



IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG NORTH DIVISION, PRETORIA)

NOT REPORTABLE
NOT FOR THE ATTENTION OF OTHER JUDGES
REVIEWED ON 10/4/2014
JUDGE :P.Z. EBERSOHN

11/4/2014

CASE NO.: 71481/2011

In the matter between:

CONRAD LUBBE

APPLICANT/DEFENDANT

and

PATRICK HENDRIK LOOTS

FIRST RESPONDENT/PLAINTIFF

CHRISTOFFEL BOUWER NEL

SECOND RESPONDENT/PLAINTIFF

CORAM EBERSOHN AJ.

DATE APPLICATION HEARD 5 JUNE 2013

DATE JUDGMENT HANDED DOWN: 11 APRIL 2014

JUDGMENT

EBERSOHN AJ:

- [1] The parties will be referred to herein as in convention namely "plaintiffs" and "defendant" respectively.

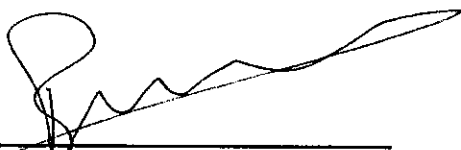
- [2] The plaintiffs issued summons against the defendant wherein an amount of R6 776 426. 08 is claimed on the grounds of an alleged suretyship for Avello Blyde CC. The defendant pleaded a denial regarding the merits and prescription by way of a special plea, and thereafter called for particulars for trial purposes. Thirteen questions were contained in the request for particulars about the alleged suretyship, eg. when the plaintiffs' alleged claim against the debtor arose, whether a claim was lodged in the estate of Avello Blyde CC after it was liquidated. These particulars are of cardinal importance to a surety to prepare for trial.
- [3] The response of the plaintiffs to the request was brisk and evasive and particulars were refused in an argumentative manner. The defendant replied by bringing an application in terms of Rule 21. The plaintiffs opposed the application and the matter was argued and judgment was reserved.
- [4] Having studied the voluminous papers in the file it is clear that the defendant is entitled to some of the particulars called for, for the reasons stated in paragraph [5] infra.
- [5] The plaintiffs alleged in the particulars of claim that they took cession from the cessionary. The defendant is hampered by a lack of information and this rendered the defendant unable to prepare for

trial there being no dates as when the alleged goods were delivered to Avello Blyde cc and invoices rendered and when the claim allegedly arose against Avello Blyde CC and the defendant as alleged surety.

[6] The court is of the opinion that the defendant is entitled to the information requested in questions 1., 6., 8., 10., 12. and 13. of the request dated the 25th October 2012. The defendant was entitled to approach the court for assistance and is entitled to the costs of the application.

[7] The following order is made:

"1. The plaintiffs are ordered to furnish full replies to the questions numbered 1., 6., 8., 10., 12. and 13. contained in the defendant's request for particulars for trial purposes dated the 25th October 2012 on or before the 5th May 2014, with costs.



P.Z. EBERSOHN
ACTING JUDGE OF THE HIGH COURT

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