

SOUTH AFRICA / JUDGMENT

Hay v Road Accident Fund (2019/5932) [2025] ZAGPJHC 278 (14 March 2025)

[2025] ZAGPJHC 278

COURT

South Gauteng High Court, Johannesburg

BEFORE

Wilson

CASE / FILE NUMBER

46032/2018

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

CASE NO: 46032/2018

DATE: 29-07-2025

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

DATE 29 July 2025

In the matter between

TERESA THRING AND ANOTHER

Applicants

and

ABSA BANK LIMITED AND OTHERS

Respondents

JUDGMENT EX TEMPORE

WILSON, J: This is an application to rescind an order of Pillay AJ, granted some three years ago, which set a reserve price on a property bonded to the first respondent, ABSA Bank. At the outset of the hearing counsel for the applicants informed me that the applicants wish to withdraw their application with a tender for costs on the party and party scale. ABSA is content for the application to be withdrawn but seeks costs on the attorney and client scale.

Accordingly, the only contentious issue before me is the scale of costs that should be ordered against the applicants. It is common cause between the parties that the mortgage loan agreement governing their relationship provides for costs on the attorney and client scale in the event and to the extent that the loan agreement needs to be enforced in court.

Moreover, this is a full opposed application, in which papers have been filed, counsel has been briefed, but which has been prosecuted half-heartedly. The applicants did not file heads and let the application drift for several months. The respondents had to file heads and set the matter down. In these circumstances, given what the agreement says and the unfortunate and inappropriate way in which the application was prosecuted, I think an order on the attorney and client scale is both necessary and appropriate.

For all these reasons I make the following order-

1 The applicants given leave to withdraw their application.

2 The applicants are directed to pay the costs of the application jointly and severally the one paying the other to be absolved, on the scale as

between attorney and client.

WILSON, J

JUDGE OF THE HIGH COURT

29 July 2025

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