

SOUTH AFRICA / JUDGMENT

Annandale and Another v Meitnjies and Meintjies Rekenmeesters CC (81541/17) [2020] ZAGPPHC 190 (20 March 2020)

[2020] ZAGPPHC 190

COURT

North Gauteng High Court, Pretoria

BEFORE

C.J. Collis

CASE / FILE NUMBER

81541/17

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REPUBLIC

OF SOUTH AFRICA

IN

THE HIGH COURT OF SOUTH AFRICA

GAUTENG

DIVISION, PRETORIA

(1)

REPORTABLE:

No

(2)

OF

INTEREST TO OTHER JUDGES: No

(3)

REVISED:

CASE

NO: 81541/17

20/3/2020

In the matter

between: ANGELA
DOROTHEA MARIA ANNANDALE
FIRST APPLICANT
OLD
MUTUAL TRUST (PTY) Ltd
t/a
OLD MUTUAL TRUST
SECOND APPLICANT
And
MEITJIES
AND MEINTJIES REKENMEESTERS CC
(REGISTRATION
NUMBER-1998/024722/23)
(IN
DEREGISTRATION)
RESPONDENT

JUDGMENT

APPLICATION FOR LEAVE TO APPEAL

COLLIS J:

INTRODUCTION

- (1) In the present application the applicant Ms Annandale, is seeking leave to appeal the order[1] of this court handed down on 10 December 2019.
- (2) At the hearing of the application leading to the order sought to be appealed, this court directed the parties to present oral evidence concerning the nature of the oral agreement they concluded during June 2015 as well as the terms thereof.
- (3) After hearing oral evidence, the court rejected the applicants' version regarding the nature and the terms of the agreement concluded between the parties. In so doing the court accepted the respondent's version.

THE LAW

- (4) Section 17 of the Superior Court's Act provides as follows:[2]

"(1) Leave to appeal may only be given where the judge or judges concerned are of the opinion that:-

- (a)(i) the appeal would have a reasonable prospect of success; or
- (ii) there is some other compelling reason why the appeal should be heard; including conflicting judgments on the matter under consideration;
- (b) the decision sought to appeal does not fall within the ambit of Section 16(2)(a); and

- (c) where the decision sought to be appealed does not dispose of all the issues in the case the appeal would lead to a just and prompt resolution of the real issues between the parties."
- (5) At the commencement of the proceedings the court granted the applicant condonation for the late filing of the Notice of Application for Leave Appeal, to which there was no opposition.

THE ARGUMENTS

- (6) At the hearing of the application for leave appeal, Mr Meijers on behalf of the applicant, argued that the court erred in law and fact by rejecting the applicant's version regarding of the agreement and instead accepting the respondent's version. More specifically, he contended that the court should have found that the testimony of Mrs Meintjies, on behalf of the respondent, concerning the agreement was hearsay evidence or at the very least contradictory and improbable.
- (7) In addition to the above Mr Meijers contended that the court erred by finding that the testimony of Ms. Koen supported the respondent's

version. He contends that the court should have found that Mrs Koen's testimony was contradictory in material respects and fell to be rejected in that her testimony failed to show that 2/3 of the profits was to be paid to the respondent.

- (8) Furthermore, Mr Meijers argued that the court should have found that the testimony of Ms Van Taak as to the agreement did not support the version of the respondent and was contradictory and the court should have rejected such version and should have accepted the version of the applicant.
- (9) Mr Meijers further submitted that the court should have found that the version of the applicant (Ms Annandale) as to the agreement is the only version that accords with the common cause documents, and is therefore to be accepted. He contended that the version of the respondent is not even supported by the common cause documents.
- (10) Lastly, he contended that the court erred in fact by rejecting, alternatively, by failing to take into account the undisputed documents attached to the founding affidavit, which supported the applicant's version as regard the agreement.
- (11) Mr. Coetsee on behalf of the respondent made the following submissions before this court:

11.1 That this court was correct to reject the version by the applicant that an agreement was reached with the respondent that she would "takeover" the respondents clients as its business was defunct and that she would complete the outstanding work as payment for such takeover;

11.2 that this version of a "takeover" is contrived and invented in that it was raised for the first time in the answering affidavit;

11.3 that the version as testified to by Mrs Meintjies and her witnesses supports the version of the respondent that the services of the applicant was sub-contracted to work for the respondent as an accountant;

11.4 that a previously employed qualified professional was employed by the respondent before the services of the applicant was contracted, is indicative of the fact that the business of the respondent was not defunct;

11.5 the question as to who paid the salaries of the staff of the respondent, is rather indicative of the applicants intention to take the respondents' staff for herself and does not alleviate the untenable nature of her version; lastly

11.6 the question regarding the author of the documents to which reference is made in paragraph 2.2 of the notice of application for leave to appeal is rather indicative of a certain course of conduct being pursued and does not prove the legitimacy thereof nor does it justify an intolerable version on the part of the applicant.

(12) In my judgment I comprehensively dealt with the versions of both the applicant and the respondent and gave extensive reasons as to why the version of Mrs Meintjies is supported by the witnesses called on behalf of the respondent and be accepted. I also set out the reasons as to why the version presented by the applicant falls to be rejected.

(13) I have given due regard to the grounds of appeal and am accordingly of the opinion that an appeal against the judgment has no reasonable prospect of success. In any event the grounds of appeal fail to set out any compelling reasons why the appeal should be heard.

(14) Accordingly, the application for leave to appeal is dismissed with costs.

C.J. COLLIS

JUDGE OF THE HIGH COURT OF

SOUTH AFRICA

Appearances:

Counsel the First Applicant

: Adv. G.V. Meijers

Attorney of the First Applicant : Dawes Law

Counsel for the Respondent

: Adv. M. Coetsee

Attorney for the Respondent

: M.L. Schoeman Attorneys

Dates of Hearing

: 04 March 2020

Date of Judgment

: 20 March 2020

[1] Judgment Collis J delivered 10 December 2019

[2] Act 10 of 2013

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Prepared on 12 October 2026 · Esheria