

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 11755/21

DATE: 17-02-2025

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES/NO.

(2) OF INTEREST TO OTHER JUDGES: YES/NO.

(3) REVISED.

DATE 13/3/2025

SIGNATURE

10 In the matter between

INSINGIGIZA SECURITY CO

Applicant

and

PRASA

Respondent

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**J U D G M E N T**

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20 KOOVERJIE, J: The excipient has raised various exceptions in respect the respondent's particulars of claim contending that the plaintiff did not disclose a valid cause of action in its summons.

At the hearing of this matter the excipient indicated that it was only going to rely on one ground, namely that the cause of action was not properly pleaded as the defendant had made a payment in full. The parties had concluded a

contract where security services were provided by the plaintiff. The plaintiff was requested to submit various invoices on a monthly basis for the security services it rendered to the defendant, (the excipient).

The defendant was to pay the invoices for the respective periods. The agreement was extended on several occasions, hence their relationship agreement lasted from 2005 until the termination of the contract.

10           It is necessary to have regard to the pleadings in the particulars of claim, the plaintiff pleaded at paragraph 10 that it complied with all of its obligations in terms of the written agreement in that it had rendered the security services to the defendant in terms of a written agreement and extensions thereof.

          In paragraph 10.2 it was pleaded that:  
during the period 26 September 2005 to  
March 2020 the plaintiff, on a monthly  
basis, submitted invoices for security  
20           services rendered to the defendant.

          In paragraph 10.3 it is pleaded that:  
Save as pleaded in paragraph 12 the  
defendant complied with the terms of the  
written agreement and the extensions  
thereof in that:

"10.3.1: It duly paid the plaintiff for security services rendered, excluding the PSIRA increases for the period 26 September 2005 to March 2020.

10.3.2: It duly paid the plaintiff for the PSIRA increases for the period:

10.3.2.1: September 2005 to 1 September 2007.

10.3.2.2: September 2012 to 1 September 2013."

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From the aforesaid, it is the plaintiff's case that the parties complied with their obligations, the plaintiff issued invoices and the defendant had paid same, but did so only for a specific period.

Then paragraph 11, the plaintiff pleaded the defendant's breach, that is;

11.1: The defendant breached the terms of the written agreement in that failed, alternatively refused to effect payment to the plaintiff for the PSIRA increases for the periods:

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11.1.1: 1 September 2009 to 1 September 2013, and

11.2.2: 1 September 2014, to 1 May 2018.

A breakdown of the relevant PSIRA increases for the relevant periods are annexed hereto as Annexure POC6, which breakdown should be read as specifically incorporated herein."

In effect the plaintiff pleaded that the defendant breached by not making payment for the period, namely, September 2009 to September 2013, and then from September 2014 to May 2018.

10           The defendant raised the exception claiming that the plaintiff did not allege that the defendant had made payments. Moreover, the defendant was only obliged to make payment once the invoices are certified.

The defendant referred to Annexure PO6, under the heading "current use rate", that reflected the invoice submitted by the plaintiff was paid by the defendant. Accordingly, there was no breach of the agreement.

20           In paragraph 4 of the plea, the defendant alleged that the plaintiff had not set out allegations to sustain its cause of action. It was argued, on behalf of the defendant, that the plaintiff cannot in law obtain any judgment against the defendant due to the lack of averments, which are necessary to sustain the cause of action, alternatively, because no cause of action is disclosed.

I have noted that the excipient's argument is also

premised on the fact that payments were only made once the invoices being certified.

It was further argued, the plaintiff allegations that amounts were claimed in terms of increases, had not been agreed upon. In having considered the particulars of claim, namely paragraph 11, it is noted that the plaintiff claims payment for certain periods only. The plaintiff's cause of action was premised on partial payment. The defendant can clearly plead thereto.

10           It is settled law that all that the plaintiff is required to do is to ensure that it sets out every fact which would be necessary for the plaintiff to prove, and for the respondent to be able to sufficiently respond thereto in its plea. It does not comprise every piece of evidence which is necessary to prove every fact. However, every fact has to be set out, which will then be proved later.

20           All the defendant requires, at this stage is to have a clear exposition of the plaintiff's case, to enable it to file an adequate response in the form of a plea. In my view, the cause of action is lucid, it is in simple language and if there are allegations made in respect of the breach the excipient, (being the defendant in the case), can plead sufficiently, respond thereto.

Counsel correctly submitted that the expectation raised pertain to a factual defence and can be pleaded in

the plea.

In the premises, I conclude that the exception has no merit. Submissions were made that I should grant a punitive cost against the excipient counsel referred me to correspondence, wherein the excipient was advised that its exception had no merit. However, such correspondence was not uploaded onto caselines.

The attorney representing the excipient was in court. He was however unable to confirm the  
10 correspondence. In exercising my discretion, I am not inclined to grant a punitive cost at this stage. The excipient is burdened with costs on a party and party scale. The following order is granted: The exception is dismissed with costs on scale B.

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KOOVERJIE, J

JUDGE OF THE HIGH COURT

20 DATE: .....