

REPUBLIC OF SOUTH AFRICA



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

CASE NO: 2022/045085

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED: YES/NO
DATE	28/5/24
SIGNATURE	

In the matter between:

SOUTH AFRICAN SECURITISATION PROGRAM (RF) LTD

Plaintiff

and

**COMPLETE AVIONIC SYSTEMS (PTY) LIMITED
(IN LIQUIDATION)**

First Defendant

VAN NIEKERK, JOHANNES GERT RUDOLF

Second Defendant

JUDGMENT

DEN HARTOG, AJ

1. This is an application for summary judgment for payment from the Second Defendant, based on a suretyship, of outstanding balances on three different rental agreements concluded between the First Defendant and various cedents of the three rental agreements, which rental agreements were ultimately ceded to the Plaintiff, in terms of which certain equipment was hired to the First Defendant.
2. Mr Botha appeared for the Plaintiff and Mr Kloek for the Second Defendant.
3. No relief was sought against the First Defendant.
4. It soon during argument became apparent that Claims A2, B2 and C2 (all of which relate to the return of the rental equipment) were incompetent vis-à-vis the Second Defendant and these claims were correctly so abandoned by Mr Botha for the Plaintiff.
5. It also became apparent from the argument of Mr Kloek dat the only issue at play was the payment in terms of Claim B.

6. The defence raised in this regard was that certain payments had been made on this rental agreement, and as proof of this, the tax invoice was annexed to the opposing affidavit marked "A" at **03-41**.
7. The tax invoice reflects payments in respect of a Toshiba E-STUDIO 2000AC with serial number CNGH10713 (the subject of the rental agreement relied upon in Claim B).
8. It was put to Mr Kloek that it is apparent from the tax invoice that the charges levied in terms of it was for services rendered and copies made according to meter readings. Mr Kloek expressed the view that it was his client's contention that this was payment in respect of the copier referred to in claim B.
9. In my view the correspondence flies in the face of the contention raised by the Second Defendant and consequently I cannot find for him in this regard.

CONDONATION

10. There was a late condonation application by Mr Kloek for the late filing of heads of argument, which was not opposed by Mr Botha.

COSTS

11. Mr Kloek contended that the costs should be awarded on the High Court scale for the abandonment of Claims A2, B2 and C2 and that for the balance judgment is entered in terms of Claims A, B and C, the costs should be on the Magistrate's Court scale.

12. In the result I make the following order:

1. The Plaintiff is ordered to pay the wasted costs occasioned by Claims A2, B2 and C2 vis-à-vis the Second Defendant on Scale A.
2. The application for condonation for the late filing of heads is granted, the wasted costs to be paid by the Second Defendant.
3. Judgment is granted in favour of the Plaintiff against the Second Defendant as follows:

CLAIM A

3.1. Payment in the amount of R56 710.98;

- 3.2. Interest at the prime interest rate plus 2% per annum from 19 October 2022 till payment thereof;

CLAIM B

- 3.3. Payment in the amount of R108 161.80;

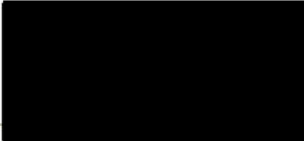
- 3.4. Interest at the prime interest rate plus 6% per annum from 19 October 2022 to date of payment thereof;

CLAIM C

- 3.5. Payment in the amount of R149 739.36;

- 3.6. Interest at the prime interest rate plus 6% per annum from 19 October 2022 to date of payment thereof;

4. The Second Defendant is ordered to pay the costs of this application on a Magistrate's Court scale.


AP DEN HARTOG
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION JOHANNESBURG

Electronically submitted:

Delivered: this judgment was prepared and authored by the Acting Judge whose name is reflected and is handed down electronically by circulation to the parties/their legal representatives by e-mail and by uploading it to the electronic file of this matter on Caselines. The date of the judgment is deemed to be

28 MAY 2024.

Counsel for the Plaintiff:

Mr J G Botha

Counsel for the First Defendant:

No appearance

Counsel for the Second Defendant:

Adv J W Kloek