

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

NO: 2023/012036

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED. No
26 May 2025

In the matter between:

**THE STANDARD BANK OF SOUTH
AFRICA LIMITED**

APPLICANT

and

TROSKIE CONSULTANTS (PTY) LTD

FIRST RESPONDENT

CONRAD TROSKIE

SECOND RESPONDENT

This order is made an Order of Court by the Judge whose name is reflected herein, duly stamped by the Registrar of the Court and is submitted electronically to the Parties/their legal representatives by email. The Order is further uploaded to the electronic file of this matter on Caselines by the Judge his/her secretary. The date of this Order is deemed to be 26 May 2025..

JUDGMENT

ENGELBRECHT, AJ

Introduction

[1] This is an application to confirm the cancellation of the agreements entered into between the Applicant and the First Respondent and for the return of seven assets financed through instalment agreements with the Applicant.

[2] The Respondents opposed the matter as they allege that the Applicant caused the non-compliance with these agreements, as a result of the omission of information about their VAT numbers and addresses on these agreements resulting in the rejection of VAT claims from SARS, affecting the cash flow of the First Respondent, and resulting in a loss of income for the First Respondent. In this application, relief is only requested against the First Respondent. The Second Respondent deposed to the Answering Affidavit and applied for condonation for the late filing of their Answering Affidavit in their answer. The Applicant did not oppose this in their replying affidavit, and condonation was granted for the late filing of the Answering Affidavit.

[3] The issues to determine in terms of the Practice Note filed by the Applicant

[3.1] Whether the Applicant is responsible for the First Respondent's breach of various instalment sale agreements.

[3.2] If so, whether the Applicant's alleged conduct made it impossible for the First Respondent to perform its obligations under the instalment sale agreement.

[3.3] If so, whether such impossibility is subject and relative as opposed to objective and absolute.

FACTUAL MATRIX

[4] The First Respondent and the Applicant entered into seven different instalment agreements. At the outset, the Applicant indicates that Part B of the First and Third instalment contract cannot be found and stated that they would not have

entered into such a contract without these documents. The Applicant would then rely on the standard terms and conditions applicable to instalment sale facilities, which the First Respondent did not oppose..

[4.1] First Agreement was entered into on 7 February 2020 at 8[...] H[...] Street, M[...] for the sale of a 2015 Audi TT 2.0 TFSI Coupe S Tronic for an amount of R 362 425,00 with interest levied at 1,19% above prime being 9,75% per annum over a period of 72 months payable in instalments of R 7 026,07 commencing on 1 April 2020 with final payment on 1 March 2026.

[4.2] Second Agreement was entered into on 27 October 2020 at 8[...] H[...] Street, M[...] for the sale of a 2020 Hino 500 Series 500 1326 4 x 2 TIP for an amount of R 932 008,54 with interest levied at 1% above prime being 7% per annum over a period of 48 months payable in 6 instalments of R 41 714,37 commencing on 1 December 2020 and 41 equal monthly instalments of R 19 728,87 commencing in 1 June 2021 with final payment on 1 November 2024.

[4.3] Third Agreement was entered into on 24 November 2020 in Mosselbay for the sale of a 2020 Case 570 ST 4 x 4 Loader for an amount of R 961 608,00 with interest levied at 0,7% above prime being 7% per annum over a period of 47 months payable in instalments of R 23 582,22 commencing on 22 January 2021 with final payment on 22 December 2024.

[4.4] Fourth Agreement was entered into on 12 December 2020 at 8[...] H[...] Street, M[...] for the sale of a 2020 Hino 300 614 SWB F/C C/C for an amount of R 550 169, 66 with interest levied at 1,95% above prime being 7% per annum over a period of 48 months payable in instalments of R 13 875,78 commencing on 8 February 2021 with final payment on 8 January 2025.

[4.5] Fifth Agreement was entered into on 31 May 2021 at 8[...] H[...] Street, M[...] for the sale of a 2021 Case JXT75 4 WD for an amount of R 421 554,50 with interest levied at 2,7% above prime being 7% per annum over a period of 60 months payable in 6 instalments of R 18 705,39 commencing on 22 July 2021 and 53 equal monthly instalments of R 7 745,10 commencing in 22 January 2022 with final payment on 22 June 2026.

[4.6] Sixth Agreement was entered into on 12 August 2021 at 8[...] H[...] Street, M[...] for the sale of a 2021 Polaris Ranger 570 EFI for an amount of R 191 070,00 with interest levied at 3,2% above prime being 7% per annum

over a period of 36 months payable in 36 equal monthly instalments of R 6 362,45 commencing in 10 October 2021 with final payment on 10 September 2024.

[4.7] Seventh Agreement was entered into on 18 September 2021 at 8[...] H[...] Street, M[...] for the sale of a 2021 Case CX220 DLC Tracked Excavator for an amount of R 1 688 525,00 with interest levied at 1,61% above prime being 7% per annum over a period of 48 months payable in 6 instalments of R 84 148,83 commencing on 2 November 2021 and 29 equal monthly instalments of R 46 796,86 commencing in 2 May 2022 with final payment on 2 October 2024.

[4.8] The Second Respondent bound himself as guarantor as follows:

[4.8.1] First Agreement 7 February 2020

[4.8.2] Third Agreement 24 November 2020

and unconditionally guarantee and a certificate under the hand of any manager of the Applicant would be sufficient proof and correctness of the Second Respondent's indebtedness for the purposes of summary judgement or provisional sentence. This application is for relief only against the First Respondent.

[4.9] As at 21 April 2022 the First Respondent was in arrears with regard to the First to Seventh Agreements as follows:

[4.9.1]	First Agreement	R 20 084,77
[4.9.2]	Second Agreement	R 21 089,27
[4.9.3]	Third Agreement	R 48 460,52
[4.9.4]	Fourth Agreement	R 42 846,41
[4.9.5]	Fifth Agreement	R 37 800,86
[4.9.6]	Sixth Agreement	R 19 707,35
[4.9.7]	Seventh Agreement	R 255 112,57

[4.10] Notice of default was provided to the First Respondent on 21 April 2022, but the First Respondent failed to remedy the breaches, and on 19 May 2022, letters for the cancellation of the agreements were sent.

[4.11] As a result of the cancellation of the agreements, the First Respondent was indebted to the Applicant as follows as at 23 September 2022:]

[4.11.1] First Agreement R 359 8913,32 plus interest at 10,94%

- [4.11.2] Second Agreement R 746 943,57 plus interest at 10,75%
- [4.11.3] Third Agreement R 929 765,49 plus interest at 10,45%.
- [4.11.4] Fourth Agreement R 553 390,75 plus interest at 10,94%
- [4.11.5] Fifth Agreement R 486 166,20 plus interest at 12,45%
- [4.11.6] Sixth Agreement R 227 062,48 plus interest at 12,95%
- [4.11.7] Seventh Agreement R 1 849 628,19 plus interest at 11,36%.

APPLICANT'S CASE

[5] The Applicant only asks for relief against the First Respondent in this part of the application, and the Second Respondent is only cited as the guarantor. In terms of the agreements, the Applicant retains ownership of the assets. When the assets are repossessed and sold, and there is a shortfall, the Applicant requests to be allowed to approach the court again to pay the difference, where an order would be requested against both First and Second Respondents.

[5.1] The First Respondent have failed to remedy the breaches in full, and therefore, the First Respondent is obliged to return the assets to the Applicant's care. As the assets are in the First Respondent's possession, the Applicant cannot protect the value of these assets, which will ultimately increase the financial exposure of the First Respondent.

[5.2] The First Respondent is in breach of the First to Seventh Agreements. These agreements were entered into between February 2020 and September 2021.

[5.3] The Applicant also requests that if the sale of the assets does not realise sufficient funds to liquidate the indebtedness, the Applicant be granted the right to claim damages on these papers, duly supplemented.

[5.4] The Applicant stated that the NCA does not apply to these transactions as the asset value, or alternatively, the annual turnover of the First Respondent during the prescribed period, exceeded the threshold value as determined by the Minister.

[5.5] In the Replying Affidavit, the Applicant alleges that the defence of the First Respondent is not sustainable as no legal defence has been placed before this court.

FIRST RESPONDENT'S CASE

[6] From the Answering Affidavit, it is clear that the essence of the defence of the First Respondent is that the agreements and the documents incidental thereto, such as the invoices and statements supplied by the Applicant after June 2021, were not compliant with SARS's requirements under the relevant tax laws, which would enable the First Respondent to reclaim VAT payable in these instalment agreements. It is therefore alleged that the wrongful conduct of the Applicant occasioned the breach by the First Respondent.

[6.1] The First Respondent indicates that the First Respondent renders risk management services to the Consumer Goods Council of South Africa, the South African Police Services and the National Prosecuting Authority. The Second Respondent also run a commercial farm, Skoongesig, which is used for seed production and Troskie Consultants as a sole proprietor. According to the First Respondent, the sole proprietor is registered as a Vendor that is registered for "*rental of vehicles*" which means that VAT may be claimed back on all vehicles.

[6.2] The First Respondent alleges that to make payments, the First Respondent must have positive cash flow, and for this, the First Respondent heavily depends on VAT refunds from SARS. (My Emphasis)

[6.3] In entering into these finance agreements with the Applicant, substantial payments for VAT were made. According to these agreements, VAT is payable within the first six months, which burdens the First Respondent's cash flow. However, as a result of the Applicant's conduct, these VAT claims for refunds were rejected by SARS, which materially and negatively affected the First Respondent's cash flow to such an extent that the First Respondent was unable to conduct its business and suffered a loss of income.

[6.4] SARS has strict requirements regarding the accuracy of the information contained in the documentation to be submitted. SARS will reject a claim and does not provide a precise reason for such rejection.

[6.5] In June 2021, the First Respondent requested the Applicant to provide correct VAT monthly statements for certain financing agreements such as the FAW Truck (with the First Respondent's VAT numbers indicated thereon).

First rejection by SARS of VAT refund claims was received in August 2021. When this was received, it was determined that the rejection resulted from no VAT information on the financing agreement signed in 2020 – 2021. In some cases, wrong addresses were reflected on the agreements and bank statements.

[6.6] On 13 August 2021, the Applicant was again informed that they had provided the wrong information on specific agreements and apologised. On 18 August 2021, a settlement letter for the FAW Truck was requested to be purchased by the sole proprietor. It was determined that the Applicant issued the exact contract numbers for two different vehicles, and the VAT number was again not on the agreement. The incorrect address was reflected in the agreements, and the principal debt and VAT input figures differed from those in the financing agreement. During the latter part of 2021, the Second Respondent corresponded with the Applicant regularly to be provided with updated invoices and to include the VAT number on the bank statements.

[6.7] On 3 November 2021, the Second Respondent sent a lengthy email to the Applicant explaining that their conduct was why the Second Respondent's VAT claims were rejected and that they are experiencing cash flow problems. This letter refers to the sole proprietor, Conrad Troskie t/a Troskie Consultants and that the First Respondent was registered to move everything over to the First Respondent. In this letter, reference is made to the fact that the VAT number was not included on some of the Vehicle Financing Agreements and all the Bank statements of the First Respondent.

[6.7.1] In this letter, the Applicant was accused of being the main reason why the refund was reviewed and audited and not refunded by SARS.

[6.7.2] After amended finance agreements were received, the same was provided to SARS, but again rejected as the Applicant had to issue VAT invoices. Again, various correspondents were sent by the Second Respondent, indicating the various problems so experienced, all based on the Applicant's lack of co-operation. The cashflow problem was again stated in an email dated 15 November 2021, in which the Second Respondent indicated that their cashflow problem resulted from the Applicant's conduct.

[6.8] The First Respondent alleged that it was deprived of these funds for 18 months, which had a detrimental impact on the cashflow of the First

Respondent, for which the Applicant is to be blamed. This resulted in the default in payment to the Applicant, which the Respondents alleged the Applicant ought to have known that the First Respondent depended on the correct information in these agreements.

[6.9] The First Respondent alleged that the Applicant has a duty of care in its dealings with the First Respondent to ensure that correct information was provided. Therefore, the Applicant is not entitled to terminate these agreements.

[6.10] The First Respondent alleged that the Applicant breached the terms of the agreement, and therefore, their breach of the agreement must be excused, and that there was no valid cancellation of the agreement.

[6.11] The First Respondent also alleged that there is a dispute of fact, that the claim for damages cannot be dealt with in application proceedings, and the Applicant should have instituted an action.

[6.12] I was also referred to a similar application which was brought by the Applicant against the Second Respondent under case number 2023- 083113 concerning different assets financing.

ANALYSIS

[7] In the Answering Affidavit, the First Respondent mentions the alleged dispute of fact, as the First Respondent alleges that the defence against the application raised a dispute of fact.

[7.1] In the matter of ***Plascon Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd 1984 (3) SA 623 (A)***, Corbett JA set out the test to be considered when determining applications on papers where it might appear that there is a material dispute of fact.

“It is correct that where in proceedings on notice of motion disputes of fact arose on the affidavits, a final order, whether it be an interdict or some other form of relief, may be granted if those facts averred by the applicant which have been admitted by the respondent, together with the facts alleged by the respondent, justify such an order. The power of the court to give such relief on the papers before it is, however, not confined to such a situation. In certain instances, the denial by the respondent of a fact alleged by the applicant may

not be such as to raise a real, genuine or bona fide dispute of fact. If the court is satisfied as to the inherent credibility of the applicant's actual averment, it may proceed on the basis of the correctness thereof and include this fact among those upon which it determines whether the applicant is entitled to the final relief which he seeks. Moreover, there may be exceptions to this general rule, as for example, where the allegations or denials of the respondent are so far-fetched or clearly untenable that the Court is justified in rejecting them merely on the papers.

[7.2] In ***Bester NO and others v Mirror Trading International (Pty) Ltd t/a MTI(In Liquidation) and others 2024 (1) SA 112 (WCC)*** it is stated in par [71] that “ *A real and bona fide dispute of fact can exists only where the court is satisfied that the party who purports to raise the dispute has, in his or her affidavit, seriously and unambiguously addressed the fact said to be disputed.[73] A respondent, in addition cannot merely allege conclusions as facts, a respondent must produce admissible evidence in support of such facts, In motion proceedings, the affidavits constitute not only the evidence, but also the pleadings. A party, in motion proceedings, is consequently expected to allege the required facts and in addition, to support such facts by adducing admissible evidence.*

[7.3] It is undisputed that the Applicant and the First Respondent entered into seven financing agreements and that the First Respondent defaulted in payment thereof.

[7.4] In ***Schmidt v Dwyer 1959(3) SA 896 van Wyk J*** stated at 899A “*The primary object of a deed of sale is to record the terms of a contract between the parties and it follows that any statement in such document prima facie constitutes a term of the contract unless it appears from itself or other inadmissible evidence that the parties did not so intend.*

[7.5] In terms of these financial agreements, the Applicant sells to the First Respondent certain assets at a specified price, and the terms for repayment are stipulated. As a result, an obligation is created for the provision of the assets by the Applicant and the payment for such assets by the First Respondent as stated in paragraph 11.4 of the finance agreement.

[7.6] When the Vehicle Financing Agreements were entered into, the First Respondent was aware of the fact that he was registered for “*rental of*

vehicles” and therefore eligible to claim VAT refunds on all vehicles. Such information was in the sole knowledge of the First Respondent. Thus, the First Respondent had the obligation to bring this fact to the attention of the Applicant and to ensure that its VAT number and correct addresses are included on these agreements.

7.7] According to the allegations by the First Respondent, it seems that reference is made to two third parties (SARS and the refund of VAT payments and the interrelation with Troskie Consultants) which the court needs to consider in this matter. Neither of these parties is before this court. The Vehicle Financing Agreements do not contain any terms concerning the payment in terms of these agreements through VAT returns by the First Respondent, that compliance to the First Respondent’s obligations in terms of these agreements are dependent on such VAT reclaims and the exact manner on how the obligations to pay towards these agreements are interrelated with Troskie Consultants. Paragraph 23.16 of Part B of the financing agreement signed by both parties reads as follows:

This agreement constitutes the entire agreement between the parties in relation to the subject matter thereof. The terms of this Agreement are separate from the other. Neither Party shall be bound by any express, tacit, or implied term, representation, warranty, promise or the like not recorded herein.”

[7.9] The contract excludes reference and reliance on any alleged implied term. Under the declarations made by the customer in paragraphs 1.14 and 1.15 the First Respondent accepted that

*“1.14 This Agreement was completed in full at the time when we signed it.
1.15 We are aware that we must not accept this Agreement unless we understand our rights and obligations and the risks and costs of the obligation.*

[7.10] This alone confirms that when the First Respondent entered into the Vehicle Financing Agreements with the Applicant, the First Respondent had to ensure that all information was included in these agreements to ensure that the VAT refund claims could be submitted to SARS. In terms of the Value Added Tax Act, No 89 of 1991, the First Respondent, as the purchasing

vendor, has to ensure that he complies with the requirements set out in the Act.

[7.11] It is a trite principle of our law that parties are to observe and perform in terms of their agreements and should only be allowed to deviate from such a contract if it can be demonstrated that the contract is tainted with fraud, is unreasonable, or is against public policy.

[7.12] In ***Mohabed's Leisure Holdings (Pty) Ltd v Southern Sun Hotek Interests (Pty) Ltd (183/17) [2017] ZASCA 176 (17 December 2017)*** the Supreme Court of Appeal reaffirmed the principle of the privity and sanctity of the contract and stated as follows at paragraph 23:

“23. The privity and sanctity of contract entails that contractual obligations must be honoured when the parties have entered into the contractual agreement freely and voluntarily, The notion of the privity and sanctity of contracts goes hand in hand with the freedom to contract, taking into consideration the requirements of a valid contract, freedom to contract denotes that parties are free to enter into contracts and decide on the terms of the contract.

[7.13] In the Constitutional Court in ***Beadica 231 and others v Trustees for the Time being of Oregon Trust and others CCT 109/19 [2020]ZACC13*** the following was stated in paragraph 84:

“Moreover, contractual relations are the bedrock of economic activity, and our economic development is dependent, to a large extent, on the willingness of parties to enter into contractual relationships. If parties are confident that the contracts that they enter into will be upheld, then they will be incentivised to contract with other parties for their mutual gain. Without this confidence, the very motivation for social coordination is dismissed. It is indeed crucial to economic development that individuals should be able to trust that all contracting parties will be bound by obligations willingly assumed.

[7.14] From a proper reading of these contracts, reciprocal obligations were agreed upon where the Applicant is to provide the assets and financing to obtain the same and the First Respondent is to ensure payment in terms of the Vehicle Financing Agreements. When the First Respondent signed these documents between 2020 and 2021, it was obliged to ensure that all

necessary information, including its VAT registration numbers (if that was needed) and addresses, was correctly included in these agreements.

[7.14] On the letters attached as Annexures to the First Respondent's Answering Affidavit, reference is made to:

[7.14.1] Certain contracts and not all,

[7.14.2] The address which is stated in handwriting on these agreements are referred to on Annexure AA17, was only updated in November 2021, as that address on the agreements was not the SARS registered address, at the First Respondent's request and the remainder of the issues referred to the Sole Proprietor, which is not a party to the Vehicle Financing Agreements.

[7.15] A further argument is then about the principle that an impecunious debtor will be excused from payment if the debtor can show the causal connection between that impecuniosity and some wrongful act of omission by the creditor. Both parties then rely on ***Academy of Learning v Hancock 2001 (1) SA 8941 (C)***, where it summarised the position and referred to three broad categories:

(a) *where the wrongful conduct of the creditor made performance by the debtor impossible. In order to succeed with this defence, the debtor must prove that his/her performance became objectively and not merely subjectively impossible.*

(b) *where the creditor's wrongful conduct can be ascribed to a deliberate intention on his or her part to prevent performance by the debtor. This is the type of situation which is analogous to fictional fulfilment of a condition.*

(c) *where the creditor's conduct complained of by the debtor in itself constituted the breach of an express or an implied term of the agreement. This is the type of situation where the creditor expressly or impliedly binds himself/herself to carry out the necessary preliminaries which rest upon him or do nothing of his own motion to put an end to that state of circumstances under which alone the arrangement can be operative,*

[7.15.1] From the attached Vehicle Financing Agreements, it is shown that the First Respondent signed the document stating that all information was correct and provided correctly. The wrong addresses and the fact that the VAT number did not reflect on the agreement can therefore not be a wrongful

act of omission by the Applicant as the VAT number and the correct address was in the knowledge of the First Respondent..

[7.15.2] At most, they should have amended the agreements quicker after it was requested, and if it caused a loss by the First Respondent as alleged, that would or could result in a claim by the First Respondent against the Applicant. I cannot find that the Applicant's conduct impacted the obligation of payment towards these Vehicle Financing Agreements by the First Respondent.

[7.15.3] I am of the view that the fact that the VAT number and the addresses were either not included on the agreements or incorrect, as included on the agreements, did not make the performance by the First Respondent objectively impossible, but subjective and self-created. These conditions did not create any obligation that such payments must first be obtained before payments in terms of the agreements being made. Even if this argument can be accepted, it is in direct contradiction to the fact that payments were made from February 2020 until March 2022.

[7.16] An argument provided by the First Respondent is that the Applicant had a duty of care to ensure that all information about such VAT returns, which can be used to reclaim VAT payments, is correct. For a refund claim, the VAT vendor must ensure that all information is accurate to allow such a claim from the outset. These contracts also place a duty on the First Respondent to ensure its information is correct, as such information on the VAT number or the addresses would not be in the Applicant's knowledge.

[7.17] The first time that the issue of VAT was queried was in June 2021, which the Applicant addressed, and the first time that the VAT claims were rejected was in August 2021. The first time the addresses were requested to be amended was in November 2021, where the First to Fifth Agreements were already entered into in February 2020, and payments towards these agreements were made.

[7.18] The total arrears in April 2022 were R 445 101,75. On the March 2022 bank statement attached to the Replying Affidavit as provided to the Applicant as a result of a Rule 35(1) notice, it is shown that various deposits from SARS to the amount of R 687 981,54 were made to this account. Instead of paying

towards such arrears, an amount of R 685,000.00 was then transferred to another account, and no payment was made towards the arrears.

[7.19] The bank statements are referred to in the Applicant's heads and were referred to in argument by the Applicant, but not addressed in argument by the First Respondent. I therefore accept that there was payment made from SARS to the First Respondent as shown on these bank statements, which is directly in contradiction with the argument that the incorrect VAT information had a knock-on effect on VAT claims by the First Respondent in the interrelated business of the First Respondent and Second Respondent, and therefore, payments were rejected and the arrears could not be paid.

[7.20] In May 2022, after the First Respondent received these payments, the First Respondent's attorneys of record sent a letter indicating that the First Respondent are to make payment in full arrears and therefore agreed to the arrears payable. Again, this contradicts the claim that the First Respondent could not make the necessary payments.

[8] The Applicant requests an order to allow the matter to be brought back to this court on the same papers, duly supplemented for payment of the difference between the balance outstanding and the market value of the assets to be returned, together with damages the Applicant may have suffered. It is trite that when the bank repossesses the assets, the same is to be sold, and the First Respondent would remain liable for the difference between such sale price and the outstanding amount in terms of the sales agreement. If there are disputes between the parties about the damages, whichever might be claimed, the matter can be referred to oral evidence if necessary.

[9] After considering all the relevant principles applicable to the dispute of fact, I am satisfied that the Applicant has shown on a balance of probabilities that they are entitled to the relief claimed for the cancellation of the sales agreements and the return of the assets.

COSTS

[10] The general principle is that the successful party is entitled to its costs. No reason has been advanced and I cannot find any reason why the general principle cannot be followed. In the Notice of Motion, costs are requested on the Attorney Client Scale but in the Applicant's heads it is Party and Party scale on Scale B and during argument it was confirmed on Party and Party scale B or C.

ORDER

[11] Therefore, the following order is made.

[11.1] Condonation is granted for the late filing of the Answering Affidavit of the First Respondent.

[11.2] The cancellation of the agreements entered into between the Applicant and the First Respondent attached to the Applicant's founding affidavit is hereby confirmed.

[11.3] The sheriff of the above Honourable Court or his lawful deputy is authorised, directed and empowered to attach, seize and hand over to the Applicant:

[11.3.1] a 2015 Audi TT 2.0 TFSI Coupe S Tronic with Chassis number T[...] and engine number C[...].

[11.3.2] a 2020 Hino 55 Series 1326 4 x 2 TIP with chassis number A[...] and engine number J[...].

[11.3.3] A 2020 Case 570 ST 4 x 4 Loader with chassis number N[...] and engine number 2[...].

[11.3.4] A 2020 Hino 300 614 SWB f/c C/C with chassis number A[...] and engine number N[...].

[11.3.5] A 2021 Case JXT75 4WD with chassis number A[...] and engine number 3[...].

[11.3.6] A 2021 Polaris Ranger 570 EFI with chassis number 3[...] and engine number R[...].

[11.3.7] A 2021 Case CX220 DLC Tracked Excavator with chassis number N[...] and engine number 1[...].

[11.4] The Applicant is granted leave to approach the Honourable Court on papers duly supplemented for payment of the difference between the balance

outstanding and market value obtained from a sale of the assets together with any damages the Applicant may have suffered.

[11.5] The First Respondent is ordered to pay the costs of the Application on a Party and Party Scale B, including the costs of Counsel.

ENGELBRECHT T
ACTING JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION

Delivered: This judgment and order were prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to Parties / their legal representatives by email and by uploading it to the electronic file of this matter on Case Lines. The date of the order is deemed to be the 26 May 2025.

Appearances:

For the Applicant:	Advocate De Oliviera
For the Respondent:	Advocate A Coertze
Date of Hearing:	03 March 2025
Date of Judgment:	26 May 2025