IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, JOHANNESBURG)

REPUBLIC OF SOUTH AFRICA

CASE NO: 11987/2020

NOT REPORTABLE

NOT OF INTEREST TO OTHER JUDGES

NOT REVISED

21.04.23

In the matter between:

TUHF LIMITED	Plaintiff
And	
266 BREE STREET JOHANNESBURG (PTY) LTD	First Defendant
10 FIFE AVENUE BEREA (PTY) LIMITED	Second Defendant
28 ESSELEN STREET HILLBROW CC	Third Defendant
68 WOLMARANS STREET JOHANNESBURG (PTY) LTD	Fourth Defendant

HILLBROW CONSOLIDATED INVESTMENT CC

Fifth Defendant

MARK MORRIS FARBER

Sixth Defendant

TUMISANG KGABOESELE

Seventh Defendant

Neutral Citation: *TUHF Limited V 266 Bree Street Johannesburg (Pty) Ltd (in business rescue) and 6 Others* (Case No: 11987/2020) [2023] ZAGPJHC 361 (21 April 2023)

JUDGMENT

SENYATSI J:

Introduction

[1] This as an action in terms of which the plaintiff TUHF Limited ("TUHF") claims repayment of its full loan lent and advanced to the first defendant, 266 Bree Street Johannesburg (Pty) Ltd *(in business rescue)* ("the first defendant").

[2] This matter proceeded to full trial, in addition to written sworn statements and a number of witnesses testified on behalf of the plaintiff and one witness testified on behalf of all six defendants. For convenience sake, I will not restate the details of the parties as same appear at the heading of this judgment.

Background

[3] The claim by the plaintiff is premised on the loan agreement which was concluded during November 2016 in terms of which the plaintiff lent and advanced the sum of R20 937 842.00 to the first defendant.

[4] The loan facility was made available to the first defendant for the purposes of purchasing and refurbishing a building in the Johannesburg inner city, identified as Metro Centre ("Metro Centre").

[5] By refurbishing the Metro Centre the first defendant intended to create residential units and upgrade the commercial floor space which it would rent out to tenants.

[6] The loan amount was secured by a mortgage bond registered over at the Metro Centre. In addition, the second to sixth defendant concluded suretyship agreements in favor of TUHF for the fulfillment of the loan repayment obligation by the first defendant.

[7] The amount was drawn down and the refurbishment of the Metro Centre was completed, *albeit* it took time, for reasons not relevant in this judgment.

[8] Due to the delay in completing the refurbishment, the repayment was deferred to April 2019, according to TUHF. However, the defendants contend that the repayment of the loan was deferred to July 2019.

[9] When no repayments were forthcoming, TUHF accelerated payment of the full amount in 2020. The basis of its acceleration was breach of the loan agreement in that no repayments were made either from May 2019 as averred by the plaintiff or on the version of the defendants, from July 2019. In addition, TUHF

contends that the first defendant was in breach of the loan agreement by failing to pay its municipal utilities such as rates and taxes, refuse removal, water and electricity on the Metro Centre.

Plea

[10] In their plea, the defendants plead that the loan was based on suspensive conditions which were never fulfilled all waived by TUHF and that the loan agreement was therefore void.

[11] The defendants also contend that the suretyship agreements conducted by the second to sixth defendants amount to financial assistance which fall foul of section 45 of the Companies Act No 71 of 2008 on financial assistance. They contend that the suretyship agreements concluded by the second to sixth defendants amount to financial assistance which is prohibited by the said section.

[12] It is common cause between the parties that the certificate of indebtedness is *prima facie* proof the amount owing as provided for in the loan agreement as this is contained in the agreement. However, the first to the sixth defendants contend that the figure set out therein is excessive and therefore incorrect.

[13] The first defendant was placed in business rescue by the sixth defendant during 2022. However, the first business rescue practitioner resigned as she claimed that she is not getting any co-operation from the first defendant, that is Mr Faber, the sixth defendant in this case.

[14] Before she resigned, however, the parties reached an agreement in terms of which the proceeds of rental derived from the Metro Centre were to be paid into the independent escrow account to be held in trust pending the final determination of the current litigation. The agreement also made provision for the running expenses of the Metro Centre to be paid out of the proceeds and the agreement was made an interim court order.

[15] After the resignation of the first business rescue practitioner, a second business rescue practitioner was appointed but he also resigned before the business plan of the first defendant could be finalized. He also cited a lack of co-operation between himself and Mr Faber, the sixth defendant.

[16] A third business rescue practitioner was appointed, and he is cited, as the seventh defendant in these proceedings. He consented to the legal action to continue in terms of section 133 of the Companies Act of 2008, as he is of the view that the determination of what is owed by the first defendant to the plaintiff is of critical importance to him presumably for the purposes of conducting the turnaround plan of the first defendant.

Issues

[17] The critical controversy in this judgment relates to the grace period after the drawdown of the loan. As stated elsewhere in this judgment, the plaintiff states that the period was up to the end of April 2019. The first defendant on the other hand states that the grace period was till the end of July 2019.

[18] What is common fact, irrespective of whether the grace period from which the loan had to be repaid was as claimed by each side, is that the loan remains unpaid. Not a single repayment was made in terms of the loan agreement concluded between the parties.

[19] The plaintiff called several witnesses to prove its claim. I will not go into the details of each witness's evidence as same is on the trial record.

[20] The defendants called a single witness to advance the defences raised. Mr Faber, the sole director of all the defendants, from the first to fifth testified on behalf of the defendants.

The law and reasons

[21] I will now deal with the issues raised namely:

(a) whether the loan agreement is binding given that the defendants claim that the suspensive conditions were never fulfilled;

(b) the grace period from which the loan had to be repaid;

(c) the first defendant's breach of the loan agreement;

(d) the right by the plaintiff to accelerate the outstanding full balance of the loan;

(e) the certificate of indebtedness;

(f) the suretyship agreements.

The grace period.

[22] The first defendant contends that clause 6.1. of the common terms Module and clause 4.3.3. of the advance conditions module in the loan agreement constitute suspensive conditions which were not fulfilled or waived by the parties at the time of the drawdown of the loan amount. As a consequence, the loan is null and void.

[23] Clause 6.1. of the Common Terms Module provide as follows:

> "Subject to the fulfilment or waiver, as the case may be, of the Advance Conditions and/or the Special Conditions, and subject to there being no Event of Default, the Borrower shall, at any time during the Drawndown Period, be entitled to request an advance against the Facility Amount by delivering to the Lender a Drawdown Request."

[24] It is evident, in my considered view that the operation of the clause was to regulate the process of drawdown of the loan during the purchase and refurbishing of the Metro Centre. I do not find any interpretation on reading the clause that the loan agreement would be suspended. It is evident upon reading the totality of the agreement that one of those conditions was the security registration such as the mortgage bond in favour of the plaintiff by the defendant as amplified in clause 11 of the agreement. The said clause deals with security to be provided by the borrower to the lender. It is not the defendants' case that the security required was never provided to the plaintiff. The conditions in the loan agreement are clearly just conditions, they do not

seek to suspend the enforcement of the agreement between the parties regarding their rights and obligations.

[25] It has been argued and submitted on behalf of the defendants that the plaintiff cannot rely on the alleged breach of the loan agreement prior to August 2019. This debate is academic because it is not the first defendant's case that it started repayment of the loan after that date. The first defendant made no effort to meet its repayment obligations from what it contends was a further extension of the new grace period. In my view, this contention takes the breach of the loan agreement nowhere and must fail.

[26] Clause 43 of the loan agreement deals with a host of special conditions between the parties. I have considered all the conditions which I will not repeat them in this judgment and find no evidence of any of them being suspensive. They are in my view, just conditions and they do not seek to suspend the enforceability of the loan agreement.

[27] In any event, I considered the evidence of Ms Belinda Cooke, which was unchallenged, that the plaintiff does not include suspensive conditions in its loan agreement. She stated that the conditions imposed in the agreement before a drawdown may be made on the loan facility are to ensure that the plaintiff is protected but that the agreement itself is not suspensive upon the occurrence of a specific event. This in my view makes practical sense and it is a sensible approach that should be accepted by this court as no lender can in its ordinary course of its business disburse the loan amount whilst the agreement is not enforceable, that will simply be unbusinesslike.

[28] In regard to the Common Terms and clause 4.3.3. of special conditions module, Ms Cooke stated in evidence that these relate to the advancement/drawdown of the refurbishment amount and not to the advancement of the remaining portions of the Facility Amount, that is, the purchase price for the acquisition of the Metro Centre. I am not persuaded by the contention by the defendants that those conditions were suspensive.

[29] I am furthermore, fortified in my view, by the decision in *Natal Joint Pension Fund v Endumeni Municipality*[1] on the interpretation of the content of a contract where Wallace JA held the approach to be as follows:

> "Interpretation is the process of attributing meaning to the words used in in a document, be it legislation, some other statutory instrument, or contract, having regard to the context provided by reading the particular provision or provisions in the light if the document as a whole and the circumstances attendant upon it coming into existence. Whatever the nature of the document, consideration must be given to the language used in the light of the ordinary rules of grammar and syntax; the context in which the provision appears, the apparent purpose to which it is directed and the material known to those responsible for its production. The process is objective, not subjective. A sensible meaning is to be preferred to one that leads to insensible or unbusiness like results or undermines the apparent purpose of the document."

[30] In the instant case, it would be insensible and unbusinesslike to conclude that the clauses 6.1. and 4.3. of the loan agreement were intended to suspend the

[1] 2012 (4) SA 593 (SCA) para 18

operation of the loan agreement. This is when regard is had to the fact that the funds lent and advanced, well over R20 million could be disbursed based on an agreement that is fully suspended pending the happening of an uncertain event or events. Lenders simply do not function that way and suspend a contract in terms of which they at the same time disburse funds approved in favour of a borrower. In law, the operation of a suspensive condition is that the condition suspends the full operation of a contractual obligation and renders it dependent on an uncertain future event[2], this is trite and I need not repeat it in this judgment. In such event, the whole agreement does not come into operation until the happening of an uncertain future event.

[31] In *Tamarillo (Pty) Ltd v BN Nitken* (Pty) Ltd[3] the court held that:

> "A true suspensive condition in a contract has the effect of postponing the operation of the contract until the happening of some uncertain future event ("Resisto Dairy (Pty) Ltd v Auto Protection Insurance Co Ltd"[4])"

[32] In *Reristo Dairy (Pty) Ltd v Auto Protection Insurance Co Ltd*[5] the court stated that:

> "The question whether a condition in the [contract] is one suspending the operation of the [contract] depends upon the nature of the condition; if in its nature it is not suspensive, it cannot be made so merely by calling it a condition precedent."

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[2] See Command Protection Services (Gauteng) (Pty) Ltd t/a Maxi Security v South Africa Post Office Ltd [2013] 2 SA 133 (SCA) para 10
[3] 1982 (1) SA 398 (A) at 432C
[4] 1963 (1) SA 632 (A) at 644
[5] Supra footnote 4

[33] In *Design and Planning Service v Kruger*[6] the court held that:

> "In case of a suspensive condition, the operation of the obligations flowing from the contract is suspended, in whole or in part, pending the occurrence or non-occurrence of a particular specified event (cf *Thiart v Krankamp* 1967 (3) SA 219 (T) at 225). A term of the contract, on the other hand, imposes a contractual obligation for a party to act, or refrain from acting, in a particular manner. A contractual obligation flowing from a term can be enforced, but no action will lie to compel the performance of a condition (*Scott and Another v Poupard and Another* 1971 (2) SA 373 (AD) at p.378). This distinction between a condition and a term is of particular importance in determining the consequence of the non-occurrence of the event postulated in a positive suspensive condition."

[34] The common intention of the parties is always relevant to consider whether the condition in the agreement was intended to suspend the operation of the agreement.[7] In the instant case, the plaintiff disbursed the funds upon the drawdown request by the first respondent, who accepted such funds. It cannot be that the intention of the parties was to suspend the operation of the agreement as contended by the defendants. In fact, the defendants had never raised the alleged invalidity of the loan agreement in their previous dealings with the plaintiff. Mr Farber conceded under cross-examination that all conditions were fulfilled.

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7 See: Benoni Town Council v Minister of Agricultural Credit and Land Tenure 1978 (1) SA 978 (T) at 991C

[35] There is also no denial that the punitive interest as charged was agreed to and provided for in the event of failure to meet the monthly repayments on time.

[36] By way of an illustration, Mr Faber addressed an email on 4 August 2017 confirming that the plaintiff's chief executive officer, Mr Paul Jackson and his team had "visited both Wolbane Mansions and Malvin Court and found both to be in good condition. These two properties were also used to secure the other facilities.

The Grace Period

[37] The other controversy, as already stated herein before, this which of the extended grace periods was agreed to, the one of end of April 2019 as contended by the plaintiff or the one of end July 2019 as contended by the defendants.

[38] The loan agreement itself provided for a 12-month grace period from the date of the first drawdown. This meant that once the funds were disbursed to the first defendant, the latter did not have to make payment for a period of 12 months. This makes business sense as the Metro Centre was being refurbished.

[39] It is evident from the evidence supported by the papers that because of the delays in completing the refurbishment, the 12 months period was extended by the agreement between the parties culminating into the end of April 2019 or end of July 2019.

[40] The extensions were at the request of the first defendant and were granted on three occasions. The first was until December 2018, the second until the end of

February 2019 and on the version of the plaintiff, the last extension was until the end of April 2019.

[41] The loan agreement, in terms of clause 30 states that no latitude extension of time or other indulgence which the plaintiff may have granted to the first defendant affected the plaintiff's rights arising from the loan agreement. It follows therefore, that the indulgence allowing for an extension of the grace on three occasions does not preclude the plaintiff from strictly enforcing its rights, as contemplated in the loan agreement. I say so because I have not been provided with any evidence or any addenda being concluded as per the authorisations, which required the addenda to be concluded.

[42] I have considered the contention by Mr Faber, on behalf of the first defendant, that the extension of the grace period was the end of July 2019. The contention was not supported by evidence relating to the authorisations as I have noted with the other three extensions of the grace period. It follows therefore that the extension of the grace period Until the end of July 2019 is not that supported by the evidence and therefore stands to be rejected.

The first defendant's breach of the loan agreement

[43] The loan agreement in terms of clause 18.1 of the common Terms, makes provision for an event of default. The event of default would include the first defendant's failure to pay any amount or amounts due by it in terms thereof on the due date and fails to remedy such breach within any applicable cure.

[44] The first defendant also undertook that it would be promptly on the due date for payment, all the rates, taxes, water and electricity charges (whether levied as basic charges or in respect of actual consumption), sanitation charges (in respect of refuse removal and sewerage) and other imposts that may be payable in respect of the immovable property, to any governmental, provisional, divisional council, municipal or other like authorities in terms of clause 17 of the Common Terms.

[45] The loan agreement also states, in terms of clause 18.2 of the common terms that upon the occurrence of an event of default, the plaintiff may, *inter alia*, accelerate and declare all amounts owing in terms of the loan agreement.

[46] It is a common fact that the first defendant has not repaid any monthly installment in terms of the loan agreement, either from the end of April 2019 or from the end of July 2019. This situation has not changed in that the last four years since the loan agreement was advanced and drawn down by the first defendant.

[47] The first defendant claims that the loan agreement was varied following a meeting on 8 August 2019. Clause 29 of the loan agreement states that any variation to the agreement must be in writing and be signed by the parties. This was not done and accordingly, there was no variation to the agreement.

[48] The first defendant has been earning income from its business and has brazenly refused to repay the loan granted to it by the plaintiff. This is clearly a breach that goes to the root of the agreement.

[49] I have considered the evidence of Ms Kruger in terms of which she shared with this court the excel spreadsheets showing them amounts advanced to the first defendant and how interest thereon, including the penalty interest was calculated. I have had the benefit of understanding the accounting calculation of the charges by way of interest levied on the first defendant's account. I am satisfied that the plaintiff has been able to prove its quantum on a balance of probabilities. The witness's testimony was truthful and given honestly.

[50] The first defendant continues to consume public services such as electricity, water and refuse collection at the Metro Centre. I have not been able to be persuaded as to the reason why not a single basic amount was paid to the municipality as requested in terms of the loan agreement. The contention that failure to pay was as a result of the queries that the first defendant had with the municipality it is disingenuous.

[51] Ms Guida Constantinides ("Ms Constantidines") testified for the plaintiff and provided information to this court on the reconciliation of the first defendants municipal account number [...]. She stated that the first defendant only paid when the plaintiff demanded it to pay the amount to the City of Johannesburg metropolitan municipality ("CoJ").

[52] She provided various amounts that were due to the CoJ by the first defendant, which as of 12 October 2022 reflected a total amount of R4 035 295.35. This is a significant amount would you places the value of the mortgage bond security at high risk. I am not going to recite the Local Government: Municipal Systems Act No 32 of 2000, except to state that section 118(3) thereof allows the CoJ to

exercise its rights regarding the recovery of the amounts owed to it by the first defendant.

[53] Accordingly, the first defendant has committed an event of default. As a consequence, it is within the plaintiff's rights in terms of the loan agreement to accelerate the full repayment of the loan.

[54] the contractual relationship between parties requires our courts not to interfere therewith. It is only where a contract term or its enforcement is so unfair, unreasonable or unjust that it is contrary to the public policy that a court may refuse to enforce it.[8]

[55] The defendants have not provided any basis from the contention that the loan agreement was unfair or unreasonable. On the contrary it is the plaintiff who is suffering a significant prejudice in that despite having fulfilled its obligations, it has not been rewarded by the first defendant with any of the repayments, except the odd occasions which the CoJ was paid for services rendered to the Metro Centre.

[56] It cannot be correct that the full balance of the loan cannot be accelerated because no demand was made. Our law is trite that summons issuing constitutes a sufficient demand.[9]

Certificates of Balance

[8] See Beadica 231 CC and Others v Trustees Oregon Trust and Others 2020 (5) SA 247 (CC); [2020] ZACC 13 paras 38 and 58

[9] See Standard Bank of South Africa Ltd v Hand [2011] JOL 23768 (GSJ) at para [22]

[57] The correctness of the figures stated in the certificate of balance is being challenged by the defendants. It is, however, common cause between the parties in terms of the loan agreement that, such certificate is the *prima facie* proof of the amount owing.

[58] Mr L. Hollander submitted on behalf of the first defendant that the plaintiff has not been able to establish any basis for the quantum that it demonstrated in the three scenarios in its papers. I do not agreement with this argument. Ms Kruger testified and provided sufficient information on the model used in the spread sheet on recording of the drawdown as they occurred, how the interest thereon is debited and thereafter, how the normal interest is charged and how the agreed penalty interest is also levied on the capital. I have not found her unchallenged evidence to be unacceptable to a point where it does not establish the quantum based on the three scenarios laid out before me.

[59] This contestation was in the past before our court. In *Senekal v Trust Bank of Africa Ltd*[10] the Appellate Division, as it was then called, held that the certificate of indebtedness is also prima facie proof of the substance of its contents in any litigation to exact payment.

[60] Ms Kruger verified the signatory on the certificates of Indebtedness and the amount stated therein. Her evidence was not controverted in cross-examination. Accoridingly, I have no basis to reject. There is therefore no factual and legal basis for the challenge of the correctness of the certificate of indebtness by the defendants.

[10] 1978 (3) SA 375 (A) at 381H-383A

The suretyship agreements

[61] I now deal with the controversy that the suretyship agreements concluded constitute financial assistance as contemplated in section 45(1) of the Companies Act No.71 of 2008.

[62] The second to the fifth defendants were all represented by Mr Faber who is the sole director and shareholder of the companies and several close corporations. Mr Faber in his personal capacity, signed unlimited suretyship agreements on 19 October 2016.

[63] In the terms of all the suretyship agreement, the defendant bound themselves respectively, as surety for and co-principal debtor in *solidium* with the first defendant for the performance by the latter of all its obligations in terms of the loan agreement.

[64] The first defendant has failed as a principal debtor, to pay the outstanding indebtedness claim. Accordingly, the second to the sixth defendants are liable to pay the plaintiff.

[65] The defendants further contend that the suretyship agreements are void in terms of section 45(2) of the Companies Act, as the board of directors of the respective defendants were prohibited by the Companies Act from authorizing the lending financial assistance as none of those entities would have satisfied the solvency and liquidity test prescribed by section 4 of the Companies Act.

[66] In order for the defence to succeed, the second and fourth defendants must show that:

(a) The signing of the suretyship agreements constitutes direct or indirect financial assistance;[11]

(b) The second to fifth defendants are related or interrelated companies;[12]

(c) The financial assistance was not authorized by the board pursuant to a special resolution of the shareholders, adopted within the previous two years[13] and that immediately after providing the financial assistance, the second and fourth defendants had not satisfied the solvency and liquidity test[14] in section 4 of the Act;

[67] Financial assistance, includes lending money, guaranteeing a loan or other obligation, and securing any debt or obligation[15] to a related or inter-related entity, as contemplated in section 2 of the Act.

[68] The individualised juristic persons are related, and juristic persons are related to juristic persons if there is control or either juristic is a subsidiary of the other person.[16]

[69] It is evident that as Mr Faber is the sole shareholder and the director of the second and fourth defendants, they are inter-related companies, as contemplated in the Act.

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[11] section 45 (1)(a)
[12] section 45 (2)(a)(ii)
[13] Section 45(3)(a)(ii)
[14] Section 45(3)(b)(i)
[15] Section 46(1)(a)
[1616] Section 2(a)(ii)(aa)

[70] The suretyships were concluded with the objective of providing the plaintiff with security in addition to the registrations of the mortgage bond and consequently constitute financial assistance, as contemplated in the Act.

[71] The board must be satisfied that the company will satisfy the solvency and liquidity test, immediately after the loan was granted. The reason behind the insolvency and liquidity test is that as long as the test is satisfied, creditors will not be prejudiced if the capital of the company is used other than for the ordinary business purposes of the company.[17]

[72] The test requires factual and commercial solvency. Factual solvency means that based on all reasonably foreseeable financial circumstances the assets exceed liabilities, which is purely a balance sheet that, in a particular moment[18], while in respect of liquidity it must appear, based on all reasonably foreseeable financial circumstances, that the company will be able to pay its debts as they fall due in the ordinary course of business for 12 months after the test was applied.

[73] As he was the sole director of the second and fourth defendants, Mr Faber, in determining the factual and commercial solvency, was obliged to consider the financial information pertaining to them. He was also obliged to consider the valuation of the second and fourth defendants' respective assets and liabilities including any reasonably foreseeable contingent assets and liabilities prior to signing the suretyship agreements on behalf of the two companies. He had, as a director and shareholder, a comprehensive knowledge pertaining to the

[17] See Capitex Bank Ltd v Qorus Holdings Ltd 2003 (3) SA 302 (WLD)
[18] Section 4 (1)(a)

factual and commercial solvency of the two companies at the time of signing the suretyship agreement.

[74] In terms of clause 23 of the loan agreement, Mr Faber, as a sole shareholder and director of the first defendant, warranted that all information provided by the first defendant in the application for finance, and nay other information provided to the plaintiff in respect of the application, was true and correct and that no information that may affect the plaintiff's decision to approve the loan facility had been withheld.

[75] The information warranted to be correct included information pertaining to the securities required by the plaintiff for the purposes of granting the loan facility, which included information pertaining to the factual and commercial solvency of the second and fourth defendants and their ability to provide security to the plaintiff for the loan amount being advanced.

[76] The resolutions passed by Mr Faber on behalf of the second and fourth defendants, in his capacity as the sole director and shareholder, by implication confirmed that these entities were solvent and liquid. Mr Faber during his testimony, stated and confirmed that in cross-examination that at the time of signing the suretyship agreement, the second and fourth defendants were solvent and liquid.

[77] Consequently, it is my view that the plaintiff acted on the basis of the correctness of the information provided to the plaintiff by Mr Faber. It was based on the warranted information that the plaintiff took a decision to approve the loan amount subject to the signing of the suretyship agreement.

[78] Consequently, I hold the view that the second to sixth defendants cannot shield themselves behind the provisions of section 45 of the Act, to escape their liability in terms of the suretyship agreement.

Conclusion

[79] After having considered the papers, the evidence and the written heads of arguments, I am satisfied that the plaintiff has succeeded in proving that the loan agreement has been breached as alleged and proved. Consequently, the plaintiff acted within its rights to accelerate payment of the full loan amount.

Order

[80] The following order is made:

(a) The defendants are ordered to pay **R34 331 854.18,** jointly and severally, the one paying the other to be absolved;

(b) Interest calculated on the amount at the rate of 3.5% above the Base Rate per year, calculated daily and compounded monthly in arrears from 1 May 2022 to date of payment, both dates included;

(c) Costs on the attorney and client scale, jointly and severally, the one paying the other to be absolved.

ML SENYATSI
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

DATE APPLICATION HEARD: 13 February 2023

DATE JUDGMENT DELIVERED: 21 April 2023

APPEARANCES

Counsel for the Plaintiff:	Adv AC Botha SC
	Adv E Eksteen
Instructed by:	Schindlers Attorneys
Counsel for the First to Sixth Defendant:	Adv L Hollander
Instructed by:	Swartz Weil Van De Merwe Greenberg Inc