

SOUTH AFRICA / JUDGMENT

# Bella Vue Farms (Pty) Ltd v Briet (35314/2019) [2020] ZAGPPHC 486 (31 August 2020)

[2020] ZAGPPHC 486

## COURT

North Gauteng High Court, Pretoria

## BEFORE

E.M Kubushi

## CASE / FILE NUMBER

35314/2019

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IN

THE HIGH COURT OF SOUTH AFRICA

(GAUTENG

DIVISION, PRETORIA)

(1)

## REPORTABLE:

NO

(2)

OF

INTEREST TO OTHER JUDGES: NO

Case Number: 35314/2019

In

## the matter between:

BELLE

VUE FARMS (PTY)

LTD

APPLICANT

and

LODEWIJK A.E

BRIET

RESPONDENT

## JUDGMENT

KUBUSHI J

This judgement is handed down electronically by circulating to the parties' representatives by email and by uploading on Caselines.

[1] The applicant (respondent in the hearing) seeks leave to appeal to the Supreme Court of Appeal alternatively to the Full Court of this Division, against the following portions of the judgment I granted on 28 April 2020:

1.1. The order that the applicant pay the respondent the amount of R7 170 388.00 (Seven Million, One Hundred and Seventy Thousand, Three Hundred and Eighty-Eight Rand) together with any further interest that is due and payable;

1.2. The order that the applicant pay the costs of the application.

[2] Section 17(1) (a) of the Superior Courts Act 10 of 2013 which deals with leave to appeal, provides that leave to appeal may only be given where the Judge or Judges concerned are of the opinion that the appeal would have a reasonable prospect of success or that there is some other compelling reason why the appeal should be heard.

[3] The applicant's grounds for his application for leave to appeal is that I erred in interpreting the loan agreement concluded between the applicant and the respondent, and more specifically, in concluding that the loan agreement provided for compound interest and that the respondent was substantially successful and awarded costs in the respondent's favour.

[4] The respondent opposes the applicant's application for leave to appeal on the basis that the applicant's appeal would not have a reasonable prospect of success and that there is no other compelling reasons why the appeal should be heard.

[5] Having read and considered the arguments for and against the application for leave to appeal, I am of the view that there are reasonable prospects of success in the applicant's appeal and that another court may come to a different conclusion. The application ought therefore to succeed.

[6] Consequently, I make the following order:-

1. Leave to appeal to the Full Court of this Division is granted.
2. Costs are costs in the appeal.

E.M KUBUSHI

JUDGE OF THE HIGH COURT

Appearance:

## Applicant's Counsel

: Adv. A.J Wessels

## Applicant's Attorneys

: Snyman De Jager Attorneys.

## Respondent's Counsel

: Adv.C.M Rip

## Respondent's Attorneys

: Grosskope Attorneys.

## Date of hearing

: 03 August 2020

## Date of judgment

: 31 August 2020

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