

SOUTH AFRICA / JUDGMENT

Hyundai Motor Distributors (Pty) Ltd v Hyundai Plant and Equipment (Pty) Ltd (2003/7707)

[2006] ZAGPHC 120 (31 October 2006)

[2006] ZAGPHC 120

COURT
High Courts - Gauteng

BEFORE
Rabie

CASE / FILE NUMBER
2003/7707

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IN THE HIGH COURT OF SOUTH AFRICA WITWATERSRAND LOCAL DIVISION

NOT REPORTABLE Case no.: 2003/7707

In the matter between: DATE: 31/10/06

HYUNDAI MOTOR DISTRIBUTORS (PTY) LTD Plaintiff (IN LIQUIDATION)

d

an

HYUNDAI PLANT AND EQUIPMENT (PTY) LTD

Defendant

JUDGMENT

Rabie J:

[1]

This is an application by the applicant for leave to appeal against the whole of the judgment and order, including the award of costs, of this court granted on 17 November 2005 whereby the defendant was ordered to pay to the plaintiff the amount of R10 999 452,50 together with interest thereon at the rate of 15,5% calculated from 8 August 2000 to date of payment as well as the plaintiff's costs of suit including the costs of two counsel and previously reserved costs.

[2]

The plaintiff based its application on a number of grounds set out in a Notice of Application for Leave to Appeal.

Although I am of the view that most of the grounds relied upon by the applicant has no merit, I am of the view that another court may come to a different conclusion on the question whether, on the state of the pleadings as they stand and/or the facts of the matter, the defendant could be. However, as this particular issue is, for all practical purposes, interwoven with

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successful in its argument that the plaintiff's claim was premature.

[3]

most of the other issues in the case, and as the facts of the case relate to all the

issues

equally, I am of the view that leave to appeal should be granted as prayed for and not only in respect of any particular issue.

[4]

In my view the issues involved in the appeal are not of such a nature that they merit the attention of the Supreme Court of Appeal.

In the result the following order is made:

1.

Leave is granted to appeal to the Witwatersrand Local Division of this Court against the whole of the judgment and order, including the award of costs, handed down by this court on 17 November 2005;

2.

The costs of the condonation application shall be paid by the applicant on an unopposed scale and the costs of the application for leave to appeal shall be costs in the appeal.

Plaintiff's Counsel: Plaintiff's Attorneys:

Adv Joseph SC and Adv Girdwood Cliffe Dekker Inc

Defendant's Attorney: Adv Morrison and Adv Stylianou Defendant's Attorneys: Alan Margolis Attorneys

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