

SOUTH AFRICA / JUDGMENT

Mabona v Formula 80 (J4075/99) [2001] ZALC 184 (22 October 2001)

[2001] ZALC 184

COURT

Labour Court

BEFORE

A A Landman

CASE / FILE NUMBER

J4075/99

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JUDGMENT

J4075/99-mc

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IN THE LABOUR COURT OF SOUTH AFRICA

BRAAMFONTEIN CASE NO: J4075/99

2001-10-22

In the matter between

MASHOABATHE EARL MABONA Applicant

and

FORMULA 80 Respondent

J U D G M E N T

LANDMAN J: The applicant in this matter, Mr Mabona, obtained an arbitration award on 30 March 1999. The award was handed down by a commissioner of the CCMA.

The award was made against his employer Formula 80. On 14 December 1999 my sister REVELAS J, made the arbitration award an order of court in terms of section 158(1)(c) of the Labour Relations Act 66 of 1995. The respondent in that application and in respect of whom the award was made an order of court, was the entity known as Formula 80.

It appears that the entity known as Formula 80 was in fact a close corporation. It is common cause that this close corporation has been liquidated. Mr Mabona now seeks to amend the court order granted by my sister REVELAS J by inserting or changing the name Formula 80 to read Formula 3000. He also seeks to join Errol Johnstone as a further respondent to that order. Mr Mabona, motivates this by saying that the company known as Formula 80 has been deregistered. It has, of course, also been liquidated. He goes on to say that there is a new company called Formula 3000 and he alleges that Mr Errol Johnstone is involved in this company. It would appear that Mr Errol Johnstone was involved in the close corporation known as Formula 80. That is about the full extent of the facts which have been placed before me. There is no proof that the entity known as Formula 3000 has any connection with the CC known as Formula 80. This is not a case where any facts show that section 197 of the Labour Relations Act 66 of 1995 are applicable. There is also some doubt as to whether or not this court is entitled to join a respondent after judgment has been granted. The authorities would seem to indicate that this cannot be done. Nevertheless, on the facts before me, even if it can be done, no case been made out to do so. In the circumstances therefore the application is dismissed with costs.

A A Landman Judge of the Labour Court of South Africa

It appears that the entity known as Formula 80 was in fact a close corporation. It is common cause that this close corporation has been liquidated.

Mr Mabona now seeks to amend the court order granted by my sister REVELAS J by inserting or changing the name Formula 80 to read Formula 3000. He also seeks to join Errol Johnstone as a further respondent to that order. Mr Mabona, motivates this by saying that the company known as Formula 80 has been deregistered. It has, of course, also been liquidated. He goes on to say that there is a new company called Formula 3000 and he alleges that Mr Errol Johnstone is involved in this company. It would appear that Mr Errol Johnstone was involved in the close corporation known as Formula 80. That is about the full extent of the facts which have been placed before me.

There is no proof that the entity known as Formula 3000 has any connection with the CC known as Formula 80. This is not a case where any facts show that section 197 of the Labour Relations Act 66 of 1995 are applicable.

There is also some doubt as to whether or not this court is entitled to join a respondent after judgment has been granted. The authorities would seem to indicate that this cannot be done. Nevertheless, on the facts before me, even if it can be done, no case been made out to do so.

In the circumstances therefore the application is dismissed with costs.

A A Landman

Judge of the Labour Court of South Africa

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