

SOUTH AFRICA / JUDGMENT

Heat It Manufacturing (Pty) Ltd v Michaelides (052785/2025) [2025] ZAGPPHC 563 (22 May 2025)

[2025] ZAGPPHC 563

COURT

North Gauteng High Court, Pretoria

BEFORE

Neukircher

CASE / FILE NUMBER

052785/2025

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IN THE HIGH COURT OF
SOUTH AFRICA
GAUTENG DIVISION,
PRETORIA
CASE
NO: 052785/2025

DATE:

08-05-2025

(1) REPORTABLE:

YES / NO.

(2) OF INTEREST TO

OTHER JUDGES: YES / NO.

(3) REVISED.

DATE

SIGNATURE

In

the matter between

HEAT

IT MANUFACTURING (PTY) LTD

Applicant

and

STAVRAKIS MICHAELIDES

Respondent

JUDGMENT

NEUKIRCHER, J: This application was brought as one of urgency and the applicant gave the respondent two weeks to file an answering affidavit, which he did.

The relief sought by the applicant is the following:

1. That the application be heard as one of urgency in terms of Rule 6(12).
2. “That a rule nisi be issued with return date determined by the registrar of the honourable Court when the respondent may advance reasons why the following order should not be made:
 - 2.1. That the respondent be ordered to immediately return the applicant’s drawing described as:
 - 2.1.1. The complete set of final physical drawings necessary to enable Heat It to manufacture, machine and produce a specific product of high-quality heating systems for the poultry industry used to heat chicken coops, as well as to heat other necessary parts.
 - 2.2. That the respondent be ordered to immediately after the granting of this order return to the applicant any electronic storage device (USB) whereon the aforementioned drawings are electronically stored or available.
 - 2.3. That the respondent be prohibited from using, copying or distributing the applicant’s drawing described in paragraph 2.1 above in any way whatsoever.
 - 2.4. That the respondent be ordered to immediately upon receiving this order, destroy any copy or record of the applicant’s drawings not returned in terms of this order to the applicant.
 - 2.5. That paragraphs 2.1 to 2.4 serves as an interim order with immediate effect.”

The applicant also seeks costs on the attorney and client scale including counsel’s fees on scale C. On an aside on this issue, if the costs are sought on an attorney and client scale, the scale of costs becomes irrelevant.

It appears from the papers that the respondent was a former employee of the applicant. He resigned with immediate effect on 1 April 2025.

The bad blood between the two is clear from the papers and evidenced further by the fact that the respondent has approached the CCMA alleging constructive dismissal from his employment. This is not an issue before this court and therefore no further comment is required. The only import is that it places the events that occurred from 1 April 2025 into context.

The applicant via its sole director, Mr Vorster, alleges that since the respondent’s departure, his business has come to a standstill as the respondent has taken with him essential drawings that are required to conduct the applicant’s business. He also alleges that these drawings are sensitive and confidential and that the applicant requires their return.

The applicant manufactures and produces heating systems for the poultry industry. These heating systems are used in the poultry industry to heat chicken coops and other necessary parts. According to the applicant it uses physical drawings which are the “blue prints” for the production of the heating system, its parts and components: this allows it to “personalise” its approach to the manufacturing and production processes. The drawings are thus critical to the entire process as these allow the applicant to accurately set the laser cutting machines it uses.

Although the respondent tends to take issue with the ownership of the drawings, that is not a true dispute on these papers. It appears that a company known as PC Building Contractors & Shopfitters (Pty) Ltd (PC Building) loaned the applicant funds to produce the original drawings. After this, the applicant hired draftsmen to tailor the drawings to its specific requirements and to improve them.

The point is also that on 1 April 2025 when the respondent abruptly resigned and left the employ of the applicant, he allegedly took with him the USB on which the updated drawings were stored and which was used to operate the laser cutting machines.

It is not in dispute that Mr Vorster called the respondent on 1 April 2025 and asked for the drawings to be returned and the respondent undertook to leave the USB at Crawdaddy's at Waterglen Shopping Centre in Menlyn. It appears that he then did so, however, according to the applicant the USB does not contain the updated drawings: it contains the original drawings. According to the applicant the drawings developed by the draftsman over the period of the past year were not contained on the USB.

The applicant then informs the court that it employed an expert to inspect the laser cutting machine. It then became apparent that the drawings had been removed and copied onto a USB. There is no confirmatory affidavit by this expert nor is his name mentioned in the papers, thus there is no proof of these allegations.

The applicant states that when he tried to use the laser cutting machine on 18 April 2025 it then realised that the settings had been changed to such an extent that the machine cannot be operated without first being entirely reconfigured. As the respondent was responsible for this machine and as the issues with the machine arose after he had left the applicant's employ, the ineluctable conclusion is that the respondent had a hand in all of this.

The respondent states in his answering affidavit that the application was brought with undue haste and without thought. No undertaking was first sought from him prior to its launch which, although he denies possession of the material in question, he states he would have provided. He states:

“16 ... I have no intention of utilising the applicant's information and would for that reason alone have given the applicant

such an undertaking.”

The respondent then states:

“19. The applicant mistakenly infers wrongdoing from the mere fact that certain electronic files were initially present on my personal laptop and WhatsApp messages. The WhatsApp messages for instance had been legitimately sent to me by Mr Stefan Venter, the draftsman working with the applicant in the ordinary course of my duties. I did not immediately delete them upon resignation as there was no reason to do so at the time – I had done nothing wrong. It was only after the applicant initiated this unnecessary dispute and litigation that I deleted these messages.”

And:

“38. As detailed above, all drawings and related materials in my possession were either left at the workplace on 1 April 2025 or subsequently delivered to the applicant on the same day. At the time of my resignation the applicant already had access to its original USB and could obtain all drawings through its draftsman, Mr

Stefan Venter. There was no withholding of material on my part. Moreover, I voluntarily deleted any remaining electronic

copies of drawings from my personal laptop and WhatsApp chats shortly after this matter arose even though they had been sent to me in the ordinary course of business. I am no longer in possession of any of the applicant’s information – confidential or otherwise – and I am willing to confirm this under oath.”

Thus, from the above it is clear that at the time that the application was issued and served, the respondent was in possession of the applicant’s electronic files on his personal laptop and via WhatsApp messages. It appears that the application, thus at least at its initiation, had merit.

The respondent however denies possession of the USB and states that he left it at the laser cutting machine upon his departure on 1 April 2025. As stated, it does appear as though he was in possession of the drawings sent to him by the draftsman. However, the respondent is at pains to state throughout his affidavit that he has now deleted all the applicant’s information and that he has no intention of competing with or “misusing” any of the applicant’s information.

These being the facts, the issue is what relief to grant the applicant. The notice of motion is stated in too broad terms. Whilst a rule nisi is sought, there is no practical effect to the grant of the relief in prayers 2.1 and 2.2.

On the basis of the Plascon Evans principle, the respondent’s version on the issue of whether he is still in possession of the disputed material is not so untenable that it falls to be rejected. Thus, the issue is whether the interdict sought in paragraphs 2.3 and 2.4 of the notice of motion should be granted.

Although the relief is framed as an interim interdict, it is final in effect. In my view, on these papers it is clear that the elements of the interdict have been met. The applicant has a clear right to the drawings and the information contained was confidential.

It was certainly not contested by the respondent that the applicant had made alterations to the original drawings or that competitors in the industry would have had the same information. The balance of convenience favours the applicant and it would be detrimental to its business for the information to be shared or leaked and would allow competitors to obtain an unfair advantage in the marketplace were that to happen.

The irreparable harm lies in the fact that the applicant alleges that it cannot operate its machines without the drawings. This it would appear from the papers is an issue and the drawings would have to be redone by the draftsman as they were deleted once forwarded to the respondent who in turn has now deleted them.

The applicant also stands to lose contracts and clients if it cannot produce the necessary industry products. None of this can adequately be compensated via a damages claim, which is therefore not a suitable alternative remedy.

In my view thus interdictory relief in the terms set out in paragraphs 2.3 and 2.4 of the notice of motion is justified.

On the issue of costs, the respondent argued that this entire application could have been averted had the applicant simply sought undertakings prior to the launch of the proceedings. It was argued that the respondent's conduct demonstrates that he had no intention of possessing the applicant's information.

The applicant however argues that it is clear from these papers that the application was necessary as, on the respondent's own version, he was still in possession of the applicant's information when the application was launched.

The argument was further that it is clear from the notice of motion that what was sought from the respondent was for him to inter alia hand over the drawings, instead he deleted them. Therefore, his conduct according to the applicant was not entirely bona fide.

In my view, both parties bear the same blame for this application. Had a proper demand been sent prior to the launch of proceedings given the respondent's tender, this application may well have been averted. However, the respondent was well aware of the fact that the applicant wanted its drawings returned and why. He not only retained possession of them until the application was served on him, but he then deleted them instead of complying with prayer 1 of the notice of motion.

As I have said, the notice of motion is also problematic in the manner that it is framed.

All of this being so, I am of the view that each party must bear their own costs.

The order is the following:

1. The respondent is prohibited from using, copying or distributing the applicant's drawings – being the complete set of final physical drawings necessary to enable the applicant to manufacture, machine and produce its products for its heating systems for the poultry industry used to heat chicken coops as well as other necessary parts – in any way whatsoever.
2. The respondent is ordered to immediately destroy any copy or record of the applicant's drawings in his possession.
3. Each party shall pay its or his own costs.

NEUKIRCHER, J

JUDGE OF THE HIGH COURT

Judgement handed down: 8 May 2025

Transcript revised: 22 May 2025

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Prepared on 12 October 2026 · Esheria