



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

11/8/2014
10/8/2014
CASE NO.: 70335/2011

DELETE WHICHEVER IS NOT APPLICABLE

- (1) REPORTABLE: YES/NO
(2) OF INTEREST TO OTHERS JUDGES: YES/NO
(3) REVISED ✓

10/8/2014
DATE

SIGNATURE

In the matter between:

FOUNTAINHEAD PROPERTY TRUST

ATTFUND LIMITED

and

GOSPEL DIRECT (PTY) LTD T/A

GOSPEL DIRECT

LUKAS HERMANUS CARELSEN

1ST PLAINTIFF/RESPONDENT

2ND PLAINTIFF/RESPONDENT

1ST DEFENDANT/APPLICANT

2ND DEFENDANT/APPLICANT

CORAM EBERSOHN AJ

HEARD ON 1 AUGUST 2014

JUDGMENT HANDED DOWN ON 11 AUGUST 2014

JUDGMENT APPLICATION FOR LEAVE TO APPEAL

EBERSOHN AJ:

[1] To avoid confusion the parties will be referred to by name.

[2] Fountainhead Propert Trust/Attfund Limited (Fountainhead") issued summons against Gospel Direct (Pt) Ltd t/a Gospel Direct/Lukas Hermanus Carelsen ("Gospel Direct") wherein it claimed three amounts from the defendants. Firstly, R93 066,75 being for rent; secondly R93964,50 costs to restore the perorty to a good condition and, thirdly, R88 608,24 being in respect of future loss of rental. After hearing evidene the court granted judgment regarding the first claim in favour of the plaintiffs and dismissed the two other claims.

[3] The defendants applied for leave to appeal against the judgment regarding the first claim in which judgment was garanted againstg them and the plaintiffs applied for leave to appeal with regard to the two claims against the defendants which were dismissed b the court.

[4] The defendants applied for condonation regarding the later filing of th application forleave to appeal. The plaintiffs similarly also applied for condonation for the late filing of their application for leave to appeal. The parties have agreed not to oppose the said applications for condonation and condonationwill be granted.

[5] With regard to the application for leave to appeal against the first clai in which judgment was granted against it ,it may be that there was a misunderstanding between the court and the parties and the court will grant leave to appeal. There may be a possibility that another court may come to another decision regarding the second and third claims and leave to appeal will be granted to the plaintiff as far as the two claims are concerned.

[6] The following order is made:

1. The application for condonation by the plaintiffs is granted and the application for condonation by the defendants is granted, the costs of both is reserved for determination by the Full Bench.
2. Leave to appeal to the Full Bench against the dismissal of the second and third claims against the defendants is granted to the plaintiffs.
3. Leave to appeal to the Full Bench against the granting of the first claim against it is granted to the defendants.
4. The costs of the applications for leave to appeal is reserved for determination by the Full Bench.

P.Z. EBERSOHN

ACTING JUDGE OF THE HIGH COURT

The plaintiffs' counsel

The plaintiffs' attorneys

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Halse, Havemann & Lloyd

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