

SOUTH AFRICA / JUDGMENT

Vosloo v Du Plessis (A3050/2017) [2017] ZAGPJHC 220 (16 August 2017)

[2017] ZAGPJHC 220

COURT

South Gauteng High Court, Johannesburg

BEFORE

Wepener, Vally

CASE / FILE NUMBER

A3050/2017

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record

IN

THE HIGH COURT OF SOUTH AFRICA

GAUTENG

LOCAL DIVISION, JOHANNESBURG

CASE

NUMBER: A3050/2017

Reportable

Of

interest to other judges

Revised

CHRIS

VOSLOO Appellant

and

ROELF

DU

PLESSIS Respondent

Coram:

WEPENER
et VALLY JJ

Heard:

15
August 2017

Delivered:

16
August 2017

JUDGMENT

WEPENER J:

- [1] The appellant appeals a decision of the magistrate of Randfontein. The appellant sought a rescission of a judgment which was granted against him in his absence, which rescission the magistrate refused. The only point contained in the appellant's heads of argument is that an attorney who represented him at some stage during the proceedings was not a duly admitted attorney and therefore all proceedings should be set aside as being irregular. The matter is not that easy. Firstly, the allegation that the legal representative was not an admitted attorney is bold a sketchy to say the least. I am not prepared to find that the legal representative was not a duly admitted attorney on the inadequate evidence belatedly tendered by the appellant.
- [2] Even on the assumption that the attorney who represented the appellant at the time when judgment was entered against him was not a duly admitted attorney, this is of no relevance because the appellant was properly represented when he applied for a rescission of judgment which was refused and which refusal is currently on appeal before us. When applying for a rescission a party must, inter alia, show good cause for the relief sought. Such good cause would include showing a bona fide defence to the claim and the party must seek the rescission within twenty days of becoming aware of the judgment against him. The record shows that the appellant knew full well of the judgment when the Sheriff executed a warrant at his premises on 3 November 2015. He launched the rescission application in April 2016 after his 'attorney' failed to do. Whilst this may partially explain the delay, it does assist the appellant. The appellant failed to set out his grounds for a defence to the claim against him. In fact, no defence was disclosed save to refer to what was contained a plea and counter-claim. Mr Seforo, who appeared for the appellant, conceded that that failure was fatal to the appellant's application for a rescission of the judgment. It is similarly, fatal in this appeal.
- [3] Accordingly, the appeal falls to be dismissed with costs.

Wepener J

I agree.

VALLY J

Legal representative for Appellant: K.D. Seforo

Attorneys for Appellant: K.D. Seforo Attorneys

Counsel for Respondent: M. Louw

Attorneys for Respondent: Truter & Crous Wiggill Inc

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAGPJHC/2017/220.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/vosloo-v-du-unknown-topic-agpjhc-2017>

Prepared on 23 October 2026 · Esheria