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**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION – MAKHANDA)**

Reportable/Not Reportable

Case no.: 1481/2024

Matter heard on: 13 August 2024

Judgment delivered on: 20 August 2024

In the matter between:

BUSINESS PARTNERS LTD

Applicant

(REGISTRATION NUMBER: 1981/000918/06)

and

AYANDA HORNER-SIKENQE

First Respondent

(IDENTITY NUMBER: 8[...])

THEMBEKILE SIKENQE

Second Respondent

(IDENTITY NUMBER: 7[...])

SIVIWE DESI

Third Respondent

(IDENTITY NUMBER: 8[...])

GUERRILLA ACT PROPRIETARY LIMITED

Fourth Respondent

(REGISTRATION NO.: 2017/217097/07)

JUDGMENT

BRODY AJ

1. This is a matter in which the applicant sought default judgment on an unopposed basis on the 13th of August 2024.
2. The applicant previously obtained judgment against first and third respondents jointly and severally, the one paying, the other to be absolved on the 14th of May 2024 for the payment of the capital sum, interest and costs.
3. There was appearance on behalf of the second respondent and I accordingly granted a judgment, by default against the fourth respondent, with costs, and as set out in the draft order.
4. The second respondent acted in person to oppose judgment being granted against him, and he indicated that he was aware of his right to appoint a legal representative, and wavered his right to do so.
5. The second respondent then argued the matter personally.
6. The second respondent indicated that he was aware of the judgment that had been handed down previously against the fourth respondent.
7. The second respondent indicated that he had no valid defence in the action against him by the applicant, however, wanted further time in which to sell a property which was registered in the name of the fourth respondent. His argument was that an arranged sale would be more cost effective and would obtain a better price than a sale by the sheriff in terms of the rules of court.
8. The second respondent was a surety to the principal debt, and as set out in the applicants' particulars of claim. This suretyship was not challenged by the second respondent, in argument.
9. There can be no merit in the second respondent's argument that he is entitled to prevent judgment from being granted against him in circumstances where he was

merely requesting an indulgence to be permitted to sell a property belonging to the fourth respondent, which I was advised, was in any event in liquidated.

10. In the absence of a valid defence I am inclined to grant judgment against the second respondent, jointly and severally, with the other respondents, the one paying the other to be absolved.

11. In the result, I make the following order.

1. Judgment is granted against the second respondent, jointly and severally, with the remaining respondents, the one paying the other to be absolved, for, payment of the sum of R2 633 000.01.

2. Payment of interest on the amount of R2 633 000.01 calculated at the rate of prime interest as charged at the Standard Bank of South Africa Limited plus 1% per annum from 25th October 2023 to date of payment, both dates inclusive.

3. The second respondent should pay the costs of suit, on a scale as between attorney and client.

B.B. BRODY

ACTING JUDGE OF THE HIGH COURT

APPEARANCES:

Counsel for the Applicant : Adv. Coutts

Instructed by : Edward Nathan Sonnenbergs Inc.
c/o De Jager & Lordan Inc.
2 Allen Street
MAKHANDA
(REF.: ST/cb/B771

Second Respondent : In Person