

SOUTH AFRICA / JUDGMENT

Firststrand Bank Limited v Zwane and Another (68313/2014) [2025] ZAGPPHC 358 (23 April 2025)

[2025] ZAGPPHC 358

COURT

North Gauteng High Court, Pretoria

BEFORE

W Domingo

CASE / FILE NUMBER

68313/2014

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REPUBLIC

OF SOUTH AFRICA

IN

THE HIGH COURT OF SOUTH AFRICA

GAUTENG

DIVISION, PRETORIA

Case

Number: 68313/2014

(1)

REPORTABLE: NO

(2)

OF INTEREST TO OTHER JUDGES: NO

(3)

REVISED: NO

DATE

23 April 2025

SIGNATURE

In

the matter between:

FIRSTRAND
BANK LIMITED
Applicant
and
THENJIWE
ZWANE
First Respondent
SHERIFF
OF THE HIGH COURT, SOWETO EAST
Second Respondent

JUDGMENT

DOMINGO, AJ

Introduction

- [1] This is an application brought by the applicant in terms of Uniform Rule 46A(9)(d) for the reconsideration of the reserve price set by this Honourable Court.
- [2] The first respondent has served a notice of motion, with a founding affidavit, wherein the respondent seeks an order setting aside the notice of application in terms of Uniform Rule 46A(9)(d). The applicant opposes the first respondent's counter application.

Background

facts

- [3] On the 25 September 2014, the applicant caused summons to be issued against the first respondent, for payment of an outstanding balance due to the respondent, interest, and an order declaring that applicant's immovable property executable, as well as costs.
- [4] The applicant's cause of action against the first respondent was based on the first respondent's breach of the terms of a written home loan agreement secured by a mortgage bond registered over the first respondent's immovable property.
- [5] As a result of the first respondent's failure to keep the minimum monthly instalments due to the applicant up to date, the applicant instituted legal action against the first respondent.
- [6] The applicant proceeded with an application for default judgment read with the provisions of Uniform Rule 46(1) and Rule 46A(8), which was heard on the 18 February 2020, whereby this Honourable Court granted the judgment in favour of the applicant.

First Respondent's counter-claim

- [7] The first respondent in this application now attempts to dispute the indebtedness to the applicant, by claiming some sort of dispute with the applicant, which also happens to be her former employer.
- [8] The nature of the first respondent's alleged dispute with her former employer is unclear, no explanation and details are provided on how the alleged dispute links with this application and the applicant's initial claim.
- [9] The applicant has no knowledge of the first respondent's employment status and the purported dispute.
- [10] The first respondent's alleged dispute with her former employer bears no relevance to this application and the applicant's initial application.
- [11] There is no application for the rescission of judgment pending, and no appeal was noted against the default

judgment.

- [12] The default judgment granted against the first respondent is therefore enforceable, and the applicant is entitled to execute thereon, and to recover the amounts lawfully owed to it by the first respondent.
- [13] As far as this application is concerned, the first respondent has not placed any facts before this court regarding the reconsideration and reduction of the reserve price.

Reconsideration of the reserve price

- [14] This honourable court determined a minimum reserve price of R300 000.00 in respect of the sale of execution of the first respondent's immovable property.
- [15] The sale of execution of the first respondent's immovable property proceeded on the 10 December 2020, but the sale did not achieve the minimum reserve price set by this Honourable Court.
- [16] A second sale in execution was scheduled, which did not achieve any bids, The sheriff rendered a no bid sale return.
- [17] Although the property was valued at R670 000.00 with a forced sale value of R530 000.00 and an an outstanding account to the local municipality of R52 443.21, it is averred by the applicant that there is is no interest in the property by purchasers.
- [18] The outstanding balance due as of 7 December 2024 is R481 392.22, and the arrear amount is R305 323.25.
- [19] The applicant avers that it is unable to enforce the judgment debt and have no other option but to approach this court to reconsider the reserve price.
- [20] It is submitted that, in the circumstance, a reserve price of R100 000.00 should be set.

[21] In the premises having heard counsel on behalf of the applicant and read all the papers filed on record, and in the interest of justice taking into account the interests of the applicant and first respondent, I have increased the applicant's submitted reserve price from R100 000.00 to R150.000.00.

[22] In respect to the costs of this application and the first respondent's application dated 11 July 2022, I do not see why an order as proposed in the Draft Order should not be granted.

Order

[23] The following order is made:

1. That the reserve price of R300 000.00 set by this Honourable Court for the sale in execution of the first respondent's immovable property be reduced to R150 000.00.
2. That the first respondent be directed to pay the costs of this application on the scale as between attorney and client.
3. The first respondent's application dated 11 July 2022 is dismissed with costs on the scale as between attorney and client.

W DOMINGO

ACTING JUDGE OF THE HIGH COURT

PRETORIA

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the parties / legal representative and by uploading it to the electronic file of this matter on Caselines. The matter was heard in open court on 12 February 2025. The date for hand down is deemed 23 April 2025.

Date of hearing: 12 February 2025

Date of judgement: 23 April 2025

APPEARANCES:

For the Applicant: ADV. AP Ellis instructed by PDR Attorneys For the Respondent: No appearance

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Prepared on 11 October 2026 · Esheria