REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
LIMPOPO DIVISION, POLOKWANE

CASE NO: 4176/2019

(1) REPORTABLE: ~~YES~~/NO
(2) OF INTEREST TO THE JUDGES: ~~YES~~/NO
(3) REVISED.

DATE 22/04/24 SIGNATURE [redacted]

In the matter between:

MALULEKE OMPIE PHILLIP **PLAINTIFF**

And

MINISTER OF POLICE **FIRST DEFENDANT**

NATIONAL DIRECTOR OF PUBLIC PROSECUTION **SECOND DEFENDANT**

JUDGEMENT

KGANYAGO J

[1] The plaintiff has instituted an action against the defendants claiming R2 750 000.00 for alleged unlawful arrest and detention; malicious prosecution and loss of earnings. The plaintiff in his particulars of claim has stated that on 9th November 2017 he was unlawfully and maliciously arrested by members of the South African Police Service (SAPS) who were acting within the course and scope of their employment for alleged theft of a cell phone from a certain woman unknown to him. He was detained from the 9th November 2017 until the 23rd January 2018 when he was found not guilty and discharged in terms of section 174 of the Criminal Procedure Act 51 of 1977 (CPA).

[2] The plaintiff in his particulars of claim has further stated that the prosecution had unlawfully instituted criminal proceedings against him which amounted to malicious, alternatively wrongful prosecution. The plaintiff has also stated that he had lost his earnings for the period he was incarcerated, and he is no longer able to secure employment as a result of the unlawful arrest, detention and malicious and/or wrongful prosecution. Both defendants are sued jointly and severally.

[3] The defendants have defended the plaintiff's action. In their plea the defendants have conceded that the plaintiff was arrested, and that the members of the SAPS in effecting the arrest of the plaintiff have acted on a reasonable suspicion that a crime has been committed as contained in section 40(1)(b) of the CPA following an allegation by the complainant that she saw a man who stole her cell phone, and against whom she had opened a criminal case. Further that on the basis of the evidence gathered on investigation, the prosecution determined and were satisfied that there was a prima facie case against the plaintiff. It was upon that determination that they prosecuted the

plaintiff. The defendants have further pleaded that the plaintiff was unemployed at the time of his arrest, and denied that his arrest had negatively affected his prospects of employment.

[4] The parties in their signed pretrial minutes have agreed that there was a split onus, and therefore the plaintiff had the duty to begin. The parties have further agreed that the matter should proceed on both merits and quantum.

[5] The plaintiff has testified and stated that he was arrested during November 2017 for a crime that he did not commit. On the day of his arrest he took his girlfriend to Savannah mall to go to Capitec ATM. He had arranged with his friend who had a bakkie to transport them to Savannah mall. On arrival at the ATM they stood on the que with other people. As they were standing on the que, he decided to go to the parking area where they have parked their car to go and smoke. On arrival at the bakkie he sat at the back of the bakkie with the driver and started smoking.

[6] As the plaintiff was busy smoking, 5 police officers who were in SAPS uniform arrived at the bakkie in the company of a certain female person who was in private clothes. That woman pointed at the plaintiff and said he is the one. The woman told the police that the plaintiff had taken her cell phone and some of her belongings. The plaintiff told the police that he is from the bank and was with his wife who was still in the bank. The woman said she was referring to an incident that occurred in the past days. The plaintiff told the police that in the past days he was at his homestead in Tzaneen.

[6] The police asked the woman whether she was certain that it was the plaintiff who had taken her cell phone and she said yes, and she further stated that she was having footage of the incident showing the place where they were in Savannah

mall. The police asked the plaintiff to accompany them to the management office of Savannah mall to go and watch the video footage of the incidents of those days. The security officers at the management office told the police that at that moment the footage was not there but that they will sent that footage to the investigating police officer. The plaintiff asked the police whether he can provide them with his names and address and that they will phone him when the footage was ready. The police refused to accede to his demand and told him that they are not the ones who were handling that matter.

[7] The police handcuffed the plaintiff and took him to the police station. On arrival at the police station the arresting police officers handed the plaintiff to the investigating officer (IO). The IO asked those police officers whether they have visited the control room at Savannah mall and they said yes. The plaintiff asked the IO whether he can release him, and that he will call him after he had received the footage from Savannah mall. The IO responded by telling other police officers that he does not speak to suspects in the office, but from the police cells. The IO told the plaintiff that the footage will find him in the cells, and if it was not him he will be released. The plaintiff was taken to the police cells where he was detained.

[8] On the third day the plaintiff asked the IO whether the footage has been delivered and he said yes. When the plaintiff asked to view that footage the IO told him that he will view it in court. The IO took the plaintiff's finger prints and charged him, and thereafter the plaintiff was taken to court to make his first appearance. The plaintiff phoned his girlfriend to arrange a legal representative for him. In court he asked his attorney whether he had an opportunity to view the footage

and his attorney told him that the police were refusing him to view that footage. He appeared in court and was remanded in custody.

[9] The plaintiff's attorney told him that her girlfriend does not want anything to do with him as it was not the first time he was arrested. He was arrested 5 times before that incident. His attorney told him that because he did have money, they can abandon his bail application, go strait to the main trial, and that he will not have to pay him more than what was already paid to him. A trial date was set down for the 23rd January 2018. He was found not guilty and discharged in terms of section 174 of the CPA.

[10] The plaintiff testified that it had pained him to be detained from the 9th November 2017 to 23rd January 2018 for a crime that he did not commit. From the experience of his previous arrest he had vowed not to be arrested again. He had started a new life, and his business was starting to flourish. As a result of the arrest he had lost the mother of his child. Whilst in the cells he developed chest problems and was always using a cloth as the cells where he was held were dusty. The blankets that they use when they sleep were not clean. The condition at the cells were not good. The complainant was working at Medi-Clinic where he was having a business as a street hawker, and she had an influence on his customers not to buy from him anymore. By the time he was released from the cells he had lost everything.

[11] The plaintiff was cross-examined and he conceded that on his appearance in the reception court on 17th November 2017 he had abandoned his bail application, but denied that he wanted to tender a guilty plea. The plaintiff stated that his legal representative had advised him that in order to speed up the trial, he should abandon his bail application. He was sure that it was not him who

have committed the offence. He had abandoned his bail application because he was shown his previous convictions, and they have told him that because of his previous convictions he was going to be refused to be released on bail. The plaintiff was referred to the notes of the IO in his investigation diary of the 22nd November 2017 where the IO had recorded that the plaintiff's matter was postponed to 7th December 2017 for a guilty plea. The plaintiff insisted that he was going to plead not guilty. The plaintiff conceded that he was assuming that because the complainant was working at Medi-Clinic she might have influenced her co-workers not to buy from him.

[12] The plaintiff called Tshepho Aubrey Modika as his only witness. He testified that he knows the plaintiff for a long time. He was having a good relationship with the plaintiff. During 2017 he and the plaintiff were staying in the same complex in Polokwane next to the town pool. The plaintiff was a street vendor next to the town pool and also next to Spar shop in town. The plaintiff was selling cigarettes and food.

[13] During 2017 the witness was phoned by the plaintiff's girlfriend informing him that the plaintiff has been arrested. The plaintiff's girlfriend was asking the witness to find a legal representative for the plaintiff as she was breastfeeding and also did not know anything about legal representatives. He did find a legal representative and introduced him to the plaintiff's wife. The witness had attended court on the plaintiff's first appearance in court, and thereafter he did not attend on other dates when the plaintiff appeared in court. He again attended court on the final day when the plaintiff's trial started. The plaintiff had pleaded not guilty, and later he heard the court telling the plaintiff that he was found not guilty in terms section 174 and he can go home.

[14] The witness was cross-examined and he stated that before the plaintiff was arrested, the plaintiff was selling a lot of things. The witness further stated that after the plaintiff was found not guilty and discharged, he did see the plaintiff and his girlfriend anymore, and therefore he could not tell how long had the plaintiff's business lasted after he was released. That concluded the plaintiff's evidence and he closed his case.

[15] The defendant called Matome William Letsoalo as its first witness. He testified that he is member of the SAPS and warrant officer by rank. On 9th November 2017 he and his crew were doing patrol work at Savannah mall when they were approached by a certain lady who told them that she had met a person who had robbed her of her cell phone on 1st October 2017. The lady directed them to the direction where the said person went. As they were walking with that lady, she pointed at a certain man who was walking as the person who had robbed her.

[16] They followed that person who was walking towards the parking area. In the parking area they approached that person and introduced themselves to that person. That person is the plaintiff. They asked the plaintiff whether he knew the lady, and he said he did not know him. They explained to the plaintiff that the lady was alleging that he had robbed her of her cell phone on 1st October 2017, and had also opened a criminal case for that with the SAPS. They explained to the plaintiff that they were arresting him and taking him to the police station.

[17] They did not handcuff the plaintiff. They walked with the plaintiff to the office at the mall where the CCTV was located to check whether the CCTV was working in order to enable the IO to come and watch the footage. On arrival at the office

the security officers told them that the CCTV had not been working for the past 2 to 3 days. They then drove to the police station.

[18] On arrival at the police station, the police officer on duty phoned the IO in the plaintiff's case. Upon arrival of the IO W/O Tshikudo, they handed the plaintiff to him, and the IO requested the witness to make an arrest statement which he did. They have arrested the plaintiff without a warrant because they have realized that should they leave him to first obtain the warrant, they might not find him, and also that they did not have an address of where he was staying.

[19] The witness was cross-examined and he denied that when they were taking the plaintiff to the police station he had showed them where he was staying, but that he had told them that he was hustling. The witness denied that the plaintiff had told them that he was a street hawker. The witness stated that they have arrested the plaintiff because he was pointed by the complainant and they therefore took the complaint's version as the complainant knew what was taken from her. The witness stated that he did not know that the plaintiff was found not guilty and discharged in terms of section 174 of the CPA. The witness further stated that as the plaintiff said he was from Nkowakowa in Tzaneen, there was no way they could have driven to Tzaneen to verify the address.

[20] The defendant called Mpho Annikie Mehlape as its second witness. She testified that currently she is the NPA regional court prosecutor, and previously she was the district prosecutor. She is the one who had enrolled the plaintiff's case in the district court for his first appearance in the reception court during 2017. She was involved in the plaintiff's case when he made 3 appearances in the reception court. At the time of enrolling the matter, they were satisfied that there was a prima facie case against the plaintiff. The complainant was robbed of her

cell phone at Savannah mall and the plaintiff was arrested a month later. As the prosecution, they were satisfied that the plaintiff was properly identified by the complainant, and was properly arrested and brought before court.

[21] Based on the complainant's statement and the statement of the arresting officer, the prosecution decided to prosecute the plaintiff. The complainant in her police statement had stated that she had a struggle or scuffle with the plaintiff when she was robbed of her cell phone, and had therefore ample time to identify the plaintiff. The plaintiff made his first appearance in the reception court on 13th November 2017, and his constitutional rights were explained to him. The plaintiff was supposed to have made his bail application on 22nd November 2017, but abandoned that for a guilty plea. On 7th December 2017 the plaintiff did not plead guilty as he was no longer represented by his previous legal representative, but had now elected to be represented by a legal representative from Legal Aid SA. When the plaintiff told the court on his previous appearance that he was going to plead guilty, he was legally represented by his previous legal representative.

[22] When the plaintiff elected to plead guilty, he was not influenced by the State. The prosecution of the plaintiff was not malicious, but the State had a strong case against the plaintiff hence at some stage he wanted to plead guilty. The reception court was not doing trial matters, hence he has never met the complainant.

[23] The witness was cross-examined and it was put to her that according to the notes of the presiding officer on 22nd November 2017 the plaintiff has abandoned his bail application and his matter was postponed to the 7th December 2017 for a plea in court B, but the notes does not state that it was

for a guilty plea. The witness responded by stating that she was a prosecutor in the reception court which was court B, and for the presiding officer to write for "a plea in court A" it refers to a guilty plea. Further that on the notes in the investigation diary for the 22/11/2017, the IO had clearly recorded that the matter was postponed to 7th December 2017 for a guilty plea.

[24] The witness stated that the intention of the plaintiff was to plead guilty in the reception court. The witness conceded that the complainant in her police statement had mentioned 2 suspects who were unknown to her, but had further stated that she will be able to identify one of the suspects. The witness conceded that when they decided to prosecute the plaintiff, they did not have the evidence of the CCTV video footage, but that the evidence which was at their disposal was sufficient to prosecute the plaintiff.

[25] The defendant called Mangope Justice Digoro as its third witness. He testified that he was the prosecutor in the criminal trial against the plaintiff. The plaintiff was charged with theft of an I-phone. Before the trial started, he had consulted with his witnesses. When he perused the charge sheet, he found that the plaintiff had made his first appearance in the reception court and was represented by adv Mokou. In his second appearance the plaintiff had abandoned his bail application, and his case was transferred to court A for a guilty plea as court B was dealing with first appearances and bail applications.

[25] When the plaintiff appeared in court A, he requested to be represented by a Legal Aid legal representative, and that practitioner was not in court that day. It is normal practice that the presiding officer on the notes in the charge sheet to endorse a guilty plea as "plea", and when it is a plea of not guilty to endorse it

as "plea and trial". The notes of the presiding officer of the proceedings of the 7th December 2017 shows that the intention of the plaintiff was to plead guilty.

[26] The witness further testified that the plaintiff had pleaded not guilty to the charges he was facing during his trial. The complainant had testified and the witness was satisfied that complainant had properly identified the plaintiff by describing the plaintiff as a person with a dark complexion, having big tummy and a giant. Further that when the plaintiff took the cell phone from her, he was in a close proximity with her, and there was no room to make a mistake of identification of the plaintiff. The witness testified that he had also called the arresting officer to testify and thereafter he closed his case.

[27] The defence applied for discharge in terms of section 174 of the CPA purely basing their arguments on the identification of the plaintiff by the complainant. The complainant had described the plaintiff the way he appeared in the accused box. The presiding officer found that the requirements for identification of the plaintiff were not met as the complainant had failed to testify about the distinctive features of the plaintiff. Based on that the application for a discharge in terms of section 174 of the CPA was granted.

[28] The witness was cross-examined and he conceded that the prosecution did not appeal the ruling of the court *a quo*. The witness also conceded that an identification parade was not held. When asked whether they have confirmed as to who was the true owner of the cell phone that was stolen, the witness stated that the complainant had testified that it was her cell phone that was stolen. That concluded the evidence of the defendants and they closed their case.

[29] The plaintiff's action is based on claims on unlawful arrest and detention; malicious prosecution; and past and future loss of earnings. It is not in dispute that the plaintiff was arrested on 9th November 2017 on alleged suspicion of theft of a cell phone after he was pointed out to the arresting police officer by the complainant at Savannah mall. The defendant in justifying the actions of the arresting officer in arresting the plaintiff had pleaded that the arresting officer had acted in terms of section 40(1)(b) of the CPA. Generally, an arrest and detention are prima facie unlawful and wrongful, and it is for the defendant to prove the lawfulness of the arrest and detention once admitted. (See *Lombo v African National Congress*[1]).

[30] In terms of section 40(1)(b) of the CPA, a peace officer may without a warrant arrest any person whom he suspects of having committed an offence referred to in Schedule 1, other than the offence of escaping from lawful custody. It is trite that the jurisdictional facts must exists before section 40(1)(b) can be invoked. Those jurisdictional factors are that the arrestor must be a peace officer; he must entertain a suspicion; it must be a suspicion that the arrestee had committed an offence referred to in Schedule 1 of the Act; and the suspicion must rest on reasonable grounds. If the jurisdictional requirements are satisfied, the peace officer may invoke the powers conferred by the subsection, i.e, he/she may arrest the suspect. (See *Duncan v Minister of Law and Order*[2]).

[31] On what may be regarded as reasonable suspicion, there must be evidence for the arresting officer to form a reasonable suspicion which is objectively sustainable. (See *Minister of Law and Order v Hurley and Another*[3]). This will

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[1] 2002 (5) SA 668 (SCA) at para 32
[2] 1986 (2) SA 805 (A) at 818G-I
[3] 1986 (3) SA 586 (A) at 579E-580E

entail the arresting officer investigating the circumstances of the particular offence which is alleged to have been committed before it can be said that there is a reasonable suspicion that an offence has been committed.

[32] The plaintiff was accused of having committed theft of a cell phone of the complainant. The offence which the plaintiff was accused to have committed was a Schedule 1 offence which qualifies the arresting officer to arrest without a warrant of arrest, provided the suspicion rest on reasonable grounds. It is not in dispute that the police officer who had arrested the plaintiff is a peace officer. The plaintiff was arrested after he was pointed out by the complainant who was there in person. The complainant is the one who had approached the arresting officer who together with his crew were doing patrol work at Savannah mall, and told the arresting officer that she seen the person who had robbed her of her cell phone. The complainant took the police officers to the direction where the plaintiff went and pointed the plaintiff. The police officer did not immediately arrest the plaintiff, but had first questioned him. From the plaintiff's own version, the arresting officer had asked the complainant whether she was certain that it was plaintiff, and the complainant confirmed that. The question is whether the pointing of the plaintiff by the complainant and questions asked by the arresting officer were sufficient to enable the arresting officer to form a reasonable suspicion that the plaintiff had committed an offence.

[33] On the date on which the plaintiff was arrested, the complainant had already opened a criminal case with SAPS against unknown suspects. The docket had been allocated to the IO. The arresting officer had no knowledge of the complainant's docket and was not involved in the investigation of the matter. His role was merely to arrest after they were approached by the complainant.

Since the complainant had already opened a criminal case, and was able to tell the arresting officer who was not involved in the investigation of the matter as to who had robbed her, the arresting officer had no option but arrest and hand over the suspect to the IO, of which he did. Any further clarification will be done with the IO. Even before the plaintiff was taken to the police station, the arresting officer took some steps to ensure that he was arresting the correct person by going to the management office of Savannah mall to check the CCTV footage of the date on which the complainant was allegedly robbed. Unfortunately, he was told that the CCTV has not been working for the past 2 to 3 days.

[34] In *Biyela v Minister of Police*[4] Musi AJA said:

> "[35] What is required is that the arresting officer must form a reasonable suspicion that a Schedule 1 offence has been committed based on credible and trustworthy information. Whether that information would later, in court of law, be found to be inadmissible is neither here nor there for the determination of whether the arresting officer at the time of arrest harboured a reasonable suspicion that the arrested person committed a Schedule1 offence.
>
> [36] The arresting officer is not obliged to arrest based on a reasonable suspicion because he or she has discretion. The discretion to arrest must be exercised properly. Our legal system sets great store by the liberty of an individual and, therefore, the discretion must be exercised after taking all the prevailing circumstances into consideration".

[35] In my view, the steps taken by the arresting officer before arresting the plaintiff and taking him to the police station were sufficient, and the rest of the investigation was to be carried out by the IO. The facts placed before the arresting officer by the complainant were reasonable for him to form suspicion that a Schedule 1 offence had been committed by the plaintiff. There was no

[4] [2022] ZASCA 36 (01 April 2022) at paras 35 and 36

basis for the arresting officer to find that the information placed before him by the complainant was not credible and trustworthy.

[36] The complainant had made a statement to the police. In that statement the complainant had stated that she was robbed of her cell phone by two African male persons, and that she will be able to identify one of them if she can see him again. She saw the plaintiff and recognised him as the person who had robbed her of her cell phone. This statement was at the disposal of the IO. It is clear from the statement of the complainant that the suspects who robbed her of her cell phone were unknown to her, but she will be able to identify one of them if she sees him again. The complainant was allegedly robbed of her cell phone on 1st October 2017, and the plaintiff was arrested on 9th November 2017. The incident of the 1st October 2017 was still fresh in the complainant's mind, and she had identified the person who allegedly robbed her. Whether the manner in which the complainant had identified the plaintiff was sufficient to sustain a conviction was not for the IO to determine. The plaintiff had a series of previous convictions, and with that record it was not for the IO release him, but had to appear in court and make a formal bail application.

[37] In my view, the arresting officer and the IO have taken into consideration all the prevailing circumstances before forming a reasonable suspicion to arrest and detain the plaintiff. Therefore, the plaintiff's arrest and detention was based on reasonable grounds.

[38] For a plaintiff to succeed with a claim for malicious prosecution, he must allege and prove that (i) the defendants have set the law in motion; (ii) the defendants have acted without reasonable and probable cause; (iii) the defendants have acted with malice; and (iv) the prosecution has failed. It is not in dispute that the

plaintiff was formally charged with the offence of common robbery for an incident that allegedly occurred on 1st October 2017. The plaintiff was ultimately found not guilty and discharged in terms of section 174 of the CPA. Therefore, requirements 1 and 4 have been satisfied

[39] The plaintiff when he made his first appearance in the reception court 13th November 2017 was legally represented Adv AM Mokou who was briefed by Richard Mahopo Attorneys. On that date the matter was postponed to the 22nd November 2017 for bail application. On 22nd November 2017, the plaintiff had abandoned his bail application. The presiding officer had recorded that the matter was postponed to 7th December 2017 for plea. The defendants' second witness who was prosecuting the plaintiff in the reception court has testified that when it is recorded "plea", it means that the accused was going to plead guilty, and that on 22nd November 2017 the plaintiff had told the reception court that he intended to plead guilty to the charges. The version of the second witness for the defendants is corroborated by what has been recorded in the investigation diary and also the version of the third witness for the defendant. In the investigation diary of the 22nd November 2017, it has been recorded that the plaintiff's matter has been postponed to the 7th December 2017 for a guilty plea.

[40] The version that the plaintiff intended to plead guilty was put to him and he was even referred to the investigation diary and charge sheet. The plaintiff was aware of the defendants' version in relation to him having intended to plead guilty. In a claim malicious prosecution, the onus is on the plaintiff. Since the plaintiff was legally represented by adv Mokou when it was recorded that the plaintiff intended to plead guilty, it was vital for the plaintiff to have called adv

Mokou as witness to clarify whether what has been recorded by the reception court is a true reflection of what he had placed before the reception court. No explanation was given why he was not called as a witness. The authenticity of the said documents have not been challenged, and this court finds them to be credible and reliable.

[41] The plaintiff through his legal representative had informed the reception court that the plaintiff intended to plead guilty. A legal representative is an officer of the court, and will not mislead the court. He had assessed the case against the plaintiff and found that the evidence against him was overwhelming. This support the version of the prosecution that it was correct in taking a decision charge the plaintiff. It can therefore not be said that the defendants acted without reasonable and probable cause, and with malice whilst at some stage the plaintiff himself did not have faith in his defence. Whether he had later through the advice of another legal representative has changed his mind and decided to plead not guilty is immaterial. What this court should look at is the time when he was charged whether the defendants have acted without probable and reasonable cause.

[42] The complainant in her police statement has stated that she will be able to identify one of the suspects if she had an opportunity to see him again. Usually when police take down a complainant statement, they do not explain to the complainant to give full details of the incident in his/her statement. The complainant's statements are just to assist the prosecution to formulate the charges against the accused. In her police statement, the complainant had stated the item robbed from her, the date and place where it was taken and later identified the culprit to the police. This information was sufficient to

establish a prima facie case against the plaintiff and also to formulate the charges against the plaintiff. The rest will be cured by oral evidence in court. With the facts placed before the defendants, it can therefore not be said that they have acted without probable and reasonable cause, and also with malice.

[43] Turning to the claim for the alleged loss of earnings, the onus is on the plaintiff to prove the loss that he had suffered, whether past or future loss of earnings. The plaintiff is claiming the loss of earnings for the alleged business he was running before his arrest. The defendant denies that the plaintiff was employed or running a business at the time of his arrest. It was therefore for the plaintiff to prove that he had a business that was generating income for him. That can be achieved by the plaintiff employing the services of an actuary, or submitting bank statements reflecting the amount generated by the plaintiff from the business. Thereafter the plaintiff must prove how much he had lost during the time he had spent in prison, and also prove that after his release from prison he was unable to continue trading and what were the reasons for that.

[44] The plaintiff under cross-examination has conceded that after his release, he did not continue with his business. The reasons for that was that he had assumed that his customers who were mostly from Medi-Clinic where the complainant was working will not come to buy from him as they will view him of having offended a woman. Further that he assumed the complainant would have influence the customers from Medi-Clinic not to buy from him. It is clear that the plaintiff did not attempt to revive his business but took a decision not revive it based on assumption. The plaintiff had also testified that he was selling at Spar which was far away from Medi-Clinic. The plaintiff did not testify what prevented him from reviving the business at Spar or whether the complainant

was also having an influence on his Spar customers. Plaintiff has failed to submit an actuarial report or bank statements. The court does not know how much was the plaintiff making before he was arrested. In my view, the plaintiff has failed to prove any loss of earnings that he might have suffered, whether past or future.

[45] In the result the following order is made:

45.1 All the plaintiff's claims against the defendants are dismissed with costs.

[redacted]

KGANYAGO J

JUDGE OF THE HIGH COURT OF SOUTH AFRICA, LIMPOPO DIVISION, POLOKWANE

<u>APPEARANCES:</u>

Counsel for the plaintiff	**: Adv KP Letsoalo**
Instructed by	**: MWIM and Assoaciates**
Counsel for the defendant	**: Adv RB Letsepe**
Instructed by	**: State Attorney Polokwane**
Date heard	**: 7th March 2024**
Electronically circulated on	**: 22nd April 2024**