



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

CASE NO: 62092020

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED. YES
4 January 2021 DATE	
SIGNATURE	

In the matter between:

DAVID CHAUKE

Plaintiff

and

THE KINGDOM OF THE NETHERLANDS

First Defendant

THE MINISTER OF FOREIGN AFFAIRS

Second Defendant

THE CEO OF EMIRATES AIRLINES

Third Defendant

THE CEO OF PENTRAVEL AGENCY

Fourth Defendant

THE CEO OF NEDBANK

Fifth Defendant

**THE MINISTER OF INTERNATIONAL
RELATIONS AND CO-OPERATION**

Sixth Defendant

THE PRESIDENT OF THE REPUBLIC OF

Seventh Defendant



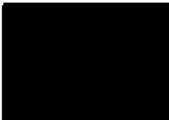
SOUTH AFRICA	
THE MINISTER OF FINANCE OF THE REPUBLIC OF SOUTH AFRICA	Eighth Respondent
THE MINISTER OF POLICE OF THE REPUBLIC OF SOUTH AFRICA	Ninth Defendant
THE MINISTER OF TRANSPORT FOR THE REPUBLIC OF SOUTH AFRICA	Tenth Defendant
THE GOVERNOR OF THE SOUTH AFRICAN RESERVE BANK	Eleventh Defendant
THE CEO OF SANRAL	Twelfth Defendant
THE BANKING ASSOCIATION OF THE REPUBLIC OF SOUTH AFRICA	Thirteenth Defendant
THE MINISTER OF TRADE AND INDUSTRY OF THE REPUBLIC OF SOUTH AFRICA	Fourteenth Defendant
THE NATIONAL CREDIT REGULATOR OF SOUTH AFRICA	Fifteenth Defendant
THE MINISTER OF VALUATIONS- PLANNING AND MONITORING IN THE PRESIDENCY	Sixteenth Defendant
THE OMBUDSMAN FOR BANKING SERVICES FOR THE REPUBLIC OF SOUTH AFRICA	Seventeenth Defendant
THE MINISTER OF HIGHER EDUCATION OF THE REPUBLIC OF SOUTH AFRICA	Eighteenth Defendant
HUMAN RIGHTS COMMISSION TO THE UNITED NATIONS	Nineteenth Defendant
THE LEGAL PRACTICE COUNCIL OF SOUTH AFRICA	Twentieth Defendant



MASHEGO ATTORNEYS INCORPORATED	Twenty First Defendant
THEMBA NGOBENI ATTORNEYS	Twenty Second Defendant
EVANS MATHEBULA	Twenty Third Defendant
RADEBE ATTORNEYS INCORPORATED	Twenty Fourth Defendant
GOODMAN MHLANGA	Twenty Fifth Defendant
WITS LEGAL CLINIC	Twenty Sixth Defendant
PROFESSOR CHARLES JORDI	Twenty Seventh Defendant
THE JUDICIAL SERVICE COMMISSION OF SOUTH AFRICA	Twenty Eighth Defendant
THE JOHANNESBURG SOCIETY OF ADVOCATES	Twenty Ninth Defendant
ADVOCATE TSHEPO NYANDENI	Thirtieth Defendant
MACINTYRE VAN DER POST INC.	Thirty First Defendant
CEO OF VFSS GLOBAL AGENCY	Thirty Second Defendant
HLONGA INCORPORATED ATTORNEYS	Thirty Third Defendant
MINISTER OF JUSTICE AND CORRECTIONAL SERVICES	Thirty Fourth Defendant

JUDGEMENT

Because of the current pandemic, argument in this case was heard by means of video conferencing technologies. I am the author of this judgment and prepared it myself. It will be handed down electronically by circulation to the parties' representatives by way of electronic mail and by uploading it to the electronic file of this matter on the electronic application called Caselines. The date on which this judgment is handed down shall be deemed to be 4 January 2021.



AVVAKOUMIDES AJ

INTRODUCTION:

1. This is an exception brought by the Eleventh Defendant against the Plaintiff's action. At first glance the summons appears to be a combination of particulars of claim and a founding affidavit. The Plaintiff served the combined summons on the Defendants on 28 January 2020. Most of the Defendants have not reacted to the Plaintiff's summons and in my view, with good reason. The Eleventh Defendant filed a notice in terms of rule 23(1) on 29 May 2020 calling upon the Plaintiff to cure the causes of complaint within the time frame provided in the notice. The Plaintiff failed to address the causes of complaint and on 16 July 2020 the Eleventh Defendant filed its exception based on seven grounds of complaint. On 23 July 2020 the Eleventh Defendant filed a notice of intention to amend its exception, merely to include one further prayer. This attempt to amend is of no consequence.
2. On perusal of the summons, it appears that there is a litany of vexatious and non-sensical matters brought by the Plaintiff spanning over a decade as between 2009 and 2020.
3. The Eleventh Defendant argued that the usual relief of an exception by providing a party of the opportunity to amend is not capable of performance in this matter because the summons is so defective, it

requires to be withdrawn entirely with an appropriate tender for the wasted costs.

4. In response to the exception the Plaintiff served the following documents upon all the Defendants:
 - 4.1 A *quasi* application to "strike out" to be brought on an urgent basis on 2 June 2020 which has not been attested to under oath and is, on a perusal thereof, incoherent.
 - 4.2 A second *quasi* application to "strike out" to be brought on an urgent basis on 20 July 2020, again not attested to under oath and incoherent.
 - 4.3 A replication to the heads of argument filed on behalf of the State Defendants which is also incoherent and phrased as a *quasi-affidavit* not made under oath together with a notice on 4 August 2020.
 - 4.4 A notice to oppose the amendment of the exception on 7 August 2020.
5. The Eleventh Defendant argued that the litany of defective processes brought by the Plaintiff has substantially escalated the legal costs of the

Eleventh Defendant itself and the other State Defendants. I will proceed to deal with each of the grounds of exception as they appear in the relevant notice.

GROUND 1:

6. The Plaintiff, under the same case number filed a combined summons, an annexure thereto marked particulars of claim together with an affidavit. The complaint is that the Plaintiff has failed to comply with Uniform Rules 6, 17 and 18. In order to illustrate, not only the non-compliance of the aforesaid rules I find it necessary to quote from paragraph 1 of the particulars of claim (*sic*), as follows:

"THAT MINISTER OF FOREIGN AFFAIRS FOR THE KINGDOM OF NETHERLANDS SHOULD BE HELD LIABLE TO SETTLE AN AMOUNT OF 80 MILLION EUROS FOR THE CANCELLATIONS OF THE FLIGHT FROM JOHANNESBURG VIA DUBAI TO THE AMSTERDAM WHICH WAS DESTANT FOR THE HAGUE IN THE INTERNATIONAL COURT WHERE THE APPLICANT WAS DESTINED TO GO AND FILES HARD COPIES OF DOCUMENTS ON HIS POSSESSION IN ARRANGEMENT WITH THE ATTORNEYS BASED ON THAT COUNTRY AND IN GERMAN INCLUDING BEING AN OBSTRUCTION TO JUSTICE ON THIS MATTER AFTER COLLUDING WITH THE SOUTH AFRICAN AGENCIES AS IN ANNEXURE "BDO1(A)" OF THE NOTICE IN TERMS OF SECTION 3 ACT 40 ISSUED BEFORE THE HONOURABLE PARTIES AS ON THE DEFENDANTS ON THE COURT ROLL IN THAT IT WAS UNJUSTIFIABLE. THE PLAINTIFF RECEIVED A CALL FROM THE VFS GLOBAL AGENCY AROUND MOTH OF DECEMBER CITING THAT THE PLAINTIFF HAVE TO DECLARE R1 MILLION (R1 000 000.00) IN ORDER TO

BE GRANTED A VISA AND HE WAS CALLED TO COME IN SANDTON ON WHICH THE PLAINTIFF HEADED TO THE AGENCY BRANCH AND EMBASSY IN PRETORIA. THAT CAPITAL WAS RAISED AND THE BANK COULD NOT ALLOW THE PLAINTIFF TO DEPOSIT THE CASH ON HIS ACCOUNT AS HE WAS REFUSED OWNERSHIP OF THE BANK ACCOUNT WITH NEDBANK AND TRANSFER IT AND THE CAPITAL WAS RETURNED TO THE MEMBER OF THE RESEARCH CREW AS IT WAS LOANED FROM THE BANK".

7. Each of the paragraphs in the document purporting to be particulars of claim are similar in their incoherence and one cannot make head or tail of what the Plaintiff's claim is aimed at. Consequently ground 1 of the exception is upheld.

GROUND 2:

8. In the tramlines of the summons and particulars of claim, reference is made to an urgent application. The Eleventh Defendant argued that this process fails to comply with rule 6(12)(a) and rule 18. For the same reason I am of the view that this ground of exception should be upheld.

GROUND 3:

9. It is not at all clear, neither is the Eleventh Defendant referred to, what relief is sought against the Eleventh Defendant. There are no material averments made against the Eleventh Defendant to sustain a cause of action. In paragraph 6.2 of the "affidavit" which accompanied the



particulars of claim, the Plaintiff pleads a legal conclusion as against the Eleventh Defendant without setting out any *facta probanda* to substantiate the legal conclusion and there is no compliance with rule 18. Consequently, in my view this ground of exception must be sustained.

GROUND 4:

10. The particulars of claim refer to the Small Claims Court Act 61 of 1984 and this notwithstanding, this summons has been issued out the Pretoria High Court. Regard being had to the jurisdictional limit of the Small Claims Court, the Eleventh Defendant is unable to determine which forum the Plaintiff intends to proceed in, and the particulars of claim are therefore vague and embarrassing. This ground of exception must also be sustained.

GROUND 5:

11. The Plaintiff, in various paragraphs of the affidavits attached to the particulars of claim refer to matters which have already been finalised in respect of divisions. The Plaintiff has failed to attach there processes and refers to matters which are *res judicata*. Thus, no cause of action is made out and at paragraph 14.1 to 14.5 of the affidavit, the Plaintiff refers to "*prospects of success*" alluding to the test on appeal, alternatively a rescission and has failed to launch any such process out of the particular

division. The Eleventh Defendant is unaware of what relief the Plaintiff seeks against it and this ground of exception must be similarly upheld.

GROUND 6:

12. The particulars of claim do not accord with the accompanying affidavit. No cause of action is made out against the Eleventh Defendant in the particulars of claim. Paragraph 10 of the particulars of claim refers to an affidavit and at paragraph 11 an urgent application is referred to and both are not attached to the particulars of claim. There being no *facta probanda* against the Eleventh Defendant, this ground of exception must also be upheld.

GROUND 7:

13. At paragraph 16 of the particulars of claim the Plaintiff seeks payment in the sum of "R6 500 000 000 000.00 by the South African Government and 80 million Euros by the Kingdom of Netherlands...". The damages are not particularised in terms of rule 18(10) and are also non-sensical. This ground of exception must similarly be upheld.
14. In respect of every ground of exception the Plaintiff repeatedly and inappropriately submitted that if the Defendants had only made settlement offer, he would not proceed with his actions/applications. His

submissions were difficult to follow and understand and were not founded on any legal ground.

LEGAL POSITION:

15. The object of pleadings is to enable each side to come to trial prepared to meet the case of the other and not to be taken by surprise.
16. Pleadings must be lucid and logical, drafted in an intelligible form and the cause of action or defence must clearly appear from the contents thereof. The particulars of claim should be phrased in a manner that the Defendant may reasonably and fairly be required to plead thereto. See *Trope v South African Reserve Bank and Another* and two other cases [1993] ZASCA 54; 1993 (3) SA 264 (A) at 273A-B and *Jowell v Bramwell-Jones and Others* 1998 (1) SA 837 (W) at 913B-G.
17. Rule 18 provides, *inter alia*, that every pleading shall contain a clear and concise statement of the material facts upon which the pleader relies on for his claim, defence or answer to any pleading with sufficient particularity to enable the opposite party to reply thereto. The defects in the Plaintiff's summons go to the heart of the claim. The pleading lacks particularity to the extent that it is completely vague. The vagueness causes embarrassment of such a nature that the excipient is prejudiced. See *Quinlan v MacGregor* 1960 (4) SA 383 (D) at 393E-H.

18. Pleadings that are "...a rambling preview of the evidence proposed to be adduced at trial..." do not meet the requirements of rule 18(4) and would be excipiable as being vague and embarrassing. See *Moaki v Reckitt* and *Coleman [Africa]* and *Another* 1968 (3) SA 98 (A) at 102A-B.

CONCLUSION:

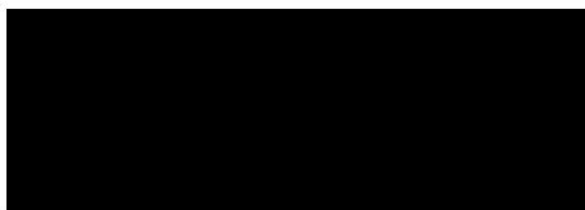
19. The Eleventh Defendant argued that the usual relief should exceptions be upheld is to afford the Plaintiff an opportunity to amend. However, says the Eleventh Defendant, the summons filed is so materially at odds with rule 18 that it would defeat the purpose of rule 23 to afford the Plaintiff an opportunity to amend. The Eleventh Defendant submitted that the proper relief would be to uphold the exceptions and to grant costs against the Plaintiff. I am inclined to agree.
20. The order for costs sought by the Eleventh Defendant against the Plaintiff is based on the fact that, on a cursory glance at the incomprehensible verbiage filed, indicates that the Plaintiff has sought the same relief, against the same parties since 2009, despite having matters dismissed in previous courts. Furthermore, the conduct by the Plaintiff is vexatious, because he has launched multiple notices and documents which have no ground in rules and have culminated in substantial escalation of costs for the Defendants.

21. I agree with counsel for the Eleventh Defendant that, without a cost order, the Plaintiff will continue undeterred with his current conduct and on the assumption that multiple matters can be filed against litigants whilst expecting the presiding judicial officers to wade through non-sensical documents.

ORDER:

22. Under the circumstances, having heard from both counsel for the Eleventh Defendant and from the Plaintiff in person by way of virtual proceedings, I make the following order:

- 22.1 The Eleventh Defendants' exception is upheld.
- 22.2 The Plaintiff is ordered to pay the Eleventh Defendants' costs.



G.T. AVVAKOUMIDES

ACTING JUDGE OF THE HIGH COURT

GAUTENG DIVISION, PRETORIA

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Representation for parties:

On behalf of Plaintiff:

D Chauke (in person)

On behalf of Eleventh Defendant:

SJ Martin

Instructed by:

Tshisevhi Gwana Ratshimbilani Inc.



