



**THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

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

Case 2025-043482

Date: 08 April 2025

[Signature]
[Redacted]

In the matter between:

ANETTE PARANE MONAMA

First Applicant

DAVID MOETJI

Second Applicant

and

**FIRST RAND BANK LIMITED T/A
WESBANK**

Respondent

JUDGMENT

DU PLESSIS J

Introduction

[1] The first applicant appeared in person in this urgent application. The respondent was legally represented. I decided to reserve judgment to prepare a written

decision for the applicant to keep on record and, more importantly, explain what happened in court. This judgment is, therefore written with a layperson as the intended audience.

[2] The applicants brought this application because they are afraid the respondent will take away their vehicle. At the same time, they have instituted a rescission application for the default judgment that the respondent obtained against them. They explained that they need the vehicle urgently for important daily activities, especially to take their children to school and attend medical appointments. I do not doubt that this vehicle is important to them and their family.

[3] The respondent, however, has already given a written promise that it will not sell the vehicle while the court is still deciding whether to cancel (rescind) the earlier default judgment. This promise was confirmed again in court by the respondent's lawyer. However, this promise only covers selling the vehicle, but it does not mean the respondent will not come to collect it.

[4] The respondent (WesBank) signed a written agreement with the first applicant in March 2022. Under that agreement, WesBank allowed the applicant to buy the car and pay it off in monthly instalments. However, WesBank remains the legal owner of the vehicle until the full amount is paid. Unfortunately, the applicant fell behind on her payments, which means that there was a breach of the contract.

[5] Because the applicant broke the agreement by not paying, the respondent was legally allowed to end the contract and go to court to ask for the vehicle back. The court granted that request in a default judgment on 5 March 2025 because the applicant did not respond to the summons in time. That judgment gave the respondent the legal right to collect the vehicle.

[6] The applicant has since filed a rescission application. However, the law is clear: simply asking for rescission does not stop the judgment from being enforced. So unless a court order says otherwise, the respondent can still act on the judgment and collect the vehicle.

[7] The respondent, as the legal owner of the vehicle and holder of a valid court order, is therefore entitled to possession of the vehicle. The applicant has not given a legal reason for keeping the car for now. Although I understand her concern and do not doubt her honesty, fear alone is not enough for the court to block a lawful repossession.

[8] The court can only hear a matter urgently if the person asking for help can show that they will not get a proper chance to get redress. But here, because the respondent has promised not to sell the vehicle and the rescission application is pending, there is no immediate or permanent harm to the applicants that justifies urgent intervention. They will still be able to make their case in the rescission application.

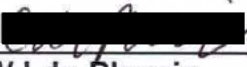
[9] The second applicant, Mr Moetji, was not part of the original contract or legal case, and there is no evidence that he has a direct legal interest in the outcome. His inclusion in this application appears to be a mistake and unnecessary. I have explained that in court to Mr Moetji and the applicant. He can also not represent the applicant in the proceedings because he is not a legal practitioner.

[10] As for costs, the respondent asked for a higher-than-usual costs order (on an attorney-and-client scale). I do not believe that is warranted in this case, even if that is in the contract. The applicants did not bring this case out of bad faith but rather out of fear of losing something they rely on. Even though they were unsuccessful, they acted out of concern, not malice. Costs will therefore follow the normal rule that the losing party pays the costs, but only on the ordinary scale (scale A).

Order

[11] The following order is made:

1. The matter is struck from the roll due to a lack of urgency, with costs to be taxed on scale A.


WJ du Plessis
Judge of the High Court
Gauteng Division, Johannesburg

Date of hearing;:	8 April 2025
Date of judgment:	8 April 2025
For the applicant:	In person
For the respondent:	M Arroyo instructed by Strauss Daly attorneys.