

SOUTH AFRICA / JUDGMENT

Investec Bank Limited v Van Heerden and Others (17890/2010) [2017] ZAGPPHC 288 (14 June 2017) [2017] ZAGPPHC 288

COURT

North Gauteng High Court, Pretoria

BEFORE

M MBONGWE

CASE / FILE NUMBER

17890/2010

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IN

THE HIGH COURT OF SOUTH AFRICA

GAUTENG

DIVISION, PRETORIA

CASE

NO: 17890/2010

In

the matter between:

INVESTEC
BANK
LIMITED Plaintiff
and
ANTHEA
PHOEBE-JANE VAN
HEERDEN First
Defendant
IZAK
ALBERTUS VAN
HEERDEN Second
Defendant
AFRIKINGS
(PTY)
LIMITED Third
Defendant
NEW
INVEST 263 (PTY)
LIMITED Fourth
Defendant

JUDGMENT

IN ACCORDANCE WITH A CONFESSION TO JUDGMENT IN TERMS OF RULE 31 (1)

MBONGWE, AJ:

[1] This is an application for a written judgment for payment of monies pursuant to a written consent to judgment in terms of Rule 31(10 of the rules of this court. The

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said confession was signed by the 1st 2nd and 3rd defendants, the latter being represented by the 2nd defendant on the 17th March 2014. This application was considered in chambers.

[2] I have perused the documents in the file which consists of the written confession to judgment, an affidavit deposed to by the

plaintiff's attorney, a letter of demand dated 1st November 2016 and addressed by the plaintiff's to the defendants' as well as two certificates of balances both dated 1st November 2016 and signed by two Recoveries Managers in the employ of the plaintiff. The certificate certify that the defendants are indebted to the plaintiff in the amounts of R5 383 872.77 in respect of account number 216408/001 and R3 303 608.09 in respect of account number 216408/002, respectively.

[3] I have satisfied myself that the plaintiff has fully complied with the terms of the written confession to judgment with regard to the issuing of the certificates of balances and making demands for payment and putting the defendants in mora. Despite the demands addressed to their attorneys in terms of the confession to judgment, the defendants have failed to settle the debts to the plaintiff. I find, in consequence, that the amounts depicted on the certificates of balances referred to above became due and payable in full seven days after the date the email containing the demand, being 1st November 2016, was sent.

[4] The plaintiff has also sought order declaring certain immovable properties executable. There are no documents before me detailing ownership of these properties nor is there a nexus established between the defendants' indebtedness to the plaintiff and such properties. I will not, therefore entertain this part of the plaintiff's case and prayer.

[5] In the result I make the following order:

1. The 1st, 2nd and 3rd defendants are ordered to pay, jointly and severally the one paying the others to be absolved, the amounts of R5 383 872.77 and R3 303 680.09 to the plaintiff within five days from the date of this order.
2. The defendants are also ordered to pay interest on the said amounts at 8.75% per annum from 1 December 2016 to date of payment, calculated daily and compounded monthly.
3. The defendants are ordered to pay the costs.

M MBONGWE AJ

ACTING JUDGE OF THE HIGH COURT

PRETORIA.

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CASE PAGE https://chat.esheria.ai/case-law/south-africa/unknown-plaintiff-v-unknown-defendant-confession_to_judgment-agpphc-2017-17890-2010--6a3ea5213b1caa912981787f

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