

SOUTH AFRICA / JUDGMENT

Malao v Investec Bank Ltd and Others (Appeal) (A37/2023) [2025] ZAGPPHC 522 (28 May 2025)

[2025] ZAGPPHC 522

COURT

North Gauteng High Court, Pretoria

BEFORE

G C Wright, Hassim, Ledwaba

CASE / FILE NUMBER

A37/2023

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case No: A37/2023

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

28 MAY 2025

WRIGHT J

In the matter between:

KABELO PHILEMON LUCAS MALAO APPELLANT

and

INVESTEC BANK LTD

FIRST RESPONDENT

ROAD ACCIDENT FUND SECOND

RESPONDENT

THE SHERIFF, SANDTON SOUTH

THIRD RESPONDENT

THE CITY OF JOHANNESBURG

FOURTH RESPONDENT

JUDGMENT – APPEAL

WRIGHT J

1. Mr K Malao is an attorney. He practices in the form of K Malao Inc. He represents clients in cases brought against the Road Accident Fund. Apparently, he or his firm, on behalf of a number of different clients obtained court orders in favour of those clients against the Fund. These orders are said to total about R78 million. Mr Malao became frustrated at the alleged slowness of the Fund to pay under the court orders.
2. On 17 November 2020, Mr Malao and his firm launched an urgent application in the Gauteng Division, Pretoria. The respondents were Investec, the Fund, the Sheriff for Sandton South and the City of Johannesburg.
3. It is not clear precisely what relief was sought in the notice of motion. Seemingly, Investec was to be ordered to pay amounts of money to the Sheriff from certain accounts held possibly by the Fund at Investec. Investec was to be ordered to provide detailed statements of account and certificates of balance in respect of certain accounts. Investec and the City were to be ordered to state on oath who owns certain accounts held at Investec.
4. The founding affidavit does not make for easy reading. Causes of action are difficult to discern. Allegedly, the Sheriff attached certain bank accounts held by the Fund or the City at Investec. Mr Malao allegedly received payment of only R1.5 million instead of R78 million. How this translates into causes of action for the relief sought is not clear.
5. Investec, the Fund and the City opposed the application. Investec's answering affidavit disputed urgency and pointed out, among other things, that it does not hold assets of the Fund, that attachments by the Sheriff were incomplete and that the payment of R1.5 million by Investec to the Sheriff had been made in error.
6. The matter came before Basson J on 26 November 2020. She struck from the roll for lack of urgency the application against Investec and the Fund. Regarding the City, Basson J dismissed the application, set aside an earlier attachment by the Sheriff of the City's account at Investec and ordered the Sheriff to repay to the City "all amounts attached and paid".
7. Mr Malao was ordered to pay personally the costs of Investec, the Fund and the City on the attorney and client scale.
8. Basson J dismissed with costs two attempts at leave to appeal.
9. Mr Malao and his firm sought leave from the SCA. It is not clear whether leave was sought only in relation to the costs order.

10. On 19 January 2023, the SCA granted leave to appeal to “ the Full Court of the Gauteng Division of the High Court, Pretoria. “
11. The notice of appeal, dated 13 February 2023 cites Mr Malao himself as the only appellant.
12. The court file as a whole is replete with confusing documents submitted by Mr Malao. It is not clear, on the papers, whether the intended appellant today, 28 May 2025 is only Mr Malao personally or also K Malao Inc. Precisely what order or orders are the subject of appeal is not clear. At the hearing today, Mr Malao said that he appears for himself and for K Malao Inc. This he said after he submitted that he and K Malao Inc are one and the same.
13. Condonation is sought relating to the appeal. Precisely by whom and for what is not clear.
14. On 9 May 2025, Mr Malao served an application, in which both he himself and his firm are cited as appellants, and in which is sought orders that the appeal be postponed “ pending Rule 27(1) Application to transfer this matter to the Johannesburg High Court “ and “ Ordering the Pretoria High Court to remove the matter from its roll. “ In short, the founding affidavit alleges that the appeal must be heard in Johannesburg rather than in Pretoria as Mr Malao has lost faith in the judges who sit in Pretoria. Mr Malao has reported five Pretoria judges, including the Deputy Judge President to the Judicial Service Commission. For precisely what, is not clear.
15. Investec and the Fund oppose any postponement of the appeal. Not unreasonably, they want this case finalized.
16. It is not necessary for us now to deal with the question of the transferability of the appeal to Johannesburg under section 27 of the Superior Courts Act 10 of 2013.
17. On 15 April 2025, Mr Malao served a notice “ provisionally “ removing the appeal from the roll of 28 May 2025. This unilateral attempt to avoid the appeal which Mr Malao and his firm seek is not procedurally permissible.
18. Litigation is not advanced by making broad, sweeping allegations against all and sundry, particularly judges.
19. In my view, this hopelessly confusing matter should be removed from the roll. It would be unwise to attempt any definitive order when we can't discern what is before us.
20. Investec and the Fund want costs. In our view it would be safest to reserve this question.

ORDER.

1. The matter is removed from the roll, costs reserved.

G. C. Wright

Judge of the High Court, Gauteng Division, based in Johannesburg and sitting

in Pretoria as rostered by the Judge President.

HASSIM J

Judge of the High Court, Gauteng Division, Pretoria

I agree

LEDWABA AJ

Acting Judge of the High Court, Gauteng Division, Pretoria

I agree

HEARD : 28 May 2025

DELIVERED : 28 May 2025

APPEARANCES :

Appellants Mr Malao Instructed by K Malao Inc kmalaoinc@gmail.com 1st Respondent Adv SL Mohapi Instructed by Werksmans [hjacob@werksmans.com](mailto:hjacobs@werksmans.com) llebepe@werksmans.com 2nd Respondent Adv C Puckrin SC Adv R Schoeman Adv P Nyapholi-Motsie Instructed by Malatji and Co seloff@mcinc.africa malatji@mcinc.africa

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CASE PAGE <https://chat.esheria.ai/case-law/south-africa/malao-v-investec-bank-ltd-and-others-unknown-topic-agpphc-2025>

Prepared on 10 October 2026 · Esheria