**IN THE HIGH COURT OF SOUTH AFRICA**

**GAUTENG LOCAL DIVISION, JOHANNESBURG**

(1) REPORTABLE: YES/NO
(2) OF INTEREST TO OTHER JUDGES: YES/NO
(3) REVISED

18/4/18

**Case number: 46101/2013**

**In the matter between:**

**BYRON LLEWELLYN** **Plaintiff**

**and**

**ROBYN LESLEY MACLENNAN** **Defendant**

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**JUDGMENT**

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**SATCHWELL J:**

**INTRODUCTION**

**The Case**

1. Plaintiff sues defendant for payment of R 500 000 (five hundred thousand rand) based on a loan made in installments to her personally alternatively based on an acknowledgment of debt in that amount alternatively on the grounds of unjust enrichment. Defendant disputes that the payments were made to her personally and

pleads that they were an investment in a close corporation and pleads that the acknowledgment of debt was signed under duress.

**The Friendship**

2. It is common cause that defendant practiced as a biokineticist, she assisted in the rehabilitation of plaintiff's son who had contracted viral encephalitis and as a result plaintiff and defendant became close friends. They both spoke in court most respectfully of each other. Plaintiff's evidence was that he was most grateful to and appreciative of defendant's kindness to his son.

**The Water Business**

3. Defendant met with agents of a 'scientist' in Cape Town and learnt of the ability of the Verve Aqua Oasis Water Unit ('the water machine') to produce a Himalayan Salt Concentrate through a multistage (seven or eight or ten depending on which website one reads or the evidence of defendant) process of water filtration/ cleansing/ distillation/sound enhancement/ crystalline formation/ ion exchange/magnetic implosion/ alkalization/ music enhancement/ Himalayan salt completion process.

4. Defendant did research and became most enthusiastic about the process and its results. Her websites[1] claims marvelous properties for the concentrate and the water resulting therefrom. In her evidence she referred to the "passion" she had invested and still felt for the product.

5. Defendant wanted to start a business to produce this Himalayan Salt concentrate. As far as plaintiff was concerned, he says that this was the business venture of defendant alone. He, by reason of the medical expenses incurred on behalf of his son and by reason of his son's disability, had to return to the contracting business and earn a living therefrom to meet his own considerable obligations.

**Payments**

6. Defendant could not afford to purchase the machine on her own. Plaintiff agreed to financially assist defendant in acquisition of the water machine.

7. There is an invoice from Design Verve[2] indicating that the purchase price of the water machine (inclusive of VAT) was R 227 000 (two hundred and twenty seven thousand rand). It is common cause that plaintiff paid this full amount directly to Design Verve. However, in addition plaintiff was given to understand by defendant that his first payment of R 60 000 (sixty thousand rand) made to her was half

[1] Bundle A pages 42-47 and 48-83.
[2] The invoice is at page 20 of Bundle A and is addressed to plaintiff.

payment of the deposit on the machine. Defendant maintains that the full purchase price was some R 350 000 (three hundred and fifty thousand rand ) and that she paid over plaintiff's and her own contribution of R 60 000 (sixty thousand rand) but there are no records to indicate any such payment of R 120 000 (one hundred and twenty thousand rand) as a deposit or that the price for the water machine was not the R227 000 (two hundred and twenty seven thousand rand) indicated on the invoice. Clearly, the suggestion was that defendant had misled plaintiff but it is not a matter which was pertinently raised before me and I need make no finding thereon.

8. It is not disputed that plaintiff made certain payments in an amount of R 406 000 (four hundred and six thousand rand). Six payments totaling R 100 000 (one hundred thousand rand) were made to Body and Soul CC which was the biokinetics practice of defendant; two payments totaling R 227 000 (two hundred and twenty seven thousand rand) were made to Design Verve which was the "scientist" who designed and manufactured the water machine; eleven payments totaling R 79 000 (seventy nine thousand) were made to Reuvers who was the builder who effected renovations to a building on defendant's property in which the water machine was to operate.

9. In addition, plaintiff has testified that he provided the materials for use in the building renovations[3] to a value of approximately R 200 000 (two hundred thousand rand) which he rounded off to result in computation of his claim at R 500 000 (five hundred thousand).

10. I do note that, in respect of the water machine and his direct payment to Design Verve of the full unit price as set out in the invoice, plaintiff, in his evidence in chief, said emphatically "I am the owner". That however, is not the case pleaded.

**Repayment**

11. According to plaintiff there was a loose agreement between himself and defendant that, as and when she was able, she would repay him the amounts he expended. No time period or amounts to be repaid were ever spelt out. This was all done in a spirit of friendship to help a friend.

12. Defendant informed plaintiff, according to him, that she would obtain a further bond on her immovable property in Bryanston, would consider sub-dividing the large property or was in the process of obtaining investors.

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[3] His evidence was that this comprised timbers, construction materials, a stainless steel cabinet, storage facilities and so on.

13. He thus assumed that he would be paid back these loans "in a year or two" or "as soon as the bond extension [on her immovable property] was completed she would recompense me".

14. Defendant's evidence was that she had been told by the agents that they, personally, would purchase the Himalayan salt concentrate to be created by the water machine and she would therefore have an income of approximately R 6000 to R 8000 (six to eight thousand rand) per day. Accordingly, she anticipated that the water machine would be paid off within three to four months.

15. Although defendant's evidence was that plaintiff was making an investment in a close corporation, she did seem to indicate that plaintiff would be repaid for his contribution to the purchase of the machine within those months.

**Body and Soul CC and Defendant's Personal Property**

16. Plaintiff's evidence was that his contribution towards the deposit on the water machine was paid to Body and Soul CC and thereafter he paid Design Verve on an invoice which reflects that he was paying the full purchase price. He thereafter made smaller payments into the Body and Soul CC account because defendant needed funds, *inter alia*, for her living expenses. Reuvers was a subcontractor with whom he had worked and he made payments directly to him to renovate defendant's double garages on her property in Bryanston into a sterile facility where the water machine would function. Plaintiff personally obtained the building materials for these renovations. In short, plaintiff paid monies into defendant's biokinetics practice, paid for improvements to defendant's property and paid directly for a machine which was handed over to defendant and which she still retains for business purposes.

17. Defendant gave evidence that she conducted both her biokinetics practice and her personal life through one bank account in the name of Body and Soul CC. She charged patients, received rentals from other practitioners for use of her gym and extracted personal drawings from the Body and Soul CC account until 2012.

18. Notwithstanding the payments into the Body and Soul bank account and the improvements to her property and the direct payment to the "scientist" for the water machine, defendant claims that she always understood these as an investment in a close corporation yet to be formed and which did not have its own bank account until 2012 – *viz* Soul Sole Water CC / Sole Water CC/ Sole Water Pty Ltd.

**The Close Corporation**

19. This close corporation was formed in October 2008 and known as Soul Sole Water CC or Sole Water CC and is now Sole Water Pty Ltd. Plaintiff was granted a fifty per cent membership interest in the CC. That, according to defendant, was in exchange for his investment in the CC. Plaintiff says that it was a "generous" offer made to him but that he could play no part in such CC and had no interest in acquiring any interest.

20. By June 2009, plaintiff had resigned from the close corporation. He maintained that he could make no contribution to the water business and was fully committed to his contracting business. Defendant has pleaded that this was a repudiation by plaintiff but has not pleaded any agreed obligations which were repudiated and I need not make any determination in regard thereto.

21. When plaintiff terminated his assistance to defendant and resigned his membership in the CC, no arrangement was made and no terms agreed for repayment to him of his financial contributions. He has, to date, received nothing in return.

**Financial Records**

22. Defendant produced no financial records of Body and Soul CC which indicate receipt of any payments by plaintiff and the allocation thereof.

23. It is troubling that defendant produced no financial records at all pertaining to the proposed salt concentrate business and the eventual bottled water business. In fact, it emerged that she procured a banking account in the name of Soul Sole CC and thereafter Soul Sole Water Pty Ltd and thereafter Sole Water Pty Ltd only in 2012 and has yet to prepare any financial records on behalf of these entities which have existed and operated from 2008 until today.

24. Defendant conceded under cross-examination that, if any financial records had been kept for the CC, on her version plaintiff would have had a loan account to the value of between R 406 000 to R 500 000 (four hundred and six thousand to five hundred thousand rand) which would have been carried through to the current company and would still exist today. Absent any financial records it is impossible to see how the water machine is accounted for in the books of the business and whether plaintiff's payments were an investment in this business or loan payments into defendant's practice/personal/business account. Similarly, it appears from the defendant's evidence that the renovations to her garage for which plaintiff paid were renovations which improved the Bryanston property registered in her name but that no separation of credits and debits or assets and liabilities as between her person and her business was ever maintained.

25. It can only be concluded that defendant treated herself and her family expenses, her professional practice, her property/gym rentals, her proposed water salt concentrate business and her current bottled water business as one and the same entity for legal and financial purposes. They all shared and utilized the same bank account. They all shared and utilized the same property. They all shared and utilized the assistance of plaintiff.

**New Business Plan**

26. Initially, defendant had understood that the water machine could be used to manufacture a salt solution which could be sold on a daily basis in the amount of between R 6 000 to R 8 000 (six to eight thousand rand). This hope did not materialize. Defendant said she was "scammed".

27. Accordingly, once the machine was installed by the end of January 2009 and functioning, defendant decided to proceed with an alternative plan for the production and sale of bottled water with certain special characteristics.

28. By 2010 she had she had decided to phase down her biokinetics business. A year or so later she decided to renovate her gymnasium to enable the water machine to process the water and then bottle it. I see from her identity number that she was born in 1969 and was therefore in her forties when she decided, as she says, to "retire" and commit herself to Sole Water. The process was "gradual" commencing in 2010 and by 2012 she says that she was "no longer a biokineticist".

29. She sold her gym equipment and terminated the rental arrangements with the other practitioners. She then renovated the gym because she needed more equipment and bigger premises for "an automated plant" and to "become the Sole Water lab." Plaintiff confirmed that he had seen that there was this new plant involving plumbing, storage tanks, and cleansing decks. There is no explanation how this was financially possible.

30. One somewhat extraneous issue has been the registration of a second mortgage bond in 2010 in favour of ABSA Bank in the amount of R 500 000 (five hundred thousand rand) over defendant's immovable property in Bryanston. Defendant says that she is "flummoxed" over the existence of this bond as she would not have qualified for the granting thereof. Plaintiff's suggestion is obviously that she obtained a second bond in 2010 as she had always undertaken so to do but did not use the funds to repay him the loans but instead for her own personal use and the gym renovations.

31. Another somewhat extraneous issue which concerns me is that defendant, according to herself and to her websites, registered no less than six trademarks over the period 2010, 2011 and 2012. She says that such registration cost her "thousands" and she mentioned the sum of R 30 000 (thirty thousand rand) for one trade mark. This is the period when the second bond was registered and it is also the period when she could not pay R 5 000 (five thousand rand) per month in terms of the acknowledgment of debt. It also indicates considerable business acumen.

32. According to the defendant, the business was not making a profit and was operating "at a loss" from 2009 onwards but it did and continues to provide for certain of her personal expenses.

**Acknowledgement of Debt**

33. According to plaintiff he procured that defendant signed an acknowledgement of debt which is no longer available and not in issue in this trial. That document did not provide for interest and accordingly he wanted another acknowledgment of debt which did provide for interest.

34. On 22nd February 2011 defendant signed an acknowledgment of debt in favour of plaintiff for the amount of R 500 000 (five hundred thousand rand) plus interest thereon at the rate of 9.5% per annum with the payments to be made in the amount of R 5 000 (five thousand rand) per month commencing on 1st June 2011.

35. No payments were ever made in terms of the acknowledgment of debt. Defendant's property has (been attached and) sold. The water machine is now relocated to a location which defendant would not disclose in evidence and produces the salt solution which is then added to water obtained from and bottled on a Hekpoort farm and then sold as Sole Water.

**ACKNOWLDGEMENT OF DEBT**

**The Document**

36. The acknowledgement of debt dated 22nd February 2011 records that defendant, Robyn Lesley Maclennan, is indebted to plaintiff in the sum of R 500 000 (five hundred thousand rand) being "the full purchase price of Sole Water Plant Machinery known as the 'Plant'", that interest from 1st June 2011 will be paid at the rate of 9.5% per annum and that monthly installments of R 5 000 (five thousand rand) will be paid from 1st June 2011, That, failing any payment, plaintiff has the right to demand payment of the full amount and that defendant shall be liable for payment of legal fees on the attorney and client scale.

37. It is common cause that no payments have been made pursuant to such acknowledgement and plaintiff has now sued defendant for the full amount plus interest.

**The Pleadings**

38. Defendant has pleaded three defences. Firstly, she denies that she ever intended to personally admit liability to the plaintiff.[4] Secondly, that the machine that had been purchased was only partly operational, as the finalization of the manufacture thereof, which was the responsibility of the plaintiff, was never completed.[5] Thirdly, that she signed under duress which was that plaintiff had threatened the defendant that he would, *inter alia*, take the machine away and would cause the business to close down[6].

**Defendant's Signature**

39. It is not in dispute that it is defendant's name and signature on the document , that she personally signed the document which signature was witnessed by her father and (she maintains) her domestic worker. Whether or not, defendant intended anything other than that which the document records and to which she committed herself is unproven. She maintained that she understood that the sum of R 500 000 (five hundred thousand rand) included all interest payable but her evidence is that the monthly debt repayments were a combination of "affordability" for herself and the "minimum requirement" of the plaintiff.

**Plaintiff's Obligations to Sound Enhancement**

40. Insofar as it is pleaded that plaintiff failed to meet his obligations of ensuring that the machine was in full operation, the defendant's evidence was that a "scientist" in Cape Town had developed and manufactured this machine, that he took responsibility for installation and travelled to her Bryanston property, that plaintiff had no understanding of the complexities of the eight or ten stage water filtration/ cleansing/ distillation/sound enhancement/ crystalline formation/ ion exchange/magnetic implosion/ alkalization/ music enhancement/ Himalayan salt completion process.

41. The designer/manufacturer in Cape Town failed to provide the sound enhancement portion of the machine and defendant herself, through her research, developed her own sound enhancement competency.

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[4] Para 12.3 of Defendant Plea
[5] Para 9.2.7 of Defendants Plea
[6] Para 9.2.6 of Defendants Plea.

42. Her evidence was that she did not think that plaintiff understood the sound enhancement process at all and that, at most, plaintiff assisted by telephoning the "scientist" to demand the missing sound enhancement unit.

43. Her evidence was that, from the outset, she was able to provide sound enhancement at the appropriate hertz to the solution. She conceded that the machine has therefore, from the outset, been fully functioning.

**Duress**

44. The onus is on the defendant to persuade the court that there was no true consent on her part to entering into the contract (the acknowledgement of debt) because intimidation or improper pressure placed upon her rendered her consent no true consent and therefore the contract voidable.

45. Defendant's evidence was that plaintiff had been making "constant threats" over the past two and half years prior to her signing the acknowledgment of debt, that "it would be best to take the machine to recoup the money". This distressed her because the machine was "the crux of the business". The business operated by her was running at a loss, she was emotionally fragile at the time and, because plaintiff was "extremely unhappy", she began "to feel extremely pressured".

46. When she was presented with this document at her home/office by plaintiff, she felt "overwhelmed and burdened" and that it was "unfair that all of a sudden the burden was my whole problem". She said that "she was terrified that the amount of effort and research and time [she had put in] had come to an end."

47. In her evidence in chief, when asked what would happen as far as the machine was concerned if she did not sign the acknowledgement of debt, she answered "I don't think I thought that far". In cross examination it was put to her that plaintiff had said that, if the money could not be found then the machine would have to be sold, and defendant's reply in evidence appeared to indicate an objection to the "unilateral" nature of such a course of action. Her evidence was that she did "not have the luxury of cutting her losses" by selling the machine and recovering funds, that anyway she was "not sure who would want it".

48. I put the question to defendant why, since her evidence was the business "was running at a loss" and this was a "belly up venture", she found it offensive to try and sell the machine and close the business. Her response was that she had invested a great deal of "passion" in this enterprise, she "did not want to give up", and she still "saw potential" in this Himalayan Salt enhanced bottled water.

49. I also asked the defendant why she continually stated that she felt it unfair that she would bear the burden of a debt of R 500 000 (five hundred thousand rand) since the alternative was simply to sell the machine and the acknowledgement of debt then need not be signed and she would bear no such burden. Defendant responded that her "assumption was that the debt would be wiped clean" but that "I was terrified if this lovely project would be a no-no" and "I wanted to persevere".

50. In short, defendant saw herself presented with two alternatives. Let the water machine go, let it be sold, in that way recoup some money and the business would then close and she would not owe plaintiff any money or agree to sign the acknowledgment of debt in the amount of R 500 000 ( five hundred thousand rand) and keep the machine. It was either/or. It was not a case of both sell machine/close the business and pay the money. She was asked to "make a trade-off".[7]

51. Plaintiff and defendant do have not very different recollections of the meeting at which the acknowledgement of debt was signed. There is no evidence of any angry words, water was served by the domestic servant, defendant called her father to witness her signature, her father was "brilliant at maths" who was able to advise her, plaintiff and her father were friendly and afterwards went to look at the swimming pool.

52. Plaintiff's evidence was that he had said to defendant that machine had not been paid for by her and that she should give it back to him and he would then recover what he could from a sale. He acknowledged that the business might then cease but he also said that "another machine could have been purchased".

53. It is trite in our law that a contract may be vitiated by duress where improper pressure or intimidation renders the consent of the party subject to duress no true consent at all. Duress may take the form of threats which induce fear. The fear must be caused by the threat "of some considerable evil" to the person or his family, the evil threatened must be imminent or inevitable, the threat must be unlawful or *contra bonos mores*, the fear must be reasonable, and the pressure must have caused damage.

54. In the present case, defendant was offered a choice. That choice was either to attempt to recoup some money from the sale of the machine in order to recoup losses from what she described as a "belly up" business where "the whole thing had fallen through the ground" or to acknowledge personal liability to plaintiff for an agreed sum of money. In other words, "what resulted was no more than a

[7] See *Medscheme Holdings (Pty) Ltd and Another v Bhamjee* 2005 (5) SA 339 (SCA).at para [19]

settlement of the parties' respective contentions, prompted by legitimate commercial considerations that fell far short of duress".[8]

55. The so-called threat of taking the water machine to try and find a purchaser and recover some funds had allegedly been made over the past two and a half years and never carried out. It was not mentioned in her evidence in chief. It was hardly imminent or inevitable and indeed has never been carried out in the seven years since the business commenced and which still continues or in the four years since the business commenced and summons was issued.

56. The threat must have two of three components: it must be of "some considerable evil", it must be "unlawful" or it must be "*contra bonos mores*". At most the alleged threat consists in plaintiff saying that he would remove the water machine, find a buyer, recoup as much money from such sale as possible to recompense himself (whom it is common cause had paid over at least R 406 000 (four hundred and six thousand rand) towards this business) with the result that defendant would no longer have this water machine to produce her Himalayan salt solution. The threat is therefore that a failing business venture would cease operations.

57. It is not unlawful or *contra bonos mores* for a creditor to liquidate a business, to evict a tenant, to have possessions attached and sell them – in short to take steps which cause distress and damage to the a debtor. Economic pressure may constitute duress that allows for the avoidance of a contract. But it is not unlawful to cause economic harm or even economic ruin and is not unconscionable to do so in a competitive economy.

58. As was said by Nugent JA in *Medscheme supra* "in commercial bargaining the exercise of free will (if that can ever exist in any pure form of the term) is always fettered to some degree by the expectation of gain or the fear of loss".[9] Hard bargaining is not the equivalent of duress even where the bargain is the product of an imbalance in bargaining power. "Something more would need to exist for economic bargaining to be illegitimate or unconscionable and thus to constitute duress".[10]

59. The question is what was illegitimate or unconscionable in the behavior of plaintiff.

60. It does not seem to be in dispute that plaintiff had, and still has, the right to sue defendant and/or the close corporation for the money owed to him whether as

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[8] *Medscheme supra* at para 29.
[9] Para 18.
[10] Para 18.

series of loans, an investment resulting in a loan account to his credit and thereby procuring the closure of defendant's business and perhaps liquidation of her close corporation which is now a company. Even on the defendant's version, it is accepted that he should (up 'in the cloud') have a loan account in that amount since she concedes the monetary payments to herself and to Design Verve and to Reuvers and provision of supplies.

61. The complaint against plaintiff is that he proposed to take the action himself without following legal process. That is the "something more" upon which defendant's plea is based.

62. Defendant's counsel relied upon the judgment of Corbett J in *Arend and Another v Astra Furnishers (Pty)* Ltd 1974 (1) SA 298 (C) to argue that plaintiff obtained a number of advantages over and above that to which he was entitled *viz.* a liquid document acknowledging indebtedness, final determination of the amounts payable and the commercial advantages of such an agreement. However, I take the view that this judgment is of no assistance to defendant.

    a. Firstly, the commercial advantages (dealt with at page 309C of the judgment) to which counsel alluded resulted in the finding only that "accordingly, I hold that the validity of the acknowledgement of debt cannot be upheld on the ground that plaintiff was merely receiving that to which he was in any event entitled" (page 309F). This was not the issue in the present case.
    b. Secondly, in that case the facts were that a suspected fraudster and thief signed an acknowledgment of debt under threat of arrest by the police. The rationale for the court finding for the penalization of such an agreement was "that it tends to interfere with the proper administration of justice" and that "generally speaking a contract induced by the threat of criminal prosecution is unenforceable on the ground of duress and, in certain instances, also on the ground that it involves the compounding of a crime and the stifling of a prosecution".[11] The court made it clear that criminal prosecutions rest in the hands of public authorities not private contract.

63. One must ask whether plaintiff obtained through unconscionable means "reward or advantage to which otherwise not entitled"[12] and which advantage was "substantial".[13] In the present case, on the documents it was plaintiff who paid for

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[11] See pages 308G and 311G.
[12] *Machanick Steel & Fencing (Pty) Ltd v Wesrhodan (Pty) Ltd; Machanick Steel & Fencing (Pty) Ltd v Transvaal Cold Rolling (Pty)* Ltd 1979 (1) SA 265 (W) at 273F.
[13] *Machanick supra.*

the water machine. His version is that this was a loan while defendant's version is that somewhere over the rainbow he has a loan account greater than that amount.

64. The concern of defendant that sale of the machine would end her dreams and render nugatory all her research and hard work and result in the end of the water production business is the fear which she claims vitiates her consent to the acknowledgment of debt.

65. As was pointed out in *Paragon Business Forms (Pty) Ltd v Du Preez* 1994 (1) SA 434 (SE) one must examine "whether it was reasonable for him to have suffered fear and to have succumbed thereto" 441E. Reasonableness is ascertained by examining the person who claims to have suffered from such fear.[14] In the present instance defendant is a professional woman with a career, a property from which she not only conducts her own business but also rents out premises and facilities to other professionals, she has sufficient business acumen to register six trademarks, and she was able to introduce the concept of a CK1 under cross examination and explain the contents thereof. She was no babe in the woods of whom advantage was being taken.

66. In short, the fear she claims is that a business venture, already failing, would come to an end. I cannot find that the fear that her passion for an insolvent project would be ended can reasonably be regarded as one which could vitiate her consent to signing the agreement.

67. I cannot find that there was a threat but only presentation of two alternatives. I cannot find that there was a threat of imminent or inevitable harm but only that the one prospect of closing the business had been in the air for some time. I cannot find that there was an unconscionable or evil threat but only that there was an option to recoup portion of the financial loss as against assumption of debt. I cannot find that there was an unlawful or unconscionable threat but only that there was presentation of a commercial bargain of either being absolved of all indebtedness and closing the failing business or assuming some indebtedness and continuing with the failing business. In the result, I cannot find that defendant's consent has been vitiated by any form of duress and this plea must fail.

**THE LOANS**

68. The first dispute between the parties is whether or not the acknowledged payments made by plaintiff were made to or for and on behalf of defendant to enable her to

[14] See *Paragon supra* at page 441G.

procure the water machine and commence her business or whether or not these payments were made in exchange for a fifty per centum membership interest in a close corporation to be formed and which was known as Soul Solé Water CC.

69. By reason of my finding on the validity of the Acknowledgment of Debt, I do not need to decide this issue.

70. However, I would indicate that, based on the evidence before me, there is insufficient evidence for me to find that any investment was or could have been made in Sole Water CC by reason of the monies paid over or supplies rendered or purchase of the machine where all expenditure of plaintiff was into defendant's own (Body & Soul CC) account, into her immovable property and to the 'scientist' and where there is nothing whatsoever to indicate that acquisition of the fifty per centum interest in the CC was in exchange for these payments/provision.

**CONCLUSION**

71. In the result I find for the plaintiff in respect of the alternative claim based on the Acknowledgment of Debt and an order is made as follows: The defendant shall

~~pay~~ make payment

a. Payment of the sum of R500 000.00 (five hundred thousand rand);
b. Interest on the aforesaid sum calculated monthly in advance from 1 June 2011 to date of payment at the rate of 9.5% per *annum*; and
c. Costs of the suit on an attorney and client scale.

**DATED AT JOHANNESBURG 18th FEBRUARY 2016**

**SATCHWELL J**

Counsel for Plaintiff: Adv Hodge
Attorneys for Plaintiff: Louis Gishen & Associates
Counsel for Defendant: Adv Kruger
Attorneys for Defendant: JJ Badenhorst & Associates Attorneys
Dates of hearing: 09th, 10th, 11th February 2016.
Date of judgment: 18th February 2016.