



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

Case 2024-118851

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

Date: 22 September 2025

In the matter between:

**MANNIKIN CLOSE BODY
CORPORATE**

Plaintiff

and

**VUYOKAZI PENELOPE DAWN
MRABALALA**

First Defendant

CHRISTOPHER WELE MRABALALA

Second Defendant

SONGAME AARON MRABALALA

Third Defendant

JUDGMENT

DU PLESSIS J

Introduction

[1] The Plaintiff, Mannikin Close Body Corporate, is suing the defendants as joint registered owners of a sectional title unit in the Mannikin Body Corporate (“the Body Corporate”), based on a claim for outstanding levies and related charges.

[2] After service of the combined summons, the defendants entered an appearance to defend and filed a plea. After the plea, the Body Corporate launched an application for summary judgment, contending that the defendants do not have a bona fide defence to the claim, and that the indebtedness is clearly established on the documents and statements annexed to the pleadings.

[3] The third defendant filed an answering affidavit opposing the application. He challenges the computation of arrear levies, stating that the amounts claimed by the Body Corporate are not correctly or properly substantiated. Essentially, the third defendant states that rule 25(4) allows only for costs “as taxed or agreed by the member”, and that the fees on the statement were not taxed, and there was no agreement by the defendants to pay that amount. Furthermore, the Body Corporates statements bundled together levies, interest, debt collection fees and legal costs, which makes it impossible to determine what is owed. This means that the claim is not a “liquidated amount” as is required by Rule 32(1)(b) of the Uniform Rules of Court. The third defendant thus requests the Court to refuse summary judgment, at least to the extent of the legal fees, and grant leave to defend so that the correctness of the levies and the recoverability of the legal costs can be tested through trial or taxation.

[4] The Body Corporate relies on a trustee resolution of 1 December 2021, authorising the recovery of attorney–client fees in respect of arrears collection. The Body Corporate thus contends that the legal costs are contractually recoverable and that they constitute a liquidated amount. Reliance is placed on *SS Glen High v Kruger*

NO,¹ where the Court held that conduct rules may render a member liable for legal costs, and that such costs, when incurred and quantifiable, may form part of a liquidated claim suitable for summary judgment.

[5] The statement produced reflects the following components as of 29 August 2024:

Arrears charges and debt collection fees	R5 092,65
Legal fees	R16 780,14
Legal monitoring fees	R7 000,00
Interest charges	R13 160,40
Levy charges	R116 924,97
Payments	R102 300,00
Balance 29 August 2024	R56 658,16

[6] It is plain from this breakdown that the balance is not solely attributable to levies but includes significant legal cost components.

The law

[7] Matters of this nature are increasingly common. The obligation of sectional title owners to pay levies is central to the functioning of a sectional title scheme. Section

¹ [2024] ZAGPJHC 1059.

3(1)² of the Sectional Titles Schemes Management Act³ (“STSMA”) obliges a body corporate to establish and maintain funds for the administration and upkeep of common property. To this end, owners are required to contribute proportionately to their quotas.

[8] The effective collection of levies is not merely a private arrangement between the parties but a mechanism to ensure the sustainability of the entire community of owners. Members thus cannot, and should not, be able to escape liability for levies properly raised.

[9] Where the disagreement arises in this case, is in the untaxed legal charges that the bodies corporate seeks to recover. The defendant takes issue with the plaintiff’s entitlement to debit the account with legal fees and “monitoring fees,” which are claimed over and above the levies.

[10] The STSMA and its prescribed management rules⁴ make it clear that once levies are properly raised and certified, the member is liable for the amount. In that

² “Functions of bodies corporate.—(1) A body corporate must perform the functions entrusted to it by or under this Act or the rules, and such functions include—

(a) to establish and maintain an administrative fund which is reasonably sufficient to cover the estimated annual operating costs—

(i) for the repair, maintenance, management and administration of the common property (including reasonable provision for future maintenance and repairs);

(ii) for the payment of rates and taxes and other local municipality charges for the supply of electricity, gas, water, fuel and sanitary or other services to the building or land;

(iii) for the payment of any insurance premiums relating to the building or land; and

(iv) for the discharge of any duty or fulfilment of any other obligation of the body corporate;

(b) to establish and maintain a reserve fund in such amounts as are reasonably sufficient to cover the cost of future maintenance and repair of common property but not less than such amounts as may be prescribed by the Minister;

(c) to require the owners, whenever necessary, to make contributions to such funds: Provided that the body corporate must require the owners of sections entitled to the right to the exclusive use of a part or parts of the common property, whether or not such right is registered or conferred by rules, to make such additional contribution to the funds as is estimated necessary to defray the costs of rates and taxes, insurance and maintenance in respect of any such part or parts, including the provision of electricity and water, unless in terms of the rules the owners concerned are responsible for such costs;

(d) to require from a developer who is entitled to extend the scheme in terms of a right reserved in section 25 (1) of the Sectional Titles Act, to make such reasonable additional contribution to the funds as may be necessary to defray the cost of rates and taxes, insurance and maintenance of the part or parts of the common property affected by the reservation, including a contribution for the provision of electricity and water and other expenses and costs in respect of and attributable to the relevant part or part;

(e) to determine the amounts to be raised for the purposes of paragraphs (a), (b) and (c);

(f) to raise the amounts so determined by levying contributions on the owners in proportion to the quotas of their respective sections;

(g) to open and operate an account with any registered bank or any other financial institution;

[...]”

³ Act 8 of 2011.

⁴ For instance, rule25(1) states that

regard, the defendants have not disputed ownership of the unit, nor the existence of levy resolutions or the charging of the levies. To that extent, they are liable for the outstanding levies, and no bona fide defence is disclosed for purposes of resisting summary judgment on that ground.

As regards to legal costs, “monitoring charges” and debt collection costs, the matter is less clear. The Body Corporate, as stated, relies on the prescribed management Rule 25(4) and the resolution of the trustees dated 1 December 2021. Rule 25(4) states

“A member is liable for and must pay to the body corporate all reasonable legal costs and disbursements, as taxed or agreed by the member, incurred by the body corporate in the collection of arrear contributions or any other arrear amounts due and owing by such member to the body corporate, or in enforcing compliance with these rules, the conduct rules or the Act.” (my underlining)

[11] The resolution dated 1 December 2021 states:

“2. Determination of interest rate, legal fees, fines and other charges

2.1. Interest shall be charged on all overdue amounts payable by an Owner to the Community Scheme (levies, utility charges, administration costs and legal costs, if applicable] at the rate of 2 % per month, compounded monthly in arrears,

2.2. An owner who is handed over to a firm of attorneys for any reason whatsoever, including, but not limited to debt collection, legal action and the sequestration of the owners, will be liable to pay the costs of the attorneys' fees on a scale as between attorney and client, as charged by the attorneys / as per the invoice received from the attorneys.”(my underlining)

2.3. The Community Scheme is authorised to debit a members account with legal fees (on a scale as between attorney and client, as resolved], penalties, interest, and/or other charges levied in terms of the Act and the rules.”

“The body corporate must, as soon as possible but not later than 14 days after the approval of the budgets referred to in rule 17 (6) (j) (iv) by a general meeting, give each member written notice of the contributions and charges due and payable by that member to the body corporate, which notice must—

- (a) state that the member has an obligation to pay the specified contributions and charges; and
- (b) specify the due date for each payment; and
- (c) if applicable, state that interest at a rate specified in the notice will be payable on any overdue contributions and charges; and
- (d) include details of the dispute resolution process that applies in respect of disputed contributions and charges.”

[12] The question is, what does “as taxed or agreed by the member” mean, and how must the resolution be understood in light of that?

[13] In *SS Glen High*,⁵ the Court analysed similarly worded rules and concluded that the member agreed to the reimbursement of costs on an attorney-client scale, through the conduct rules. In that case, the legal costs incurred did not have to be taxed to be included in the claim, and the legal costs incurred and reimbursed are a liquidated amount for purposes of summary judgment.⁶ The court held (footnotes omitted):

“31. As already indicated, the Body Corporate, *Marsh Rose v Steinmuller and Others* referred to ‘legal costs incurred’ which brings me to the following aspect that requires me to draw a distinction between “legal costs incurred” and legal costs that are claimed by its primary source or provider, the legal representative. In the latter case it is trite law that attorney’s fees (legals costs) do not constitute a liquidated debt until ascertained and determined by taxation. See *Blakes Maphanga Inc v OUTsurance Insurance Co Ltd*. In the matter before me, the amount of legal costs was already incurred by the Body Corporate and stands to be reimbursed by the Respondent. By reason of it already having been incurred by the Body Corporate, it forms a liquidated amount that has been determined which needs not be taxed. It constitutes a liquidated amount that can be included in the determination of the liquidated amount owed for summary judgment purposes.

32. For the reasons set out above, I see no reason why the untaxed legal costs cannot be included to form part of the monies due to the Applicant. The total outstanding amount is capable of being promptly computed and established.

[14] I do not agree with the reasoning in *SS Glen High* insofar as taxation is concerned. There are good reasons to exercise caution before extending the drastic remedy of summary judgment to untaxed legal costs, even if agreed to in a resolution. To allow untaxed fees risks saddling sectional title owners with charges they had no opportunity to scrutinise, an argument that the defendant made in this case. Furthermore, if untaxed fees are accepted as liquidated, then trustees and attorneys

⁵ *SS Glen High v Kruger NO* [2024] ZAGPJHC 1059.

⁶ Paragraphs 31-32.

may inflate accounts without any oversight opportunities. Taxation serves as a check on such practices. Thus, my reason for departing from *SS Glen High* is that it is fairer to require taxation, especially where costs are disputed. Summary judgment cannot be granted for the legal costs where it is disputed.

[15] In this case, the plaintiff has annexed statements showing legal fees and monitoring charges. There is no indication that the amounts were taxed, nor that the defendants agreed to them upon having received an invoice. In my view, while such charges may ultimately be recoverable, they are not yet liquidated within the meaning required for summary judgment.

[16] The “monitoring fees” are particularly problematic. The defendant disputes the “monitoring fees”, saying that the charge of R7000 is unexplained. It is unclear from the papers whether they are legal costs or disbursements, falling under rule 25(4), or administrative charges, which might fall under rule 25(5). Either way, they are disputed and not liquidated and cannot be granted on summary judgment.

[17] Even if the trustee resolution of 1 December 2021 is interpreted to authorise debiting members’ accounts with whatever amounts are reflected in an attorney’s invoice, such an arrangement has the potential to operate unfairly against sectional title owners. The owners have no direct knowledge of the work done and cannot reasonably be expected to assess the proportionality of the charges with only a line entry on the statements they receive. Moreover, to treat an invoice as conclusive proof of indebtedness would deprive members of the safeguard expressly built into rule 25(4), namely that the legal costs must be either taxed or agreed upon. Taxation exists to ensure reasonableness and proportionality, and to dispense with it would effectively allow trustees and the attorneys to set charges unilaterally. For this reason, I am not persuaded that reliance on the resolution cures the Body Corporate’s difficulty in seeking to recover untaxed legal fees on summary judgment.

[18] Accordingly, summary judgment can only be granted in respect of arrear levies and interest properly calculated, but not in respect of the other costs. Those should be left to the process of taxation or trial.

[19] What thus remains is to determine the liquidated portion of the Body Corporate's claim, namely, the arrear levies, administrative charges and interest. The difficulty, however, is the statement of account, which combines levies, interest, administrative charges, and legal fees into a single balance. This obscures the liquidated component of the claim.

[20] During argument, counsel for the plaintiff clarified the figures, and it is apparent from the statement itself that the levy charges amount to R116,924.97, against which payments in the amount of R102,300.00 were credited, leaving an amount of R14,624.97 outstanding, which is ascertainable. Although the plaintiff ought to have presented this calculation more clearly in its founding affidavit, the amount is nonetheless ascertainable on the papers. At the trial, the defendant's counsel submitted from the bar that there have been payments made in the meantime, which impact that amount. If that is so, that must, of course, be considered. The bottom line is that on the papers, the amount of roughly R14 000 qualifies as a liquidated claim for purposes of summary judgment. The remainder must stand over for trial or taxation.

Condonation

[21] The Body Corporate also sought condonation for the late filing of the summary judgment application. From the affidavit, it appears that while service took place on time, the application was filed one day late. The defendants delivered an affidavit resisting summary judgment, thereby taking a further step in the proceedings. In these circumstances, I am satisfied that the defendants suffered no prejudice in this case. The explanation is adequate, the opposition has been filed and considered, and the matter is ripe for hearing. Condonation is accordingly granted.

Costs and forum

[22] In my view, the defendants have been substantially successful in resisting the Body Corporate's claim for legal and monitoring fees. Although summary judgment is granted for arrear levies, the Body Corporate ought not to have bundled untaxed costs into a claim for summary judgment. In the circumstances, fairness dictates that the defendants be regarded as the substantially successful parties.

[23] The claim could have been pursued in the Magistrates' Court. This Court's jurisdiction is concurrent, but the choice of forum has consequences, including the requirement of counsel or an attorney with rights of appearance to argue the case in the High Court, increasing the costs for recovering the debt. It is an additional reason why the defendants should be awarded the costs of this application on the High Court's scale.

Order

[24] As a result, the following order is made:

1. The late filing of the summary judgment application is condoned.
2. Summary judgment is granted against the defendants, jointly and severally, in respect of arrear levies in the amount of R14,624.97, together with interest thereon at the rate of 2% per month, compounded monthly in arrears, from 29 August 2024 to date of payment.
3. The application for summary judgment is refused in respect of legal fees, monitoring fees, and debt collection fees, and the defendants are granted leave to defend that portion of the claim.
4. The plaintiff is ordered to pay the defendants' costs of the summary judgment application.


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

Date of hearing:	12 August 2025
Date of judgment:	22 September 2025
For the applicant:	R Smith instructed by Schuler Heerschoop Pienaar Inc
For the respondent:	Mr Nkabinde instructed by TS Tshabalala Attorneys