

SOUTH AFRICA / JUDGMENT

First Rand Bank Limited v Masebelanga (16534/2021) [2024] ZAGPJHC 441 (8 May 2024) [2024] ZAGPJHC 441

COURT

South Gauteng High Court, Johannesburg

BEFORE

N Manoim

CASE / FILE NUMBER

16534/2021

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REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 16534/2021

1. REPORTABLE: NO
2. OF INTEREST TO OTHER JUDGES: NO
3. REVISED: NO

8 May 2024

In the matter between:

FIRST RAND BANK LIMITED (FNB DIVISION) APPLICANT/PLAINTIFF

and

KEHUMILE MASEBELANGA

RESPONDENT/DEFENDANT

REASONS

MANOIM J:

[1] In this matter the defendant has asked for reasons for my order of 26 October 2023.

- [2] The request has been made more than six months after I gave the order which was placed on Case lines. No explanation has been given for this delay in the request or an explanation why the defendant or anyone to represent her, did not appear in court if they were minded to oppose the application.
- [3] From case lines I have reconstructed the history and what emerges is as follows:
- [4] This matter was on the unopposed roll and there being no appearance for the defendant, although the defendant was served, I granted the order as prayed.
- [5] That order states:
1. The Respondent is hereby directed to withdraw one of the two pleas in this matter within 5 days of this order being granted.
 2. The dies in terms of the Uniform Rules of Court in order for the next step to be taken by the Applicant runs as from the date of service of the Respondent's notice of withdrawal of her plea.
 3. Costs reserved.
- [6] The plaintiff's application was brought in terms of Rule 30, The basis is that the defendant has served two pleas in this matter. The one is dated 22 February 2023 the other 8 July 2023. The latter plea does not make any reference to the earlier one. Although a notice to oppose is on record, dated 26 September 2023, no answering affidavit was filed.
- [7] Accordingly, I only have the version of the plaintiff in this matter which is that the filing of two pleas is irregular. I agree. If there are two pleas the plaintiff does not know what case it has to meet. The pleas are also in some respects inconsistent. In the February plea, the contents of paragraph 3 of the particulars are denied and the plaintiff is put to the proof thereof. In the July plea, paragraph 3 is admitted. Paragraph 3 of the particulars is not a formality. It is a central allegation in the plaintiff's case. I use this just as an example of the confusion filing two pleas causes.
- [8] There might be an explanation for why this is happened. But no explanation was forthcoming from the defendant. Accordingly on the papers the plaintiff has made out a case of an irregular proceeding.
- [9] The order I granted simply calls upon the defendant to indicate which plea is the correct one and to withdraw the other. However, I did not grant the costs order sought by the plaintiff, but instead, as appears from the manuscript on the order, costs were reserved.

N. MANOIM

JUDGE OF THE HIGH COURT

GAUTENG DIVISION

JOHNANNESBURG

Date of Reasons: 08 May 2024

Appearances:

Counsel for the Applicant: R Carvalheira

Instructed by.

Hammond Pole Attorneys

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CASE PAGE <https://chat.esheria.ai/case-law/south-africa/first-rand-bank-limited-v-masebelanga-unknown-topic-agpjhc-2024>

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