



IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Reportable:	YES/NO
Of Interest to other Judges:	YES/NO
Circulate to Magistrates:	YES/NO

Case number: 3372/2023

In the matter between:

DEON CORNELIUS MAREE

1st Applicant

JOHANNA GERTRUIDA MAREE

2nd Applicant

and

THE STANDARD BANK OF SOUTH AFRICA LIMITED

Respondent

CORAM: LOUBSER, J

HEARD ON: 16 FEBRUARY 2024

JUDGEMENT BY: LOUBSER, J

DELIVERED ON: 22 FEBRUARY 2024

- [1] The applicants make application for leave to appeal against an Order of this Court confirming a *rule nisi* issued against them with costs on 30 June 2023 by Mhlambi, J. In terms of the *rule nisi*, notarial bonds of the applicants were perfected in favour of the respondent, and the respondent was granted access to certain properties of the applicants to monitor the harvesting and sale of their crops. In addition, the respondent was authorised to keep in its possession such movable property and effects, as referred to, as a pledge and as such security for all accounts due by the applicants to the respondents.

- [2] All the orders contained in the *rule nisi* were ordered to serve as an interim order with immediate effect pending the finalisation of an action, application or other legal steps to be instituted by the respondent for the payment of all amounts due by the applicants to the respondent within 30 days after the finalisation of the application for perfection.
- [3] Generally, courts are reluctant to hear appeals against interim orders that have no final effect and that are, in any event, susceptible to reconsideration by a court when the final relief is determined.¹ This, however, is not an inflexible rule. What best serves the interest of justice dictates whether an appeal against an interim order should be entertained.²
- [4] As far as the interim nature of the present order of confirmation is concerned, I am not persuaded that it would be in the interest of justice to grant leave to appeal at this stage, simply because the appeal would only result in the piecemeal appellate disposal of the issues in question.³ Since the present order does not finally dispose of any relief claimed by the respondent, the issues will be finally adjudicated in the proceedings to come, and either party will then have the right of appeal again. To grant leave now, will only offend against the jurisprudence of the courts, in that it would result in a piecemeal disposal of the issues on appeal.
- [5] Secondly, a reading of the confirmation judgement of this court will show that the focus mainly fell on a settlement agreement that came into being between the parties on 3rd August 2023. In this agreement, duly signed by the parties, the two applicants acknowledge that they were in default in relation to a large number of accounts held with the respondent, and further acknowledged that they are lawfully, jointly and severally indebted to and in favour of the respondent as principal debtor and sureties/guarantors in the amounts and interest thereon as stipulated in the settlement agreement. In clause 5.1 of the agreement the applicants undertook to settle the full outstanding balances within 4 months, and

¹ National Treasury and Others v Opposition to Urban Tolling Alliance 2012(6) SA 223 (CC), par 24.

² Ibid par 25, also Economic Freedom Fighters v Gordhan 2020(6) SA 325 (CC) at para 50

³ Cilliers N.O. and Others v Ellis [2017] ZASCA 13 at paras 11 to 19

in clause 5.2.2 it is recorded that the parties consent thereto that the *rule nisi* can be confirmed on 3rd August 2023, the then return date of the *rule nisi*.

- [6] This settlement agreement was signed by the applicants approximately one month after the order of Mhlambi, J containing the *rule nisi* was served upon them. They were therefore fully aware of what was at stake when they signed the settlement agreement. Notwithstanding, the applicants later alleged in their answering affidavit that they have entered into the agreement under duress and that they were forced to sign it.
- [7] In this respect this Court found that the proposal which eventually culminated in the settlement agreement, came from the applicants themselves and their attorney at the time. This Court consequently found that there was no merit in the contentions of the applicants that they have signed under duress. The agreement was found to be valid and binding upon the parties. The Court came to the conclusion on the facts of the matter and on the law applicable to those facts.
- [8] Section 17(1)(a) of the Superior Court Act⁴ provides that leave to appeal may only be granted where the appeal would have a reasonable prospect of success or where there is some other compelling reason why the appeal should be heard. In **Ramakatsa and Others v African National Congress and Others**⁵ the Supreme Court of Appeal indicated that compelling reasons to entertain an appeal would include an important question of law or a discreet issue of public importance that will have an effect on future disputes.
- [9] In the present matter, I am of the view that there is no reasonable prospect of success that another court would find that the settlement agreement was signed by the applicants under duress and that they were forced to sign it. Furthermore, the appeal would certainly not involve an issue of public importance that will have an effect on future disputes.

⁴ Act 10 of 2013

⁵ [2021] ZASCA 31

[10] In the premises, the following order is made:

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



P. J. LOUBSER, J

For the applicants:

Adv. D. van Loggerenberg SC with him
Adv. N Muller

Instructed by:

Arnoud van den Bout Attorneys, Pretoria
c/o Blignaut Attorneys, Bloemfontein

For the first respondent:

Adv. P. Zietsman SC

Instructed by:

Phatshoane Henney Attorneys
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