REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

(1) REPORTABLE: ~~YES~~ / NO
(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
(3) ~~REVISED~~

[redacted]
SIGNATURE

09/06/2025
DATE

CASE NUMBER: 2023-034657

In the matter between:

AGARDO INVESTMENTS (PTY) LTD **Applicant**

and

NATIONAL STOKVEL ASSOCIATION OF SOUTH AFRICA **Respondent**

Heard: 20 January 2025

Delivered: 09 June 2025

J U D G M E N T

YACOOB, J:

[1] The applicant, Agardo Investments (Pty) Ltd ("Agardo") is an investment company that also offers advice to investors. It focuses on what it terms "the township economy". The respondent, the National Stokvel Association of South Africa ("NASASA"), according to Agardo's founding affidavit, is the holder of a co-operative

banking licence and "represents a constituency of over 800 000 stokvel groups consisting of over 11 million individuals".

[2] Agardo seeks an order compelling NASASA to deliver to it information relevant to NASASA's relationship to Old Mutual Limited, a financial services provider that is not joined to these proceedings. It seeks copies of all agreements between NASASA and Old Mutual, and an official bank stamped record of all payments made by Old Mutual to NASASA.

[3] According to Agardo, there is a formal commercial relationship between it and NASASA, as set out in an engagement letter dated 1 March 2022 sent to Nsika Masonda of NASASA. The founding affidavit alleges that the letter was "accepted" on 22 March 2022 by Mr Masondo. It does not say how it was accepted and there is no evidence of the acceptance having been in writing.

[4] Mr Masondo is the deponent of the respondent's affidavit. Oddly, he claims no knowledge of these allegations and that he can neither admit nor deny them. The allegations of which he claims no knowledge are not only those which deal with his own conduct, but also those which deal with NASASA having a co-operative banking licence and set out its constituency. This is obviously "so far-fetched or clearly untenable that the court is justified in rejecting [it] merely on the papers."[1] It is also a red flag to the court regarding whether any of the contents of the answering affidavit can be taken seriously.

[5] However, the contents of the 3 page answering affidavit does not exercise the court much in this regard, as it contains no real averment of fact whatsoever. The only

[1] *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A) at 635C.

factual averment, apart from the deponent's identity, is that the deponent of the founding affidavit, Tiro Motlogeloa, one of the directors of Agardo, was an employee of Old Mutual and that Mr Masondo dealt with him only on that basis.

[6] Agardo claims that it facilitated NASASA's relationship with Old Mutual in terms of the engagement letter, and that it is entitled to payment in terms of the engagement letter of a percentage of the capital raised as a result of this relationship. It is for this reason that it seeks the order that NASASA provide it the information.

[7] Despite NASASA's failure to deal with the factual averments set out in the founding affidavit, in my view Agardo fails to make out a case for the relief sought. Mr Motlogeloa confirms that at all times he was an employee of Old Mutual, yet he claims that he was working on behalf of Agardo when interacting with NASASA. There is no evidence of that. Further, there is no evidence that NASASA ever accepted any offer made by Agardo, or agreed to the terms of the engagement letter. There is nothing from NASASA that supports Agardo's version. The existence of a contract has to be proved by showing that both parties have agreed to it. There is nothing before me in support of this. Even the screenshots of WhatsApp conversations between Mr Motlogeloa and Mr Masondo do not support the contention that Mr Motlogeloa was acting as a representative of Agardo and not of Old Mutual in his interactions with NASASA.

[8] Even if there was a contract between Agardo and NASASA, there is no evidence that there is a long term relationship with Old Mutual. This application appears to be no more than a fishing expedition. The failure to join Old Mutual which notionally has an interest as a party to the agreement of which Agardo seeks a copy is another anomaly that is cause for concern. Certainly if Agardo acted as a go-

between to introduce NASASA and Old Mutual one would expect Old Mutual know and confirm that this is what happened.

[9] I find that the applicant has not made out a case for the relief sought.

[10] Ordinarily, costs would follow the result. However, I consider that the respondent's unhelpful and patently evasive affidavit is deserving of censure. For that reason I am satisfied that it is appropriate to make no costs order.

CONCLUSION

[11] In the result, I order:

1. The application is dismissed.

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 09 June 2025.

APPEARANCES

For the applicant:	M Matlala, of Matlala and Associates
For the respondent:	K Reddy
Instructed by:	Sivuyile Maqungo Inc