

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 01257/2021

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
Date: 14 March 2022	
E van der Schyff	

In the matter between:

GENERAL BELTINGS (PTY) LTD

APPLICANT

And

ABSA BANK LIMITED

RESPONDENT

JUDGMENT

Van der Schyff J

- [1] The applicant filed an application for leave to appeal against the whole of the judgment and orders granted on 2 September 2021. The application for leave to appeal was filed on 27 September 2021. Due to unfortunate circumstances it only came to my attention that an application for leave to appeal was filed during 2022.

- [2] The applicant submits that I erred in dismissing the Rule 30 application and contends that the Rule 30 application was not before me to be determined on the said date. The applicant subsequently submits that I erred in granting the final liquidation and concomitant costs order.

- [3] It was submitted on behalf of the applicant that I only had to take notice of the Rule 30 application and postpone the conclusion of the liquidation application pending the hearing and finalisation of the Rule 30 application. In deciding the Rule 30 application I am said to have erred by finding that mediation proceedings instituted in terms of Rule 41(A) amounted to informal settlement negotiations

- [4] I provided the parties with the reason for the order granted on 2 September 2021. The reasons were signed on 10 September 2021 and subsequently uploaded to CaseLine. As indicated the legal representative acting for the applicant in this application conceded that the proceedings referred to in the Rule 30 application as 'mediation proceedings' amounted to informal settlement negotiations. This concession was, to my mind, correctly made against the factual background of the proviso contained in Rule 41A(4)(c) that the time limits prescribed by the Rules for the delivery of pleadings and notices and the filing of affidavits shall be suspended from the date of signature of the minute referred to in Rule 41A(4)(a). *In casu* no such minute was signed. Although the parties might have expressed the intention to mediate during February 2021, the matter was not referred to mediation by September 2021.

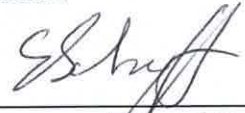
- [5] The liquidation application was enrolled to be heard on 2 September 2021. The Rule 30 application was filed on 25 August 2021. The applicant in the current application took issue with the enrolment of the liquidation application. The court was obliged to consider the Rule 30 application before the liquidation application was heard. If there was any merit in the Rule 30 application the liquidation application would have been postponed. The applicant also failed to demonstrate that they had a *prima facie* defence on the merits of the matter.

- [6] I am of the view that the appeal would not have a reasonable prospect of success.

ORDER

In the result, the following order is granted:

1. The application for leave to appeal is dismissed with costs.



E van der Schyff
Judge of the High Court

Delivered: This judgement is handed down electronically by uploading it to the electronic file of this matter on CaseLines. As a courtesy gesture, it will be sent to the parties/their legal representatives by email. The date for hand-down is deemed to be 14 March 2022.

Counsel for the applicant:	Adv. J de Klerk
Instructed by:	Banda & Associates Inc.
For the respondent:	Adv. N Alli
Instructed by:	Jay Mothobi Inc.
Date of the hearing:	8 March 2022
Date of judgment:	14 March 2022