THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case 2023-126073

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

Date: 15 August 2025 [redacted]

In the matter between:

ABSA Home Loan Guarantee Company (RF) (Pty) Ltd	First Applicant
ABSA Bank Limited	Second Applicant
and	
Motlapula Clement Mokoena	First Respondent
Madeleine Frances Mokoena	Second Respondent

JUDGMENT

DU PLESSIS J

Introduction

[1] The applicants seek judgment against the first and second respondents, jointly and severally, arising from a loan agreement secured by a mortgage bond over immovable property co-owned by them. The respondents allegedly fell into arrears

with their monthly instalments and failed to remedy the default after due demand. The applicants accelerated the debt and seek payment of the outstanding amount together with an order declaring the property specially executable.

[2] The matter was enrolled as a default judgment, but was placed on the summary judgment roll, possibly because the first respondent filed an affidavit in terms of Rule 46A setting out his personal and financial circumstances for consideration when deciding whether to grant the order.

[3] When the matter was called, there was no appearance for the respondents, and the hearing proceeded in their absence. I understand that my registrar received a call after the hearing, that the first respondent had been in the wrong court.

[4] I am aware that this sequence of events raises a concern about fairness, but the point is ultimately moot in light of my decision on service upon the second respondent. I had to reserve judgment because the internet in court was not working properly, requiring me to ensure that I was satisfied with service on the second respondent once I had sight of the documents again. After perusing the file, I am not satisfied that there was proper service on the second respondent, for the reasons set out here below.

[5] While a substituted service order was granted, it authorised service at the first respondent's address and email, and via a cellular phone number that looks remarkably similar to that of the first respondent on the debt review application, except for the third digit. This order was granted on 23 May 2024.

[6] The papers suggest that the parties are currently separated. In those circumstances, the bank bears a heightened responsibility to ensure that the second respondent, as a co-owner and co-debtor, is personally aware of the proceedings should she wish to intervene.

[7] Given the joint nature of the debt and ownership, it would not be appropriate to make an order only against the first respondent without the second respondent having had an opportunity to be heard.

[8] In the circumstances, the matter is removed from the roll. It can only be re-enrolled on the correct roll once the second respondent has been properly served.

Order

[9] The following order is made:

1. The matter is removed from the roll.

[redacted]___

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

Date of hearing:	13 August 2025
Date of judgment:	15 August 2025
For the applicant:	Mr Bava instructed by Lowndes Dlamini Attorneys
For the respondents:	No appearance