

SOUTH AFRICA / JUDGMENT

Romador 162 (Pty) Ltd v Equitelecomms (Pty) Ltd and Others (22941/17) [2017] ZAGPPHC 911 (31 March 2017) [2017] ZAGPPHC 911

COURT

North Gauteng High Court, Pretoria

BEFORE

Hughes

CASE / FILE NUMBER

22941/17

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case Number: 22941/17

NOT REPORTABLE

NOT OF INTEREST TO OTHER JUDGES

REVISED

In the matter between:

ROMADOR 162 (PTY) LTD APPLICANT

and

EQUITELECOMMS (PTY) LTD 1st

RESPONDENT

JOHANNES CHRISTIAN VANWYK 2nd

RESPONDENT

MYRNA-DEE HALGREEN TELKOM SA SOC LTD 3rd

RESPONDENT

FIRST NATIONAL BANK 4th

RESPONDENT

ALL DEBTORS OF EQUITELECOMMS (PTY) LTD 5th

RESPONDENT

Coram: HUGHES J

REASONS

HUGHES J

- [1] I encountered this application in the urgent court on 30 March 2017. I am of the view that it is prudent in the circumstances to give short reasons for my order to strike this matter off the roll for want of urgency with costs.
- [2] In this application the applicant seeks to attach monies due to be paid to the first respondent by the fourth and sixth respondent,
- alternatively freeze the first respondents account if the payment has already been effected.
- [3] The applicant, Romador 162 (Pty) Ltd, submits that it purchased shares in the first respondent, Equitelecomms (Pty) Ltd, on 13 April 2016, from the third respondent, Myrna-Dee Halgreen, the then 100% shareholder. No purchase of share agreement was handed up or attached by the applicant to verify this agreement of purchase of the 100% shares alleged.
- [4] The certificate issued by the Companies and Intellectual Property Commission issued out a certificate indicating that the directors
- were, as at 09 February 2016, the second respondent and one Gerhardus Jacobus Van Niekerk. The latter director voluntarily resigned in January 2017. As a result the second respondent purchased the balance of the shares.
- [5] What I have before me is a certificate from the Companies and Intellectual Property Commission issued out to the second respondent
- indicating that he is the 100% shareholder and sole director of the first respondent. In addition the second respondent also put up a share certificate in his name, the purchase and sales agreement of the shares as well as the proof of payment of the shares.
- [6] The second respondent concedes that the applicant is an investor in the first respondent and that subsidiary companies of the applicant
- undertook to do work for the first respondent. As such, monies were due to be paid to Laropoint one of these subsidiaries.
- [7] The applicant concluded a loan agreement with the second respondent wherein it loaned to the second respondent the amount of R2 521 134, 56 to be paid back within 18 months from signature (21 September 2016) which would take it to March 2018. In addition the applicant stood surety for the lease agreement which the first respondent entered into.

- [8] In these circumstances, I am of the view, that the applicant is merely an interested party and derives its locus standi to litigate as such from its interest that it has in the first respondent.
- [9] The second respondent submitted that the applicant could not seek the relief that it sought on an urgent basis as it had as at 28 March 2017 requested from the applicant an invoice in relation to the payment due to it arising out of the work done by the subsidiary Laropoint, amongst others. This invoice would be paid out of the payment due to be paid by the fourth and sixth respondent. None was provided by the applicant instead the applicant moved this application.
- [10] The applicant argued that the matter was urgent as the funds which were due would be eroded by the first and second respondent and as such the applicant as an interest party and a "shareholder" would be deprived of what was due to it.
- [11] It is clear to me that under the circumstances set out above there is no urgency to hear this specific dispute advanced by the applicant. I say so for the following reasons:
- (a) As I have pointed out above the applicant to me is not a shareholder of the first respondent but only an interested party of the first respondent;
 - (b) There is only one shareholder that being the second respondent if the applicant seeks to remove the shareholder the first respondent would cease to function and exist;
 - (c) The second respondent had already sought an invoice on 28 March 2017 to pay the applicant and undertook to do so, the applicant had failed to provide same;
 - (d) The loan was only due to be paid in March 2018.
- [12] For the reasons I have set out above there is absolutely no urgency for the relief sought by the applicant.
- [13] Consequently the following order is made:
- [a] The application is strike off the roll for want of urgency with costs.

W. Hughes

Judge of the High Court Gauteng, Pretoria.

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