

SOUTH AFRICA / JUDGMENT

Corporate Park Properties(Pty) Ltd v Glass Decorations CC (21408/07) [2007] ZAGPHC 245 (29 October 2007) [2007] ZAGPHC 245

COURT
High Courts - Gauteng

BEFORE
Seriti

CASE / FILE NUMBER
21408/07

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record

IN THE HIGH
COURT OF SOUTH AFRICA /ES
(TRANSVAAL PROVINCIAL DIVISION)
CASE
NO: 21408/07
DATE: 29/10/07
NOT REPORTABLE
IN THE MATTER

BETWEEN:
CORPORATE PARK
PROPERTIES (PTY) LTD APPLICANT
AND
GLASS DECORATIONS
CC RESPONDENT

JUDGMENT

SERITI, J

[1] This matter came to court by way of motion.

In the notice of motion, the applicant is seeking a declaratory order that the respondent is obliged to vacate the premises situated at Units 1 and 2, 11 Lechwe Street, Corner Suni Street, Corporate Park Midrand by no later than 30 June 2007, plus costs.

- [2] The notice of motion was issued on 29 May 2007 and served on the respondent on 31 May 2007. Apparently, notice of intention to oppose was served on 4 June 2007 as same is signed on 4 June 2007, and the date of service reads "04.05.07" which I presume is an error as the notice of motion was issued on 29 May 2007.
- [3] On or about 13 June 2006, the applicant as a lessor entered into a lease agreement of certain premises with the respondent as the lessee. The lease of the said premises commenced on 15 May 2006 and was to expire on 31 March 2007, "with additional three months option to renew".
- [4] The respondent took possession of the premises, and towards the expiry date of the lease agreement the respondent did not give notice of its intention to renew the lease agreement.
- [5] Parties held a meeting on or about 22 March 2007 and at the said meeting it was agreed that the respondent will remain in occupation of the premises until 30 June 2007 and would vacate the premises by no later than the said date. Other issues relating to the occupation and repairs of the premises in question were discussed.
- [6] The applicant's attorneys drafted a settlement agreement and sent it to the respondent's attorneys. The latter did not return to the applicant's attorney the signed settlement agreement.
- [7] On 25 April 2007 the applicant's attorneys spoke to the respondent's attorneys over the telephone. The respondent's attorneys advised the applicant's attorneys that they have forwarded a copy of the draft settlement agreement to the respondent and were awaiting the respondent's instructions.
- [8] On 2 May 2007 the applicant's attorneys addressed a letter to the respondent's attorneys enquiring about the settlement agreement. In the said letter the applicant's attorneys stated, inter alia:
- "Should your client fail to sign the settlement agreement within seven days from date of receipt hereof, our client will launch an application declaring the termination of the lease agreement with effect from 1 July 2007, as well as an appropriate costs order against your client."
- [9] The respondent's attorneys failed to respond to the letter mentioned in the previous paragraph.
- [10] The respondent, although wanted to remain in the premises until 30 June 2007, alleges that it did not sign the draft settlement agreement as it contained, besides issues that were agreed upon, other issues that the parties did not agree on.
- [11] In a letter dated 4 June 2007 addressed to the applicant's attorneys the respondent's attorneys stated inter alia "Die standpunt van ons kliënt in hierdie aangeleentheid is baie duidelik naamlik dat ons kliënt die huurperseel sal ontruim voor of op 30 Junie 2007."

- [12] The applicant alleges that, in view of the fact that the respondent failed to sign the draft settlement agreement, applicant was concerned that if the respondent fails to vacate the premises on 30 June 2007 that will cause severe prejudice to the applicant as the applicant has arranged a new tenant to take occupation of the premises with effect from 1 July 2007.
- [13] The respondent alleges that it vacated the premises on 29 June 2007.
- [14] The applicant states that it did not anticipate that the respondent will oppose the application as the respondent does not contend that it is entitled to stay in the premises beyond 30 June 2007. However, as the application is opposed, the applicant was entitled to set down same for hearing.
- [15] The respondent alleges that it opposed the application as the applicant wanted to obtain costs order against it.
- [16] It is common cause between the parties that at a meeting held on 22 March 2007 it was agreed that the respondent will vacate the premises on 30 June 2007.
- In a letter dated 4 June 2007 the respondent's attorneys stated that the respondent will vacate the premises on or before 30 June 2007.
- [17] There was no dispute about the date on which the respondent should vacate the premises. The respondent was well aware of the fact that it should vacate the premises by 30 June 2007. The respondent's attorneys also confirmed the fact that the respondent will vacate premises on or before 30 June 2007 in the letter mentioned above.
- [18] It was not necessary for the applicant to persist with its application as the order in terms of prayers 1 and 2 of its notice of motion would have been of no effect as the respondent had previously agreed that it will vacate the premises on or before 30 June 2007. In fact the respondent alleges that it vacated the premises before 30 June 2007.
- [19] The respondent's counsel, correctly so, submitted that the applicant's application was premature.
- [20] The applicant was seeking a costs order against the respondent despite the fact that there was no dispute between the parties and consequently the respondent was entitled to serve and file notice of intention to oppose and the subsequent answering affidavit.
- [21] My view is that the applicant has failed to demonstrate that it is entitled to any order against the respondent.
- [22] The court therefore makes the following order:

The application is dismissed with costs.

W L SERITI

JUDGE OF THE HIGH COURT

21408-07

HEARD ON: 17/10/2007

FOR THE APPLICANT: N SEGAL

INSTRUCTED BY: LEVIN GLUCH ATTORNEYS

FOR THE RESPONDENT: ADV L S DE KLERK

INSTRUCTED BY: ROSS & JACOBSZ INC

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAGPHC/2007/245.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/corporate-park-propertiespty-ltd-v-glass-unknown-topic-agphc-2007>

Prepared on 13 October 2026 · Esheria