

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

CASE NO: 2020/7769

Reportable: No

Of interest to other judges: No

Revised: Yes

11 August 2021

In the matter between:

SA TAXI FINANCE SOLUTIONS (PTY) LIMITED
(Registration Number: 2003/029687/07)

Applicant

and

RAKGATLA, ALBERT SEGWAPA
(Identity Number: [....])

Respondent

JUDGMENT – WRIGHT J

WRIGHT J

1. The applicant company leased a vehicle to the respondent gentleman. The applicant launched an action against the respondent, claiming return of the vehicle following cancellation of the agreement by the applicant for breach by the respondent. A plea and counterclaims were delivered. Numerous defences were raised. The applicant seeks now summary judgment. An affidavit in support of the application, in the usual

form is attached to the application. The respondent has delivered an affidavit opposing summary judgment setting out numerous defences.

2. The particulars of claim are dated 5 March 2020. The affidavit in support of the application for summary judgment is dated 10 July 2020. In paragraph 6, the deponent says that she is well acquainted with the records of the plaintiff. In paragraph 9 she says that she has read the summons, particulars of claim and the application for summary judgment. No mention is made of any amendment. She verifies a valid cause of action.

3. On 8 July 2020, two days before the signing of the affidavit in support of the application for summary judgment the applicant's attorney had signed a notice of intention to amend. Apparently, according the applicant, the chassis number of the vehicle was wrongly set out in the particulars of claim. This notice of intended amendment was served on the respondent's attorney on 13 July 2020. The respondent's attorney objected to the intended amendment without giving grounds of objection. The applicant's attorney filed amended pages.

4. At the end of the day the amendment or purported amendment may turn out to be a matter of little importance.

5. The difficulty for the applicant at this stage is that on the applicant's own version the vehicle described in the particulars of claim is not the vehicle sought by the applicant to be recovered. The purported verification of the cause of action is, on the applicant's own conduct, wrong. There is accordingly no compliance with Rule 32(2)(b).

6. There is no need for me to deal with the other defences.

7. There is a dispute between the parties as to who should pay the wasted costs of a previous occasion, on 13 August 2020 when the application had to be postponed for lack of readiness by the respondent, according to the applicant. The respondent denies wrongdoing. The respondent would normally be ordered to bear these costs, if the applicant is correct but the application was never on a sound footing. I can't resolve this dispute now.

ORDER

1. The application for summary judgment is dismissed with costs.
2. The respondent is granted leave to defend.

3. The question of the costs for 13 August 2020 is reserved.

HEARD : **11 August 2021**

DELIVERED : **11 August 2021**

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