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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

CASE NO: 2022-16350

NOT REPORTABLE

NOT OF INTEREST TO OTHER JUDGES

REVISED

16/10/23

In the matter between:

THE STANDARD BANK OF SA LIMITED

APPLICANT

and

MKHABELA INCORPORATED
(Registration No:[...])

1ST RESPONDENT

ARNOLD MKHABELA
(ID. No:[...])

2ND RESPONDENT

FIKILE PEARL MKHABELA
(ID. No:[...])

3RD RESPONDENT

JUDGMENT

WRIGHT J

1. The applicant bank claims money from the respondents. The first respondent is a firm of attorneys. The second respondent is an attorney and the moving force behind the first respondent. The third respondent is his wife, to whom he is allegedly married in community of property.
2. The claims relate to money owed to the applicant for a business loan, two luxury vehicles and a credit card. The allegation in the founding affidavit is that the second respondent represented the first respondent in concluding the various agreements. There is no allegation that the third respondent contracted with the applicant.
3. The defence is that when the parties contracted they did not foresee covid and its consequences, including lockdown. If they had, they would not have contracted on the terms on which they did. The negative effect which covid had on the economy hit the poor. The respondents are poor. The respondents can't pay because of supervening impossibility. The respondents are entitled to a payment holiday.
4. Unfortunately, unwarranted, baseless allegations of fraud are made against the deponent for the bank.
5. There is simply no defence on the vague defences put forward.
6. There is no case against the third respondent.
7. The respondents were not in court or represented when the case was called.
8. Adv Jacobs, for the bank handed up a draft order.

ORDER

X -

GC Wright

Judge of the High Court

Gauteng Division, Johannesburg

HEARD : 16 October 2023

DELIVERED : 16 October 2023

APPEARANCES :

APPLICANT Adv Shaun Jacobs

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