

SOUTH AFRICA / JUDGMENT

**OBG Group (Pty) Ltd v More And More
Chickens
CC T/A OBC Louis Trichardt (52583/09) [2010]
ZAGPPHC 296 (12 January 2010)
[2010] ZAGPPHC 296**

COURT

North Gauteng High Court, Pretoria

BEFORE

Ebersohn

CASE / FILE NUMBER

52583/09

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**IN THE HIGH COURT
OF SOUTH AFRICA
(NORTH GAUTENG
DIVISION)
CASE
NO.: 52583/09**

DATE:

12 JANUARY 2010

In the matter

between

OBG GROUP (PTY)

LTD.....Applicant

And

MORE AND MORE

CHICKENS CC

T/A OBC LOUIS

TRICHARDT.....Respondent

CORAM: EBERSOHN

AJ

DATE HEARD: 22ND

SEPTEMBER 2008

JUDGMENT HANDED

DOWN 12TH JANUARY 2010

JUDGMENT

EBERSOHN AJ.

[I] In this matter the applicant applied on the- 22nd September 2008 on an urgent basis for the ejectment of the respondent from certain premises in Louis Trichardt.

[2] In the founding papers it is alleged that the applicant and the respondent entered into a written lease agreement which entitled the respondent to occupy the premises but as the respondent was in breach of the agreement, the agreement was allegedly cancelled by the applicant during 2008.

[3] The respondent opposed the application.

[4] The applicant alleged that on the 25th September 2008 a letter was addressed to the respondent's attorneys in terms of the agreement, advising the respondent to rectify its alleged breaches of the agreement within 14 days.

[5] On the 30th September 2008 the respondents' attorneys in writing disputed the breaches and the amount of the alleged breach.

[6] The applicant also alleged that the respondent was in breach of the agreement as regarding the interest in a firm called Chicken and Meat Palace.

[7] The applicant alleged that already on 21 October 2008 the applicant by a letter of their attorneys elected to cancel the agreement.

[8] It appears that thereafter the cancellation of the franchise agreement had reached a stalemate. The respondent instituted action against the applicant on 13 November 2008 under case number 53217/2008 in terms whereof the respondent claimed R2 260071.84 from the applicant

[9] The applicant allegedly gave further notice to the respondent to vacate the premises by no later than 28 February 2009 and on 8th July 2009 the respondent's refusal to vacate, was made clear to the applicant in writing by the respondent's attorneys.

[10] It is so that when the application was brought urgency had passed and that the applicant unduly delayed the bringing of the application.

[11] The following order is accordingly made:

1. The application is struck from the roll with costs.

P.Z. EBERSOHN

ACTING JUDGE OF THE HIGH COURT

Counsel for applicant Adv. F.H. Odendaal SC

and Adv. G<l. Nel

Applicant's attorneys NEIL ESTERHUIZEN INC.

do MACINTOSH CROSS & FARQUHARSON

Tel. 012-323 1406 Ref. J. Jooste

Counsel for the respondents Adv. A.P. den Hartog

Respondents' attorney MORNE COETZEE ATTORNEYS

012-460 2020 Ref. M .Cootzee H-HM-1711

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