

SAFLII Note: Certain personal/private details of parties or witnesses have been redacted from this document in compliance with the law and [SAFLII Policy](#)

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

CASE NUMBER: 2025-066426

(1) REPORTABLE: ~~YES~~/ NO

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

(3) ~~REVISED~~.

In the matter between:

ZIGGY INVESTMENTS CC

Applicant

and

DRIVERITE 123 (PTY) LTD

First Respondent

NIVERN BATOHI

Second Respondent

KINETA NAIDOO

Third Respondent

THE MINISTER OF POLICE

Fourth Respondent

Heard: 13 May 2025

Delivered: 19 May 2025

JUDGMENT

YACOOB, J:

[1] The applicant, Ziggy Investments CC ("**Ziggy**"), seeks relief on an urgent basis, to prevent the first respondent, Driverite 123 (Pty) Ltd ("**Driverite**"), from selling a vehicle of which Ziggy contends it is the owner. Driverite contends that it has purchased the vehicle, is the owner of the vehicle, and is entitled to dispose of the vehicle. The relief sought by Ziggy is interim, pending the determination of Part B of the application in which Ziggy seeks the setting aside of the sale agreement in terms of which Driverite purchased the vehicle.

[2] The factual background that led to this application is somewhat involved, although much of it is common cause. Ziggy is engaged in buying and selling motor vehicles. It was the registered title holder and owner of a white BMW X3 2024 model, with vehicle register number G[...] and vehicle identification number W[...], which it purchased on 19 December 2024 and of which it became the registered owner on 13 January 2025. Driverite is now, since 5 March 2025, the registered title holder of the vehicle.

[3] According to the deponent of Ziggy's founding affidavit, Mr Riyaadh Ballim ("**Ballim**"), Ziggy's manager, the second respondent, Mr Nivern Batohi ("**Batohi**"), contacted him and offered to sell the vehicle for Ziggy for R1 060 000 (one million sixty thousand rands). Ballim apparently accepted the offer, because on 22 February he handed to Batohi the vehicle, its original registration documents, and both sets of keys.

[4] Ballim alleges that the oral agreement between Ziggy and Batohi provided that Batohi would procure a purchaser of the vehicle at R1 060 000, and that any change in price would be Ziggy's prerogative. When Batohi secured a prospective purchaser, he would obtain from Ziggy an invoice and a sale agreement would be concluded between Ziggy and the purchaser. Batohi would then obtain a completed transfer form from Ziggy to facilitate the transfer of the vehicle to Batohi. As this alleged agreement was purely oral, it is only Ballim's allegations in the founding affidavit that are proffered to establish its existence.

[5] According to Ballim, Batohi provided him on 01 March 2025 with proof of payment of R50 000 into Ziggy's account made by an S Patel. Ballim annexes the proof of payment but not the list of transactions in the account. He does not state whether any other payment was made to Ziggy's account towards the vehicle, but simply alleges that the vehicle was not paid for in full. It is noted that the proof of payment states that payment was made by Voiture Consulting, apparently the trading name of the third respondent.

[6] Ballim then, on 04 March 2025, discovered the vehicle advertised for sale on the Internet by Driverite for R949 000. It is unclear how he identified it as the same vehicle, as the printout of the listing does not include the identifying numbers. He states that he learned on the same date that the vehicle was transferred from Ziggy to Driverite on 5 March 2025. He does not disclose how he learned of the transfer. It is clear that one of the two dates must be incorrect. He states that he did not authorise the transfer and that no other representative of Ziggy authorised the transfer. He then complained to the police that the vehicle had been transferred fraudulently. The copy of his statement to the police annexed to the papers is dated 24 March. He does not disclose what he did between 4 or 5 March, when he discovered Driverite's involvement, and 24 March.

[7] Thereafter, on 11 April, the vehicle was seized by the police in accordance with a warrant. Driverite then launched an application for, and obtained, on 29 April 2025, an order that the vehicle be returned to it. The order set aside the warrant, which apparently was dated 26 March 2025. At the time the founding affidavit in this application was signed, on 8 May 2025, Ballim was under the impression that the vehicle was still in the possession of the police, despite the order requiring that the vehicle be released to Driverite within 24 hours.

[8] Ballim states that he discovered from Driverite's founding affidavit in the application to release the vehicle and set aside the warrant, that Driverite had purchased the vehicle from Batohi, who informed Driverite that it had been given as a trade-in to Voiture, the entity that apparently paid the R50 000 to Ziggy, and that Driverite paid R820 000 for the vehicle, on 22 February 2025, the same day on which the vehicle had been handed over to Batohi.

[9] Ballim contends that the transfer was unlawful as there is no invoice issued by Ziggy, the change of ownership form was not filled in by a representative of Ziggy, and a representative of Ziggy did not fill in the requisite SARS form for the sale of second hand goods. He contends also that payment was not made at “the agreed purchase price”.

[10] Ziggy seeks the preservation of the vehicle on the basis that it is the lawful owner and it has not received the purchase price. It contends that Driverite will bear no prejudice if the vehicle is preserved. It contends that the failure to preserve the vehicle has direct financial implications on the company. What these are, other than the fact that the purchase price has not been paid, are not disclosed. Nor is it disclosed how the preservation of the vehicle prevents these financial implications. Either way, the purchase price has not and will not be paid to Ziggy, and Driverite has paid to a third party a lower purchase price than Ziggy wished to obtain. In the meantime, the vehicle continues to depreciate.

[11] Ballim contends that the order setting aside the warrant may be appealed, and that that would result in the stay of that court’s order. It is unclear why Ziggy has brought these proceedings separate to those, especially since what it seeks is what Ballim contends will be the result of the appeal in that matter.

[12] Ballim states that he was out of the country between 1 May 2025 and 5 May 2025, to explain the delay in issuing papers after Driverite obtained its order. However the delay between 5 March and 24 March is unexplained. He states that he did not issue civil proceedings before Driverite obtained its order because he was of the view that criminal proceedings against Batohi would result in the sale being invalid. The papers were served on Driverite on 8 May 2025, and were not complete by the time the roll closed for the week of 13 May 2025, as required by the practice and Rules of this court. There is no explanation why the matter could not wait until pleadings were complete before being set down properly on a Thursday for the following Tuesday, especially taking into account the already existing delays. Further, the respondents were given a mere 24 hours to file their answering affidavit.

They did not comply with that deadline, as they were apparently not given digital access to the matter until my chambers intervened.

[13] Driverite contends that the matter is not urgent, and that the application for the police to retain the vehicle despite the order already granted that the police release the vehicle is contemptuous and a collateral challenge to that existing order, although Ziggy was not a party to those proceedings. Driverite contends also that Ziggy has established no right worthy of protection, as it empowered Batohi to effect transfer of the vehicle by giving him a mandate and the means to effect the transfer, in the form of the vehicle itself, both sets of keys and the original registration documents. It contends further that there is a remedy in the form of a claim against Batohi in terms of the oral agreement, and that in any event a claim based on an oral agreement must be brought in action proceedings. It contends that it is the lawful owner of the vehicle in accordance with the sale agreement that it entered into in good faith. Driverite confirms that the vehicle was returned to it in consequence of the order it obtained. It alleges that it will suffer prejudice as it will be unable to sell a vehicle for which it has paid, and which is losing value as time passes. The fact that the vehicle is depreciating is not denied by Ziggy.

[14] It is clear from what I have set out above that I am not convinced either that the matter is urgent as Ziggy contends or that an urgent order will give it redress that is more substantial than what it may obtain in due course. Ziggy delayed not only in approaching this court but also in approaching the police in laying the criminal charge. It would also have been clear to any legally trained person that laying a criminal charge would not automatically set aside the transfer of the vehicle, and as a matter of practicality, the prosecution of the criminal charge would have been unlikely to return the vehicle to Ziggy in sufficient time for it to avoid financial repercussions, particularly by the depreciation of the vehicle.

[15] Ziggy does not explain how the preservation of the vehicle for however long it takes for Part B of this application to be determined, alternatively any action proceedings, would offset the financial prejudice it already suffers. The only prejudice identified by Ziggy is that it has not been paid the purchase price for the vehicle. An order that Driverite cannot sell the vehicle will not change that. Ziggy has

therefore not established that the matter is so urgent that it cannot obtain substantial redress in the ordinary course.

[16] In the result, I order:

The application is struck for want of urgency, the applicant to pay the costs on scale C.

S. YACOOB
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 19 May 2025.

APPEARANCES

For the applicant:	Mr A Chetty
Instructed by:	Hajibey Bhyat Mayet & Stein Inc
For the first respondent:	Mr N Winfred
Instructed by:	SP Attorneys Incorporated