LIMITED

First Respondent

SHELL SOUTH AFRICA MARKETING (PTY) LTD

Second Respondent

LEGAL SUMMARY

MBONGWE, AJ:

Application to set aside attachment and sale of applicant's right, title and interest to its claim against first respondent. Buyer of such right, title and interest, the 2nd respondent, being a marketing division of the 1st respondent. Whether the completed attachment and sale in execution can be set aside.

Held that 2nd respondent was not a third party and no prejudice could result and that court could, therefore, intervene. Held that as the unpaid costs giving rise to the attachment and sale of applicant's claim were tendered by notice and not emanating from the judgment, the attachment and sale of applicant's claim could be set aside. Irregularity in the execution of the writ also a ground for setting aside attachment and sale in execution of applicant's claim.

Held further that applicant's offer to settle the costs and incidental expenses to secure its claim could not justifiably be rejected solely for the purpose of depriving applicant of its claim and in light of 1st respondent's threat to further claim a shortfall resulting from the sale of the claim.