

IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE HIGH COURT, CAPE TOWN)

CASE NO:

2263/07

DATE:

28 MARCH 2011

5 In the matter between:

BEULAH EVELYN BONUGLI N.O.1st ApplicantCHRISTOPHER STEPHEN BONUGLI N.O.2nd Applicant

and

STANDARD BANK OF SA LIMITED

Respondent

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JUDGMENT

(Application for leave to appeal)

VELDHUIZEN, J

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On 10 January 2011, after a fairly protracted trial, I granted judgment in favour of the Plaintiff in the sum of R16 958 960,00 together with interest thereon and costs, costs to include costs of two counsel.

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Today there is before an application for leave to appeal to the Supreme Court of Appeal, alternatively, to the full bench of this division.

Four grounds are advanced; the first is, that I erred in finding that this Court had jurisdiction to entertain the Plaintiff's claim against the Rivonia Close Trust. The second ground is that I
5 erred in not granting the defendants' prayer for rectification of the agreement. The third ground I do not concern myself with at this stage and, the fourth ground relates to the quantification of the Plaintiff's claim.

10 As far as the jurisdiction is concerned, it is clear that this Court had jurisdiction to entertain the claim against the first defendant, Beulah Evelyn Bonugli, in her personal capacity. The question of jurisdiction to entertain the claim against the Rivonia Close Trust, is something which gave me some trouble
15 when considering the judgment.

In my view this is an aspect which deserves the attention of the Supreme Court of Appeal and, in my view, there is certainly a reasonable prospect that another court could come
20 to a different conclusion as far as that issue is concerned.

Although I do not think that there is really any merit in the second ground of appeal, namely, the question whether I should have granted rectification of the agreement, as prayed
25 by the defendants, there is merit in the argument that, as far

as the fourth ground of appeal is concerned, the agreement does not provide for the quantification of the claim, as granted in the judgment.

- 5 It follows that there is in my view a reasonable prospect that another court may come to a different conclusion and I accordingly GRANT APPLICATION FOR LEAVE TO APPEAL TO THE SUPREME COURT OF APPEAL AGAINST THE WHOLE OF THE JUDGMENT. I should add that, as far as the
- 10 jurisdiction is concerned, it is restricted solely to the question of whether this court has jurisdiction to entertain the claim against the Rivonia Close Trust. Costs of this application will be costs in the appeal.

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VELDHUIZEN, J