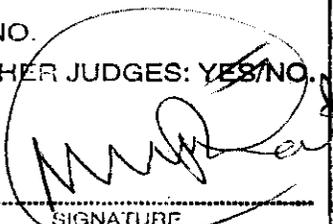




IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE: <del>YES</del> /NO.	
(2) OF INTEREST TO OTHER JUDGES: <del>YES</del> /NO.	
(3) REVISED. ✓	
27/10/2014 DATE	SIGNATURE

Case No: 7819/2009

Date heard: 27 October 2014

Date of judgment: 27 October 2014

In the matter between:

**WISEMAN SINOTHI MKHONZA**

Applicant

and

**ABSA BANK LIMITED**  
**THE SHERIFF: CENTURION EAST**

1<sup>st</sup> Defendant

2<sup>nd</sup> Defendant

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**JUDGMENT**

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**A.M.L. PHATUDI J:**

[1] The applicant is the defendant in the main action. The defendant in the main action instituted this application for rescission of judgment granted after the hearing of the summary judgment application.

[2] Both parties were legally represented when the application for summary judgment was heard. Both parties made submissions before the said court. After hearing the said submissions by counsel, summary judgment was granted.

[3] The defendant's/applicant's recourse ought to have been an appeal against the said summary judgment. The defendant's/applicant's name has been called out three times outside of court but to no avail. In the absence of any response from the call out, and having noted the withdrawal of the applicant's attorneys of record, it is clear that there will be no appearance on behalf of the applicant

[4] Having read the application and having heard the respondent's counsel, I am of the view that the applicant has been ill advised. The application for rescission of judgment is not a proper procedure to follow

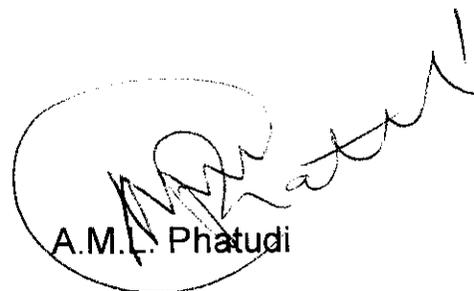
after the granting of the summary judgment. The application for rescission is therefore a non-starter in this instance.

[5] With regards to costs, costs follow the event. The respondents succeed with the defence hereto and they are entitled to their costs. However, Ms Lottering pleads for costs on a punitive scale as the agreement made provisions thereto.

The following order is thus made.

Order:

The applicant's application for rescission of judgment is dismissed with costs on attorney and client scale.



A.M.L. Phatudi

Judge of the High Court

On behalf of the Applicant:

MB Tshabangu Inc  
404 Ancore Building  
Robert Sebokwe Street  
Sunnyside  
Pretoria  
(Withdrawn)

No Appearance in person

On behalf of the Respondent:

Hack Stupel and Ross  
2<sup>nd</sup> Floor  
Standard Bank Chambers  
Church Square  
Pretoria

Adv. U Lottering