
SOUTH AFRICA / JUDGMENT

Chiura and Another v Absa Bank Limited and Others (29 November 2016) (7580/2007; 1730/2013; 20740/2013) [2016] ZAGPPHC 972 (29 November 2016) [2016] ZAGPPHC 972

COURT

North Gauteng High Court, Pretoria

BEFORE

T Brenner

CASE / FILE NUMBER

7580/2007; 1730/2013; 20740/2013

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IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

REPUBLIC OF SOUTH AFRICA

Date of hearing: 29 November 2016

Case nos: 7580/2007, 1730/2013 & 20740/2013

NOT REPORTABLE

NOT OF INTEREST TO OTHER JUDGES

REVISED

In the matter between:

SHEPARD TENDAYI CHIURA

First Applicant

ESTER CHIURA

Second Applicant

And

ABSA BANK LIMITED

First Respondent

NEDBANK LIMITED

Second Respondent

SHLOMO MISHAN

Third Respondent

MIRIAM MISHAN

Fourth Respondent

SHERIFF HALFWAY HOUSE

Fifth Respondent

REGISTRAR OF DEEDS, PRETORIA

Sixth Respondent

JOYSPRING TRADE & INVESTMENTS 11 (PTY) LTD

Seventh Respondent

RICHARD NGWENYA & PARTNERS

Eighth Respondent

WEBBER WENTZEL ATTORNEYS

Ninth Respondent

JUDGMENT IN APPLICATION FOR LEAVE TO APPEAL

BRENNER AJ

1. This is an application for leave to appeal against the whole of the order handed down on 3 November 2016, against the applicants, Messrs Shephard and Ester Chiura, ("the Chiuras" or 'the applicants'), and in respect of which reasons for judgment were handed down on 21 November 2016.
2. The Chiuras served a notice of application for leave to appeal on 7 November 2016. This predated the handing down of reasons for my

judgment.

3. The Chiuras indicated in their notice that they would amplify their grounds for appeal on receipt of the judgment. They were afforded an opportunity to supplement their notice of application for leave to appeal by 25 November 2016, but failed to do so.
4. I have accordingly been constrained to rely on the grounds advanced by them in their notice of 7 November 2016.

5. In essence, the Chiuras have argued in their notice that I erred in granting an order dismissing their application, with costs on the attorney and client scale, and in granting an order in terms of prayers 1, 2 and 4 of the counter-application brought by the first respondent, Absa Bank Limited ("Absa").
6. The Chiuras provided no substantiation for their bald and vague averments that I erred in granting the order in question.
7. In any event, having duly considered the foregoing argument, I respectfully disagree, for the reasons which are fully advanced in the comprehensive written judgment handed down on 21 November 2016. Suffice it to say that there is no need to repeat such grounds in this judgment.
8. In the premises, I am of the view that the applicants do not enjoy a reasonable prospect of success on appeal, and that there is no other compelling reason why an appeal against my judgment should be heard. In my respectful view, leave to appeal should accordingly be refused, with costs following the result.
9. The grounds for appeal having been without foundation, there is no reason why an exemplary order for costs should not be granted.
10. The following order is granted:
 - a. the applicants' application for leave to appeal against the order dated 3 November 2016, read with the judgment dated 21 November 2016 is dismissed;
 - b. the applicants are directed to pay the costs of the application on a scale as between attorney and client.

T BRENNER

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA

GUATENG DIVISION, PRETORIA

29 NOVEMBER

Appearances

For First and Second Applicants:

Shepard and Ester Chiura

Instructed by:

Personally represented

Counsel for the First Respondent:

Adv G F Porteous

Instructed by:

Attorneys Clyde and Co

Counsel for the Second Respondent: Adv KW Luderitz SC

Instructed by:

Attorneys Lowndes Dlamini

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