

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 054873/23

DATE: 02-05-2025

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES / NO.

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

(3) REVISED.

DATE 2 May 2025

10 In the matter between



SIGNATURE

RENENE PHILEMON MABO

Applicant

and

IGNASIA ZANAZO INC

First Respondent

IGNASIA ZANAZO

Second Respondent

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

20 **WILSON, J:** The applicant, Mr. Mabo, worked as a factory operator for Filtration Textiles CC. He was also a shareholder in that close corporation. Believing that he was being used to front for that close corporation in order to give the impression that the close corporation was controlled by a black person in circumstances where it really was not, Mr Mabo resigned and sought the value of his shares.

He approached the 1st respondent in these proceedings, which is a firm of attorneys in which the 2nd Respondent, Ms Zanazo, practices. He asked Ms Zanazo to obtain the value of his shares and to pursue the close corporation for what he considered to be its unlawful conduct in using him to front for it. After some time, Mr Mabo became concerned that his instructions to Ms Zanazo had not been carried out. Mr Mabo says that Ms Zanazo made herself uncontactable and that he was
10 concerned that he would not get the value of his shares or the redress to which he thought himself entitled.

Accordingly, he approached this current attorneys of record, Raymond Sutton Incorporated. He approached Raymond Sutton in order to find out what was going on with his case and in order to obtain the value of his shares from the close corporation, or from Ms. Zanazo, if she held them.

Raymond Sutton Inc had to spend some time tracing Ms Zanazo, but was ultimately able to contact her. Once the firm got in touch with Ms Zanazo, it asked her to
20 account for any monies that she had obtained on Mr Mabo's behalf, to render her statement of account for her own time spent on the matter and to pass over the file pertaining to the matter in her office.

It emerges from the papers that Ms Zanazo had in fact managed to recover the value of Mr Mabo's shares.

Accordingly, Mr. Mabo brought an application before me for relief compelling Ms Zanazo and her firm to account for that money, to provide a copy of the file, to render the statement of account of her fees and to pay any money held in trust by her over to Raymond Sutton Inc.

The application was necessary because Ms Zanazo on behalf of her firm had flatly refused to do any of that, and it is not immediately clear to me from the papers why she took that stance. Ms. Zanazo seemed initially to have
10 misgivings about whether Raymond Sutton was entitled to act for Mr. Mabo, but she ultimately elected not to challenge Raymond Sutton's authority to do so.

When I questioned her in argument, Ms Zanazo, who appeared on her own behalf and on behalf of her firm, seemed offended by the fact that Mr Mabo had decided to terminate her mandate and approach Raymond Sutton Inc. She also appeared to believe herself entitled to withhold any money that she had gathered on Mr. Mabo's behalf, because she regarded Mr. Mabo's matter as having been
20 closed. She relied on Rule 3.7 of the Legal Practice Council Rules applicable to legal practitioners, which she argued meant that Mr. Mabo was only entitled to terminate her mandate before the matter in relation to which the attorney had been instructed was finalised.

I think that that interpretation is wholly untenable,

but in any event in this case the matter plainly had not been finalised. Until the value of the shares reaches Mr Mabo, which everybody accepts has not happened, the matter cannot be regarded as finalised. The whole reason why Mr Mabo approached Raymond Sutton is because he had been unsuccessful in obtaining the value of the shares through Ms Zanazo.

If that were not enough, and I think it is, then I would have to point out that the further instruction that
10 Mr Mabo gave to Ms Zanazo was to pursue the close corporation and hold it accountable for what Mr Mabo regarded as fronting. There is no evidence on the papers that this was ever done.

It is accordingly not necessary for me to interpret the rule or to deal with the interpretation Ms Zanazo argued for. The matter with which she was charged by Mr Mabo was never concluded.

Ms Zanazo otherwise found herself unable to dispute that Mr Mabo was perfectly entitled to terminate her
20 mandate at any time and to instruct another attorney.

For those reasons it seems to me that Mr. Mabo's demands to furnish Raymond Sutton with the statement of account for any monies held by Ms Zanazo's firm on behalf of Mr. Mabo in trust, to furnish it with a complete copy of Mr. Mabo's file and to furnish it with a statement of Ms

Zanazo's firm's account, were perfectly appropriate and should have been complied with long ago.

The same goes for the demand that Raymond Sutton be paid to hold in trust any trust monies Ms Zanazo's firm holds on Mr. Mabo's behalf.

There is in other words no defence to this application. Ms Zanazo and her firm are required by the rules that apply to legal practitioners and by her underlying contractual obligations to Mr Mabo, to do as I intend to
10 order her to do.

During argument Ms Zanazo suggested that the individual present in court who identified himself as Mr Mabo did not "look like" Mr Mabo. That allegation was of course inadmissible, but Mr De Koker, who is an advocate appearing before me for Mr. Mabo, took the reassuring step of confirming that he had obtained a copy of Mr Mabo's identity document, and that he was satisfied that the person present in court and the person who had instructed his attorneys was in fact Mr Mabo. I do not strictly need to rely
20 on Mr. De Koker's assurance, but in the circumstances it is appropriate that I record it.

Mr. Mabo also asked that I refer Ms Zanazo to the Legal Practice Council for further investigation. I do not think that it is necessary to make that order, but I find myself constrained to record that I find Ms Zanazo's attitude

to this application completely baffling. Sometimes an attorney loses clients. The only ethical thing to do in those circumstances is send the client on their way with such assistance as the rules require. Ms Zanazo did not do that. Other than a general sense of grievance, which has no ground in any right that she may have, it is a mystery to me why Ms Zanazo did not comply with her obligations.

If that mystery requires investigating by the Legal Practice Council, it can just as easily be referred by
10 Mr Mabo or his attorneys themselves.

For all those reasons I intend to make an order in terms of paragraphs 1.1, 1.2, 1.3, 1.4 and 2 of the applicant's notice of motion.

I will also order Ms Zanazo and her firm to pay the costs of this application on the scale as between attorney and client. The simple reason for this is that the application should never have been opposed. Ms Zanazo ought to have appreciated from the outset that she had no defence. She ought to have complied with Mr. Mabo's demands when they
20 were first made, or otherwise to have challenged Raymond Sutton Inc's authority to act for Mr Mabo. She did neither.

For all those reasons I make an order in terms of the draft handed up by the applicant's counsel, which I have amended, signed, dated and marked "X".

I hand down the order.

A handwritten signature in black ink, appearing to be 'Wilson J', is written over a solid black rectangular redaction box.

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WILSON J
JUDGE OF THE HIGH COURT
2 May 2025