REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO.: 64550/2020

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: NO

[redacted]

Date: 4 October 2024 E van der Schyff

In the matter between:

ABSA BANK LIMITED	Applicant
And	
GODFREY GRAYNOLD FOURIE	First Respondent
PRISCILLA MAY FOURIE	Second respondent

JUDGMENT

Van der Schyff J

[1] On 24 June 2021, the applicant obtained default judgment and an order declaring the respondents' property to be specially executable. A reserve price was set at R650 000.00. The property was put up for sale in execution on 3 August 2022, but

no bids were received. On 17 February 2022, the reserve price was amended to R500 000. On 17 May 2023, the property was put up for auction again. Again, no bids were received.

[2] The applicant now approaches this court seeking an order varying the reserve price to R350 000.00. The applicant provided evidence to the effect that on 25 March 2024, the arrears were R1 303 504.79. The outstanding rates and taxes amount to R87 858.97.

[3] The Sheriff's report reflects that the auction was advertised and that 42 bidders registered. However, none of the registered bidders participated in bidding on the property.

[4] The first respondent, Mr. Fourie, appeared in person. He indicated that he applied for *pro bono* legal assistance but received no reply. He stated that he needs legal assistance because he does not want the reserve price to be less than R650 000.

[5] I requested the applicant to provide an updated valuation report. This report was only provided on 23 September 2024. The property's market value was determined to be R900 000.00. In determining the reserve price, the practice developed to have regard to the forced sale value, less any outstanding rates, and taxes. Where, however, it is evident that the property is not sought after, the court has to consider that the immovable property is security for a debt due and owing to the plaintiff who succeeded in obtaining a judgment debt. The court must enedeavour to strike a balance between the interests of the execution creditor and the judgment debtor.

[6] *In casu*, the reserve price was already reduced once. If the market value of the property is considered, as well as the fact that there were, to date, no interested bidders, I am of the view that it is fair to both parties to vary the reserve price to the amount of R400 000.00 (Four Hundred Thousand Rand) in an effort to facilitate the sale of the property.

[7] The respondent is liable for the costs of the application as provided for in terms of the initial agreement concluded between the parties.

ORDER

In the result, the following order is granted:

1. **The order of this court, granted on 24 June 2021, varied by an order granted on 17 February 2022, is further varied so as to amend the prayer setting out the reserve price to read as follows:**
   'The property is to be sold in execution with a reserve price of R400 000.00 (Four Hundred Thousand Rand)'.
2. **The respondent is to pay the costs of the application on attorney and client scale.**

[redacted]

E van der Schyff
Judge of the High Court

Delivered: This judgment is handed down electronically by uploading it to the electronic file of this matter on CaseLines. It will be emailed to the parties/their legal representatives as a courtesy gesture.

For the applicant:	Adv. J. Minnaar
Instructed by:	Hammond Pole Attorneys
For the respondent:	In Person
Date of the hearing:	7 August 2024
Updated valuation report uploaded:	23 September 2024
Date of judgment:	4 October 2024