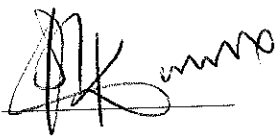


IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

(1) REPORTABLE: YES / NO	
(2) OF INTEREST TO OTHER JUDGES: YES / NO	
(3) REVISED ✓	
06/09/22	
DATE	SIGNATURE

CASE NO: 52908/2018

DATE: JANUARY 2022

In the matter between:-

MAMOLATELO ALFRED SELOTA

Applicant

and

ADV KC CHUENE

Respondent

JUDGMENT

SKOSANA AJ

- [1] The applicant herein seeks leave to appeal against my judgment wherein I dismissed his application for rescission.
- [2] The applicant has not advanced any contentions beyond those that were placed before me during the hearing of the main application. What seems to be the applicant's main ground is that the respondent cannot legitimately claim his fees until taxation of the bills has occurred. It is not clear whether he bases the contention on a general rule or the specific agreement between the parties.
- [3] First, such taxation has not happened for many years. Second, in his persistence that the respondent's fees can only be paid after taxation, the applicant refers to no prescripts either in the rules of practice, from case law or elsewhere to support the existence of such general rule. The authorities he refers to state the contrary or relate to taxation of costs claimed by the opponents. I doubt that when the applicant himself has to

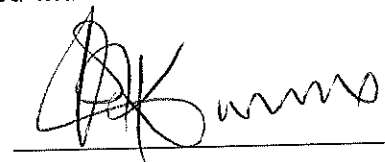
claim his own fees from his clients, he always waits for the taxation of bills before doing so. Such a rule would be unsustainable.

[4] As far as the existence of an agreement to be paid after taxation is concerned, I gave reasons in my main judgment why that is a remote possibility. Worse still, the applicant adds that the respondent agreed to payment only after the applicant has been paid by its client. Yet there is no written agreement signed by both parties to that effect. I find this suggestion so implausible in that circumstances that it warrants no later reconsideration.

[5] It follows that the applicant's contentions have no substance. I also cannot see any prospects of success of the appeal, more so on the elevated threshold for leave to appeal as expressed by the word 'would' in section 17(1)(a)(i) of the Superior Courts Act 10 of 2013¹.

[6] In the result, I make the following order:

[5.1] The application for leave to appeal is dismissed with costs.

A handwritten signature in black ink, appearing to be 'DT Skosana', written over a horizontal line.

DT SKOSANA

¹ The Mont Chevaux Trust v Tina Goosen (148/2015) [2017] ZASCA 89; Notshokovu v S (157/15) [2016] ZASCA 112 para [2] and the authorities cited therein

ACTING JUDGE OF THE HIGH COURT

Appearances:

Counsel for the Applicant:

Ms B Matlhape

Instructed by:

RAMMUTLA-AT-LAW INC.

Counsel for the Respondent:

Adv V Mabe

Instructed by:

Sello B Letsoalo Attorneys Inc.

Date heard:

26 January 2022

Date of Judgment:

January 2022