

SOUTH AFRICA / JUDGMENT

Engelbrecht N.O. and Others v Stadler (11100/2015) [2024] ZAWCHC 10 (26 January 2024)

[2024] ZAWCHC 10

COURT

Western Cape High Court, Cape Town

BEFORE

I Jamie

CASE / FILE NUMBER

11100/2015

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IN THE HIGH COURT OF
SOUTH AFRICA
WESTERN CAPE DIVISION,
CAPE TOWN
CASE
NO: 11100/2015
In

the matter between:

RYNO
ENGELBRECHT N.O.
First
Plaintiff
YUNUS
ABOO BAKER ISMAIL N.O.
Second
Plaintiff
SHONA
LE-ROUX MARX N.O.
Third
Plaintiff
and
CECILIA
STADLER
Defendant

Bench:

I Jamie, AJ

Heard:

6, 7 & 22 November 2024

Delivered: 26 January 2024
This judgment was handed down electronically by circulation to the parties' representatives via email and release to SAFLII. The date and time for hand-down is deemed to be 11h30 on 26 January 2024.

JUDGMENT

JAMIE, AJ

- [1] The plaintiffs are the joint trustees of the insolvent estate of one Alwyn Bernardus Smit (hereafter 'Mr Smit' or 'the insolvent') whose estate was finally wound up by this court on 8 April 2014.
- [2] The plaintiffs claim payment of certain monies from the defendant, Cecilia Stadler, described as an adult female resident in the Western Cape Province.
- [3] In the original particulars of claim, plaintiffs alleged the following:
- "8. Before the sequestration of his estate, the insolvent made payments to the defendant, alternatively for the benefit of the defendant, in the amounts and on the dates as set out in the schedule annexed hereto marked "PC2".*
9. Each of the said payments constituted a 'disposition' of his property by the insolvent as contemplated in s 2 of the Insolvency Act 24 of 1936 ('the Act').
10. Each such disposition was made at a time when the liabilities of the insolvent exceeded the value of his assets.
11. Each such disposition was not made for value and is liable to be set aside in terms of s 26 of the Insolvency Act.">

("The setting aside claim")

- [4] The plaintiff subsequently amended their particulars of claim to insert an alternative basis for the alleged liability of the defendant to them. In such amended particulars of claim they retained the allegation in paragraph 8 of the original particulars of claim, quoted above, and then pleaded as follows:

"9. Each such payment was made on account of the purchase price of a sale by the defendant to the insolvent of a half share of the member's interest in and half of the member's loan claim against Melkbaai Makelaars CC ("Melkbaai").

10. Such sale was concluded orally, between the defendant and the insolvent both acting personally, at Cape Town, about late 2009 / early 2010, alternatively about March/April 2012, for a price of R1,134 million, on the basis of Melkbaai owning Unit 10 in SS The Cliffs 592/2000 ("Unit 10") and being debt-free save for the member's loan claim aforesaid.
11. As at the date of sequestration of the estate, the sale aforesaid remained executory, inasmuch as the insolvent had not yet paid the full purchase price payable by him thereunder and the defendant had not yet transferred to the insolvent any part of the said member's interest or ceded to the insolvent any portion of the said member's loan claim.
12. On 5 April 2016, Melkbaai sold Unit 10 to ICW Konsultante BK ("ICW"), and on 8 March 2017 Unit 10 was transferred from Melkbaai to ICW pursuant to such sale, rendering the sale mentioned in 9 to 11 above impossible of implementation on the basis aforesaid.
13. In the premises, the payments aforesaid are refundable by the defendant to the plaintiffs but have not been so refunded."

("the contractual claim")

- [5] In the amended particulars of claim, and in the alternative to the contractual claim, the plaintiffs persisted with the allegations in relation to the setting aside claim.
- [6] In her amended plea to the plaintiffs' amended particulars of claim, the defendant pleaded as follows, insofar as is relevant:

"Ad paragraph 8

2. The content hereof is denied.
3. Defendant specifically denies that the insolvent made any payments to her or for her benefit.

Ad paragraphs 9 to 11

4. These paragraphs are denied.
5. Defendant specifically denies that a half share of the member's interest in, and half of the member's loan claim against Melkbaai was sold to the plaintiff.
6. Any and all payments by the insolvent to Melkbaai were made in respect of the client base of the Defendant's late husband's brokerage business, conducted through Melkbaai, taken over by insolvent on 2 April 1998 the day after Defendant's late husband passed away.
7. The Defendant acted on behalf of Melkbaai at all relevant times.

Ad paragraph 12

8. Defendant admits that Melkbaai sold Unit 10 to ICW BK and that this unit was transferred as alleged, but the other allegations in this paragraph is denied.

Ad paragraph 13

9. It is specifically denied that any payments are refundable by the Defendant to the Plaintiffs, but admitted that no payments were refunded.

Ad paragraphs 14 to 19

10. The content hereof is denied. In respect of the allegations in paragraph 17 of the Particulars of Claim, and with reference to the content of paragraph 6 hereof, it is specifically alleged that such dispositions were made for value.”

- [7] Defendant subsequently again amended her plea in the following respects:

7.1. She admitted that during the period February 2010 through February 2014 the insolvent paid an amount of R710 412,00 to Melkbaai, abandoned the allegation that such payments were in respect of the defendant's late husband's brokerage business, and averred that these payments were made by the insolvent in anticipation of him acquiring Unit 10 from Melkbaai, alternatively a direct or indirect interest in that property. She further averred that such payments were made to Melkbaai and inured to its benefit and was applied by it to pay levies and other expenses in relation to the property.

7.2. She admitted that, at the time of the payments referred to by plaintiffs as the 'dispositions', the insolvent's liabilities exceeded the value of his assets, and also abandoned the allegation that the payments were for value.

- [8] In their amended replication to the defendant's amended plea the plaintiffs averred that Melkbaai was established by the defendant's late husband, Mr Henk Herbst, who died on 1 April 1998, whereafter the defendant acquired Mr Herbst's 100% interest in Melkbaai, which she retained at all relevant times thereafter. These allegations were not disputed by the defendant.
- [9] At the commencement of the trial, Mr Rogers, who appeared for the plaintiffs, indicated that the plaintiffs did not persist with certain claims in relation to payments to chartered accountants Rademeyer Wessen and to BMW, but persisted with the claim in respect of the remaining payments, totalling R751 300,00. Mr Rogers also indicated that all payments by the insolvent were from his ABSA current account except for payments totalling R26 008,00, which were from an ABSA current account in the name of Alwyn Smit Finansiele Dienste CC ('ASFD'), R12 625,00, which were from an ABSA current account in the name of Silver Crow Properties 1 (Proprietary) Limited ('Silver Crow'), and an amount of R3 595,00, which was from an ABSA current account in the name of the insolvent's wife, Mrs Smit. These accounts, Mr Rogers submitted, were under the control of the insolvent, and the plaintiffs thus persisted in their claims in this regard.
- [10] The battle-lines accordingly drawn, the plaintiffs called four witnesses, whereafter they closed their case. The defendant closed her case without testifying or calling any witnesses.

The relevant facts

- [11] As indicated, the plaintiffs called four witnesses. They were Mr Andre de Klerk, an attorney who acted for Mr Smit at the time that the relevant agreements and documents were being prepared, Mr Bossau Boshoff, an attorney at Werksmans who acted for one of Mr Smit's creditors, Mrs Bester, Rianna Smit, Mr Smit's assistant at the relevant time, and Mr Smit himself.
- [12] Each of the aforesaid witnesses testified in a satisfactory manner, and came across as credible, and testifying only to events which they had themselves observed or participated in. Where concessions were required, these were made. I accordingly accept their evidence. I deal with Mr Smit's position hereunder.
- [13] I agree with Mr Rogers that an inference may be drawn from the fact that Mrs Stadler did not testify or call witnesses in rebuttal, that she was not able to gainsay any material aspect of the evidence by plaintiffs' witnesses. I further agree that such testimony was not impugned in any material respect during cross examination by Mr Tredoux, who appeared for the defendant.
- [14] Finally, I am of the view that Mr Smit had nothing to gain from testifying falsely against Mrs Stadler. In fact, inasmuch as she was his erstwhile sister-in-law, and given that it was not suggested during cross-examination that he bore her any malice or ill will, I do not consider his evidence suspect on that basis.
- [15] As to the facts, the evidence, approached on the aforesaid basis, disclosed the following:
- 15.1. In or about November 2009 Mrs Stadler requested Mr Smit for financial assistance as her finances were under strain. Mr Smit indicated that he was willing to assist her, but that he wanted a 50% interest in Unit 10 at The Cliffs in return.
- 15.2. On 2 December 2009 Mrs Stadler sent Mr Smit an email acknowledging his desire to acquire a 50% share in the property and proposing a valuation therefor of R2.268 million plus VAT, based on a valuation that she had received.
- 15.3. Mr Smit forwarded the email to Mr de Klerk, who prepared a draft agreement for the sale of 50% of her member's interest in and loan claim against Melkbaai for a price of R1.134 million, being half the valuation of the property, payable at R7 000,00 per month from 1 February 2010. These payments commenced on 9 February 2010 and were effected into the ABSA bank account of Melkbaai. Mr Smit testified that the payments were for Mrs Stadler, in response to her request for financial assistance, and in furtherance of the agreement regarding his acquisition of a half-share in the property. He also testified that the reason that the payments were effected to Melkbaai's account was because that was the account that Mrs Stadler nominated for such purpose.

15.4. In late 2009 or early 2010 Mrs Stadler pointed out to Mr de Klerk that she was not prepared to dispose of half of her member's interest and loan account in Melkbaai as it owned other properties, the acquisition of which was not part of the agreement with Mr Smit.

15.5. In light thereof, it was agreed between Mr Smit and Mrs Stadler that a company would be established in which they would be equal shareholders, in order to acquire Unit 10 from Melkbaai. A company called Hedracel Investments (Proprietary) Limited ('Hedracel') was thereafter established with Mr Smit and Mrs Stadler becoming equal shareholders and directors thereof, in about June 2010.

15.6. Subsequently, Mr de Klerk prepared an agreement for the sale of Unit 10 by Melkbaai to Hedracel. That agreement was never signed and Hedracel remained dormant.

15.7. In July 2011 one of the additional properties owned by Melkbaai was disposed of by it, and the second additional property owned by it was disposed of in March 2012. As a result, Melkbaai thereafter owned only Unit 10 at The Cliffs, being the property which Mr Smit wished to acquire 50% of.

15.8. Given the obvious transfer duty disadvantages of the sale of the property from Melkbaai to Hedracel, in order for Mr Smit to acquire an effective 50% share therein, he and Mrs Stadler discussed the original concept, i.e. his acquisition of a half-share of her member's interest in Melkbaai, including the loan account. The parties agreed to proceed on this basis, with payments already effected by Mr Smit being in respect of the purchase price of such half-share of the member's interest and loan account in Melkbaai.

15.9. These payments continued until January

2014. In addition, Mr Smit made ad hoc payments to Mrs Stadler, into the Melkbaai account, at her request as and when she required assistance. These payments included an amount of R202 632,00, paid on 29 November 2011, in respect of VAT payable by Melkbaai in relation to the disposal of one of the properties owned by it, referred to in paragraph 15.7 above.

15.10. Mr Boshoff, in his evidence, confirmed that Mrs Stadler had informed him in about November 2013 that Mr Smit had made substantial payments in respect of the acquisition by him of 50% of the member's interest in Melkbaai.

15.11. In the course of being examined at an enquiry in terms of s 152 of the Insolvency Act in July 2014, Mrs Stadler testified as follows:

" 'MNR KURZ: Okay. Hy het aan jou in die afgelope vier jaar 'n hele klomp geld gegee, is dit nie?

ME STADLER: Dis reg.

MNR KURZ: En daardie gelde soos ek dit verstaan is in jou bankrekening inbetaal?

ME STADLER: Dis in Melkbaai Makelaars se rekening betal.

MNR KURZ: Maar dis eintlik geld aan jou gegee.

ME STADLER: Dis in Melkbaai betaal ja, Melkbaai is my enigste ... (tussenbeide).

MNR KURZ: Jy kan nie vir my sê waarom hy jou geld gegee het nie?

ME STADLER: Ek het gevoel dis payback time, dis maar die geld wat hy my vir tien jaar nooit gegee het nie, vir die besigheid wat ek hom gegee het, so aanvanklik het ek aanvaar dis maar hulp, omdat my finansies begin swaar trek het.

MNR KURZ: Right. Nou gaan ek jou weer vra waarom het hy vir jou geld betaal?

ME STADLER: Hy het aangebied om my te help want hy geweet my finansies is nie meer so sterk nie, en ek het dit so aanvaar, hy is my swaer, hy sorg vir baie mense en hy ... (tussenbeide).

MNR KURZ: Dankie mevrou.

ME STADLER: ... het my ook geld geskuld so ...

MNR KURZ: It's very easy to just give a straightforward answer. Okay, payback time en sulke goed is nie antwoorde mevrou. So hy het aan jou 'n klomp geld gegee maandeliks, is ek reg?

ME STADLER: Dis reg."

15.12. I further consider there to be merit in Mr Rogers' submission, in argument, that Mrs Stadler conducted the Melkbaai account as if it was her personal account, and that she does not appear to have distinguished between funds belonging to Melkbaai and those utilised for her own purposes. The above excerpt from the insolvency enquiry bears this out. Further, the bank statements reflect a number of payments, which are clearly personal in nature, including in respect of accounts with Truworths and Edgars, as also in respect of TV licences, a cell phone service provider, and DSTV. During the period under consideration, there were also various payments from Melkbaai's account to her personal account.

[16] I now turn to the two bases upon which plaintiffs advanced their claim.

The contractual claim

[17] As a general proposition, the insolvency of a party does not put an end to a contract which has not yet been fully executed. In such instances, the trustee must elect, within a reasonable time, whether or not she will abide by the contract; if she decides to do so, she must perform in terms thereof while, if she elects not to do so, the other party cannot demand performance of the insolvent's contractual obligations.[1]

[18] In the case of supervening impossibility of performance, the parties' obligations to perform are extinguished, and the innocent party is entitled to rescission of the contract and restitution of whatever he may have performed thereunder, as also any damages suffered by him.[2]

[19] It was common cause at the trial that Mrs Stadler, via Melkbaai, of which she was the sole member, sold Unit 10 at The Cliffs on 5 April 2016, and that same was transferred on 8 March 2017, thereby rendering any performance of the alleged agreement between Mr Smit and Mrs Stadler for him to acquire a half-share of Melkbaai in order to acquire a 50% interest in the property, impossible of performance.

[20] In my view, the evidence, fairly considered, establishes an oral agreement between the insolvent and Mrs Stadler, the defendant, concluded in late 2009 / early 2010, alternatively in March or April 2012, in terms whereof the insolvent would acquire half the member's interest in Melkbaai, in order to obtain a 50% effective interest in Unit 10, The Cliffs, which property was owned by Melkbaai. In this regard:

20.1. The insolvent's evidence was unchallenged that, at all material times, he wished to acquire a half-share in Unit 10, as quid pro quo for monies that he was prepared to advance to Mrs Stadler, as she was in financial straits.

20.2. Such payments commenced shortly after the alleged agreement, in early 2010 and continued until 2014.

20.3. No other reason was advanced on behalf of the defendant during the trial as to what other reason or motive might have induced the insolvent to make the various payments admitted on the part of the defendant, other than the proposed acquisition of a half-share in the property.

20.4. The fact that, in early 2010, Mrs Stadler objected to the acquisition of half the member's interest in Melkbaai, inasmuch as it also owned other properties, does not, in my view, change the essential nature or content of the agreement.

20.5. While it is indeed so that the parties thereafter considered other mechanisms to obtain the objective of the insolvent to acquire a half-share in Unit 10, for example its acquisition by Hedracel, upon the impediment to an acquisition of half the member's interest in Melkbaai (being the vehicle for the insolvent's acquisition of a half-share in Unit 10) falling away by the disposal of the other properties owned by Melkbaai, in my view the evidence supports the conclusion that the parties thereafter reverted to the original agreement, i.e. the acquisition by the insolvent of half the member's interest in Melkbaai.

20.6. The fact that payments continued throughout this period, until 2014 into the account of Melkbaai supports this

conclusion.

20.7. Finally, it must be borne in mind that the defendant asserted a causa, viz payment for her late husband's brokerage business, that was not persisted with at the trial. This must, of necessity, adversely affect her credibility, insofar as she sought to contend at the trial that there was in fact no agreement.

- [21] In conclusion, I find that the factual basis of the contractual claim has been established by the evidence. What remains is the legal basis therefor.
- [22] In this regard, and as can be gleaned from the pleadings, more especially the amended plea referred to in paragraph 6 above, the defendant resolutely contended at the trial that the payments by the insolvent were not made to her or for her benefit, and that such payments were made to Melkbaai, a separate and distinct legal entity. The essential question is whether this defence holds water on the facts established in this case. I do not believe so.
- [23] Mr Rogers submitted, in oral argument, that Melkbaai was, in essence, the defendant's alter ego and was utilised as such. He also contended that Melkbaai was essentially the defendant's agent, and that payment to an agent amounts, in law, to payment to the principal. In response, Mr Tredoux submitted that the alter ego argument had not been pleaded and was not open to the plaintiffs to advance.
- [24] In PAF v SCF[3] the Supreme Court of Appeal restated the principles applicable where it is alleged that a basis for a claim or counterclaim has not been properly raised on the pleadings. The court reiterated that substance, rather than form, must be considered, as also whether the issue sought to be relied upon has been fully ventilated at the trial.[4]
- [25] The court further stated that it had inherent jurisdiction to decide a matter even where it has not been pleaded, provided that the matter has been fully ventilated before it and that, if the real issue emerges during the course of the trial, it would be proper to treat the issues as enlarged where this can be done without prejudice to the party against whom the enlargement is to be used.[5]
- [26] Proceeding on the aforesaid basis, I conclude that, even if the alter ego argument was not properly raised on the pleadings, there is no prejudice to the defendant insofar as the plaintiffs seek to rely thereupon. Indeed, on a proper construction of the pleadings and regard being had to the issues ventilated during the proceedings before me, it was at all times apparent that the plaintiffs' contention was that the defendant utilised Melkbaai and its bank account as her personal property and for her own ends. Most pertinently, the insolvent's evidence that the defendant nominated the Melkbaai account for payment of the amounts that the insolvent paid her in order to assist her financially, was never effectively disputed, nor did the defendant lead contrary evidence in this regard. She must live with that election.
- [27] Accordingly, I find that the plaintiffs may rely on the alter ego argument.
- [28] I find the following to be an accurate description of the applicable legal position:
- “A company may, of course, always act as an agent for those persons who happen to be shareholders in any matter, including matters connected with their shareholding. Where that is the case, the normal relationship between principal and agent will exist between the company and its members, one consequence of which is that the shareholders, and not the company, will be liable on any contract entered into by the company on their behalf. But in the context of veil piercing, the term ‘agency’ is used*

in another sense. A company is said to have been the ‘agent’, or, perhaps more accurately, the ‘alter ego’ or ‘instrumentality’, of its controlling shareholders where it does not, in truth, carry on its own business or affairs, but acts merely in the furtherance of the business or affairs of its shareholders, in other words, its controllers do not treat it as a separate entity, at least not in the full sense. Although the form is that of a separate entity carrying on business to promote its stated objects, in truth the company is a mere instrumentality or business conduit for promoting, not its own business or affairs, but those of its controlling shareholders. For all practical purposes the two concerns are in truth one. In these cases there is usually no intention to defraud although there is always abuse of the company’s separate existence (an attempt to obtain the advantages of the separate personality of the company without in fact treating it as a separate entity). Although there are dicta suggesting that ‘agency’ here means agency in the proper sense, it is clear that that is not in fact required. This is not merely because the courts do not insist upon the existence of a contract of agency (express or implied) in terms of which the company does act as an agent properly so called. It is because the company in question does not in truth even conduct the business as an agent.”[6]

[29] Accordingly, and on the factual basis set out above, I conclude that the payments by the insolvent into the bank account of Melkbaai are, effectively, and as a matter of law, payments to the defendant, which the plaintiffs are entitled to reclaim from her. The fact that they could also have claimed those payments from Melkbaai, in the alternative, is irrelevant. I intend to make the requisite order in this regard hereunder.

The setting aside claim

[30] Mr Tredoux raised two defences in relation to this claim, viz:

30.1. Whether the dispositions at issue related to the property of the insolvent;

30.2. Whether the defendant benefited from such dispositions.

[31] I deal with these in turn.

[32] The first argument was that the payments to the defendant by, respectively, AB Smit Finansiële Dienste CC, the insolvent’s wife, Mrs Marietjie Smit, and Silver Crow, cannot be attributed to the insolvent, and thus were not recoverable by the plaintiffs. I consider the argument to be sound.

[33] The applicable legal position is the following:

“Generally, where money is deposited into a bank account of an account-holder it mixes with other money and, by virtue of commixtio becomes the property of the bank regardless of the circumstances in which the deposit was made or by whom it was made. The

account-holder has no real right of ownership of the money standing to his credit but acquires a personal right to payment of that amount from the bank, arising from their bank-customer relationship. This is also so where, as in this case, no money in its physical form is in issue, and the payment by one bank to another, on a client’s instruction, is no more than an entry in the receiving bank’s account. The bank’s obligation, as owner of the funds credited to the customer’s

account, is to honour the customer's payment instructions. Where the depositor is not the account-holder he relinquishes any right to the money and cannot reverse the transfer without the account-holder's concurrence." [7]

[34] Accordingly, the fact that the insolvent testified that he paid the monies claimed by the plaintiffs in this regard into the aforementioned three accounts, and that he at all times controlled such funds, is legally irrelevant. He was unable, as a matter of law, to reclaim those amounts from the receiving banks or any third party to whom they made payment on their client's instructions, and nor can the plaintiffs. The plaintiffs' claim must be reduced accordingly.

[35] The parties were not *ad idem* as to the amount of the reduction required. The defendant contended that the claim had to be reduced by the following amounts:

35.1. AB Smit Finansiële Dienste CC: R27 608,00

35.2. Mrs M Smit:

R16 220,00

35.3. Silver Crow:

R 2 627,00

Total: R46 455,00

[36] The plaintiffs however contended that the relevant amounts were:

36.1. AB Smit Finansiele Dienste CC: R26 008,00

36.2. Mrs M Smit:

R 3 595,00

36.3. Silver Crow:

R12 625,00

Total: R42 228,00

[37] The difference is *de minimis* and I consider justice to be served by reducing the plaintiffs' claim by the amount of R45 000,00.

[38] As to Mr Tredoux's second argument, viz that the defendant did not benefit from the payments made by the insolvent to Melkbaai, the argument ignores, in my view, the facts established at the trial. In short, the defendant utilised Melkbaai, and its bank account, as her alter ego and private property. I have set out the reasons for this conclusion above.

- [39] The argument that she, as opposed to Melkbaai, did not benefit from the payments made to her is a strained and inaccurate one. Precisely because of the fact that the defendant and Melkbaai were interchangeable, any of the latter's obligations would ultimately have had to be settled by the defendant, and she was also the beneficiary of any amounts received by Melkbaai, including the proceeds of the sales of the various properties held by it.
- [40] I accordingly find that, to the extent set out above, the setting aside claim has also been established. The reduced amount to which the plaintiffs are entitled must, however, obviously also apply in respect of the contractual claim.

Costs

- [41] Mr Rogers submitted that the defendant should be ordered to pay the qualifying expenses of the expert witnesses, Ms Fey and Mr Bahlman, whose evidence was required to counter, respectively, the denial of insolvency and the abandoned defence that the payments at issue were in respect of the insolvent's acquisition of the defendant's late husband's brokerage business. Mr Tredoux did not contend otherwise.
- [42] Mr Rogers also sought the wasted costs occasioned by the postponements of the matter on, respectively, 2 November 2020, 2 August 2021, 25 October 2021, 1 February 2022, and 4 May 2023, as the defendant bore responsibility therefor. The record supports that submission, and I did not understand Mr Tredoux to contend to the contrary. I consider that such costs should be on the ordinary scale, including in respect of the postponement on 25 October 2021.

Order

- [43] For all of the aforesaid reasons, I make the following order:
1. The defendant shall pay the plaintiffs the sum of R706,300,00;
 2. The defendant shall pay the plaintiffs' costs, such costs to include the following:
 - 2.1 The qualifying expenses of the plaintiffs' expert witnesses, Ms Fey and Mr Bahlman;
 - 2.2 The wasted costs occasioned by the postponements of this matter on 2 November 2020, 2 August 2021, 25 October 2021, 1 February 2022, and 4 May 2023.

I JAMIE

ACTING JUDGE OF THE HIGH COURT

APPEARANCES: For the Plaintiffs: Adv J Rogers Instructed by: Mr B Kurz Biccari Bollo Mariano Inc. For the Defendant: Adv P Tredoux Instructed by: Mr J van Wyk Du Plessis & Hofmeyr Inc.

- [1] LAWSA, Vol 11 (Second Edition), para 267, footnote 55
- [2] LAWSA, Vol 9 (Third Edition), para 4 -6, footnote 16

- [3] 2022
- (6) SA 162 (SCA)
- [4] At paras 29 and 30.
- [5] At para 31.
- [6] LAWSA, Vol 6 Part 1 at para 65, p 114, footnotes omitted.
- [7] Trustees of the Insolvent Estate of Whitehead v Dumas and Another 2013 (3) SA 331 (SCA) at para 13
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Prepared on 11 October 2026 · Esheria