

REPUBLIC OF SOUTH AFRICA



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

CASE NO: 2023-126260

(1)	REPORTABLE: YES / <u>NO</u>
(2)	OF INTEREST TO OTHER JUDGES: YES / <u>NO</u>
(3)	REVIEWED: <u>YES</u> / NO
7 October 2025 DATE	 SIGNATURE

In the matter between:

RICHARD MEADEN & ASSOCIATES INCORPORATED	Applicant
And	
GLOBAL MERCHANT SUPPLY SERVICES (Pty) Ltd	1st Respondent
ANDREW SMITH	2 nd Respondent
GARY SMITH	3 rd Respondent

JUDGMENT

Raubenheimer AJ:

Order

[1] In this matter I make the following order:

1. The application for provisional sentence is granted as follows:
 - a. Against the first and third respondent in the amount of R614 358.43;
 - b. Against the second defendant in the amount of R1 068 195.42
2. Respondents to pay the cost of the application on scale C.

[2] The reasons for the order follow below.

Introduction

[3] The plaintiff seeks provisional sentence against the first and third defendants for payment based on a payment plan signed by the first, second and third defendants on 18 February 2022 in terms of which they acknowledged being indebted to the plaintiff as at 31 January 2022.

[4] Following on the conclusion of the payment plan, the plaintiff received payments in reduction of the agreed outstanding indebtedness.

[5] The second defendant signed an accommodation of payment in favour of the plaintiff on 18 January 2023 in terms of which the second defendant undertook to pay an amount of R1 138 195.42 by way of eight agreed monthly instalments, the last of which was payable no later than 31 August 2023. In pursuance of this accommodation of payment the second respondent paid an amount of R70 000 in reduction of the outstanding debt leaving an amount of R1 068 195.42 still unpaid and for which the applicant seeks provisional sentence.

Procedural aspects

[6] The provisional sentence summons was issued on 30 November 2023 after

which the third respondent filed a request in terms of Rule 35(12) which the applicant responded to on 18 January 2024.

[7] The Rule 35(12) response was followed by an answering affirmation on 18 January 2024 by the third respondent on his own behalf and on behalf of the first respondent.

[8] The applicant filed his replying affidavit on 8 May 2024 and in response thereto the third respondent filed a supplementary affirmation on 2 April 2025, again on his own behalf as well as on behalf of the first respondent. This affirmation incorporated an application for the filing of a further affidavit.

[9] The applicant opposed the filing of the further affirmation by the third respondent and duly filed a supplementary replying affidavit on 2 May 2025 which likewise incorporates an application to file a further affidavit.

[10] I deal with the filing of the further affidavit and affirmation hereunder.

The parties

[11] The plaintiff is a firm of attorneys incorporated in terms of the Companies Act, Act 71 of 2008.

[12] The first respondent is a company incorporated in terms of the Companies Act, Act 71 of 2008.

[13] The second respondent is a shareholder of the first respondent and the third respondent is the sole director.

The factual matrix

[14] The applicant rendered professional services to the respondents at the

request and instance of the respondents.

[15] The services were rendered in accordance with the normal terms and conditions of the applicant in terms of which the applicant would invoice the first respondent at the end of each month for work done during the course of a particular month. Invoices had to be settled within 30 days after which any unpaid amounts would attract a fee.

[16] The defences raised

[17] The respondents primarily raised two defences which if sustained will be dispositive of the provisional sentence application.

[18] The first defence is that the payment plan and accommodation of payment does not constitute a liquid document.

[19] The second defence is that the payment plan and accommodation of payment amounts to a credit agreement requiring the applicant to be registered as a credit provider in terms of the National Credit Act¹, which it is not, rendering both mentioned agreements unlawful and unenforceable.

The legal requirements

Requirements for provisional Sentence

[20] Provisional sentence is an extraordinary, summary and interlocutory remedy designed to enable a creditor with liquid proof of his claim to obtain a speedy judgment without resorting to the more expensive and dilatory machinery of an illiquid action. Provisional sentence precludes a defendant with no valid defence from playing for time. Although provisional sentence is only available to a plaintiff armed with a liquid document this type of procedure

¹ Act 34 of 2005

displays two further distinguishing characteristics namely it merely results in a provisional or interlocutory order. Final judgment must therefore be considered in the principal case and could the claim still be dismissed. The granting of provisional sentence entitles the plaintiff to immediate payment of the judgment debt before entering into the principal case. The defendant is in turn entitled to security for repayment pending the final outcome. If the defendant does not enter into the principal case the judgment becomes final.

[21] Provisional sentence is governed by Rule 8 of the Uniform Rules of Court and will be granted if the following prerequisites have been complied with:²

1. *the plaintiff's claim is based on a liquid document; and*
2. *where the onus is on the plaintiff, he can satisfy the court that the probabilities of success in the principal case are in his favour;*
3. *where the onus is on the defendant, he is unable to produce sufficient proof to satisfy the court that the probabilities of success in the principal case are against the plaintiff.*

The basic principles applicable to provisional sentence procedure were confirmed in the following words of the court:³

...is granted on the presumption of the genuineness and the legal validity of the documents produced to the Court. The Court is provisionally satisfied that the creditor will succeed in the principal suit. The debt disclosed in the documents must therefore be unconditional and liquid.

[22] Due to the foundation of provisional sentence being a liquid document it is undesirable that highly technical objections should readily be allowed. Parties should be given adequate opportunity of presenting their cases

² Rich and Others v Lagerwey 1974 (4) SA 748 (A). Joob Joob Investments (Pty) Ltd v Stocks Mavundla ZekJoint Venture 2009 (5) SA 1 (SCA)

³ Joob Joob Investments (n 2 above)

before the court, even if this necessitates allowing a further set of affidavits.

Requirements for a liquid document

[23] A liquid document is defined as a document wherein a debtor acknowledges over his signature, or that of his duly authorised agent, or is in law regarded as having acknowledged without his signature actually having been affixed thereto, his indebtedness in a fixed and determinate sum of money. The amount of the debt must be ascertained and the document must be sufficient in itself and not require extrinsic evidence to prove that the debt is due.⁴

[24] The essence of a liquid document is that it creates a strong presumption of indebtedness which allows for the granting of a provisional judgment without the need for a full, protracted trial, unless the defendant can demonstrate a plausible defence.⁵

Elements of a Liquid Document

[25] The document must be a physical or electronic written instrument underscoring the documentary nature of the claim. The document itself consequently serve as the primary evidence of the debt.

[26] The document must contain an unequivocal acknowledgment by the debtor of indebtedness. It is not sufficient if the indebtedness is based on a mere inference or requires extensive interpretation.⁶ The acknowledgment must also be more than a mere record of a transaction and must demonstrate the debtor's acceptance of the liability.⁷

[27] The debtor's liability to pay the amount must be unconditional, or subject only to simple conditions that can be proved without extrinsic evidence.

⁴ Inter-Union Finance Ltd v Franskraalstrand Bpk 1965 (4) SA 180 (W) at 181FG.

⁵ Twee Jonge Gezellen (Pty) Ltd and Another v Land and Agricultural Development Bank of South Africa t/a the Land Bank, and Another 2011 (3) SA 1 (CC)

⁶ Richter v Bloemfontein Town Council 1922 OPD 191

⁷ Richter v Bloemfontein Town Council (n 7 above)

- [28] The obligation to pay should consequently not depend on the performance of some unfulfilled counter-obligation or complex factual matrix that would necessitate a full trial to resolve.⁸
- [29] The document must specify a fixed and determinate sum of money, or an amount determinable by simple mathematical calculation without recourse to extrinsic evidence or extensive factual enquiry.
- [30] The acknowledgment of indebtedness must be over the debtor's signature or that of a duly authorised agent, or the debtor must in law be regarded as having acknowledged it without their signature being physically affixed.⁹
- [31] The authenticity of the document coupled by the acknowledgment of the debtor are crucial requirements for a provisional sentence claim. A signature provides direct proof of the debtor's assent to the terms of the document and the debt.¹⁰

Defence raised beyond the liquid document.

- [32] A defendant in provisional sentence proceedings raising a defence relying on facts outside the liquid document is saddled with the onus to persuade the court to refuse the provisional sentence.¹¹ In determining whether the defendant has discharged the onus the court will perform a balancing act between the rights of the creditor to a speedy remedy against the debtor's right to a fair hearing on the merits of their defence.¹²
- [33] The core principle is that while the liquid document provides the plaintiff with a strong prima facie case, it does not close the door on the defendant's

⁸ Maharaj v Barclays National Bank Ltd 1976 (1) SA 418 (A)

⁹ Standard Bank of SA Ltd v Oeanate Investments (Pty) Ltd 1998 (1) SA 811 (SCA)

¹⁰ Standard Bank of SA Ltd v Oeanate Investments (Pty) Ltd (n 11 above)

¹¹ Rich v Lagerwey (n 2 above)

¹² CGEE Alsthom Equipments et Enterprises Electriques, South African Division v GKN Sankey (Pty) Ltd 1987 (1) SA 81 (A). Twee Jonge Gezellen (Pty) Ltd and Another v Land and Agricultural Development Bank of South Africa t/a the Land Bank and Another (n 5 above)

opportunity to present a valid defence, even one based on extrinsic evidence.

- [34] Once the plaintiff presents a liquid document that is valid on its face, the onus rests squarely on the defendant to satisfy the court on a balance of probabilities that they are likely to succeed in the principal case.¹³ If the probabilities are evenly balanced, the provisional sentence will be granted.
- [35] The court undertakes a provisional assessment of the likely outcome of a future trial and is not expected to decide the issues in the main case, but it must be satisfied that the defendant has a "reasonable prospect of success."¹⁴
- [36] In its assessment the court may consider the inherent probability or improbability of the facts alleged by both parties. If a defendant's version is found to be so inherently improbable and contradictory as to be incredible, they will fail to discharge the onus.
- [37] The defence raised must be a substantive one that, if proven in the principal case, would constitute a valid defence to the plaintiff's claim.
- [38] If the court finds that the defendant has failed to establish a balance of probabilities in their favour, it will grant the provisional sentence.

Acknowledgment of debt as a credit agreement

- [39] An acknowledgement of debt (AOD) of which the underlying indebtedness is based on a credit agreement does not automatically become a credit agreement itself.¹⁵ The determinative factor is whether the AOD constitutes a compromise or novation that extinguishes the original debt, or whether it merely reschedules the existing debt. The substance and purpose of the

¹³ *Sonia (Pty) Ltd v Wheeler* 1958 (1) SA 555 (A)

¹⁴ *Rich v Lagerwey* (n 2 above)

¹⁵ *Carter Trading (Pty) Ltd v Blignaut* 2010 (2) SA 46 (ECP)

AOD are consequently paramount.

The National Credit Act (NCA) Framework

[40] The NCA defines a "credit agreement" in Section 8 as an agreement where payment is deferred and a charge, fee, or interest is levied for that deferral. The Act contains important exclusions of which the most relevant is found in Section 8(4)(f), which determines when an agreement is not a credit namely:

"an agreement, in terms of which a person undertakes to arrange for the sale of property or undertakes to pawn or pledge property, unless a fee, charge or interest is imposed in respect of that undertaking or the amount for which the property is sold, pawned or pledged."

The legal status of the acknowledgement of debt

[41] The legal status of the AOD hinges on its effect on the original credit agreement.

[42] A compromise is an agreement the purpose of which is to settle a dispute or uncertainty between parties.¹⁶ Such compromise extinguishes the original cause of action, the credit agreement, and creates a new, independent one (the AOD).¹⁷ The effect is that the rights and obligations of the parties are consequently governed solely by the terms of the compromise.

[43] The question then becomes whether the AOD itself meets the definition of a credit agreement under the NCA.

[44] The key question is whether the AOD's primary purpose is to settle a

¹⁶ Gollach & Gomperts (1967) (Pty) Ltd v Universal Mills & Produce Co (Pty) Ltd and Others 1978 (1) SA 914 (A). Karson v Minister of Public Works 1996 (1) SA 887 (E). Carter Trading (Pty) Ltd v Blignaut (n 18 above)

¹⁷ Gollach & Gomperts (n 19 above)

dispute¹⁸ or simply to provide further credit by rescheduling payments.¹⁹ If every AOD that settled a credit agreement debt was itself deemed a credit agreement, it would create commercial absurdity.

[45] It is therefore necessary to analyse the substance and purpose of each AOD.

Factors that determine the nature of an acknowledgment of debt

[46] Whether an AOD is a compromise or a mere rescheduling of debt is a factual inquiry based on the substance of the agreement and the true intention of the parties.²⁰ During the enquiry the court will have regard to the following factors:.

(a) The presence of a genuine dispute or uncertainty. A compromise, by its very nature, is an agreement concluded to prevent, avoid, or terminate litigation or a dispute. Evidence of a pre-existing dispute is consequently an important indicator. The filing of a lawsuit is not required as a default on the original agreement, the dispatch of a letter of demand, a disagreement regarding the amount owed, or a clear statement that the AOD is being signed to avoid legal action is sufficient. If no such dispute exists, the AOD is unlikely to be a compromise.²¹

(b) The fact that the AOD was concluded after the debtor had defaulted on the original credit agreement and was a direct response to this default is a strong indicator that the AOD is a compromise.²²

(c) The intention of the parties (*Animus Novandi*). The court will seek to

¹⁸ Carter Trading (n 18 above)

¹⁹ Friend v Sendal 2025 (1) SA 395 (GP)

²⁰ Natal Joint Municipal Pension Fund v Endumeni Municipality 2012 (4) SA 593 (SCA). Zandberg v Van Zyl 1910 AD 302. Commissioner for the South African Revenue Service v NWK Ltd 2011 (2) SA 67 (SCA)

²¹ Friend v Sendal (n 10 above)

²² Carter Trading (n 9 above)

determine whether the parties intended to extinguish the old debt and replace it with a new, self-standing one, or simply to modify the terms of the existing debt. This intention is primarily gathered from the wording of the AOD and the surrounding circumstances. Language to the effect of "in full and final settlement of all claims" strongly indicates a compromise.²³ In contrast, wording that refers to "rescheduling the payments under the loan agreement dated X" suggests a modification, not a replacement. A true compromise creates a new, independent cause of action.²⁴

(d) The effect of the AOD on the original credit agreement. The legal effect of an AOD amounting to a true compromise is that the creditor gives up the right to sue on the original credit agreement leaving the only right of recourse as the AOD itself.²⁵ Where the AOD is structured such that it preserves the creditor's rights under the original agreement by inserting a "without prejudice" clause or a clause retaining the original agreement, it is unlikely to be a compromise. A valid compromise has the effect of *res judicata* and is an absolute defence to an action based on the original cause of action.²⁶ Therefore, if the original cause of action is not extinguished, there can be no true compromise.

(e) The timing, context and surrounding circumstances of the conclusion of the AOD provide strong contextual clues. An AOD signed for instance after a default, during negotiations between lawyers, or in response to a threat of legal action is a clear indication of a settlement.²⁷ An AOD signed at the inception of a transaction or during a period where the debtor is in good standing but seeks different payment terms points towards a rescheduling agreement.

²³ Gollach & Gomperts (n 19 above). Absa Bank Ltd v Van der Vyver NO 2011 (4) SA 548 (SCA). Karson v Minister of Public Works 1996 (1) SA 887 (E)

²⁴ Ratlou v MAN Financial Services SA (Pty) Ltd ZASCA 49

²⁵ Gollach & Gomperts (n 19 above) Dennis Peters Investments (Pty) Ltd v Ollerenshaw 1977 (1) SA 197 (W)

²⁶ Gollach v Gomperts (n 19 above)

²⁷ Carter Trading (n 9 above)

Distinction between an incidental credit agreement and a credit facility

[47] A credit facility is a core type of credit agreement where the extension of credit is the primary purpose from the outset of the agreement is dealt with in Section 8(3) of the NCA. Such facility entails that the credit provider undertakes to supply goods or services, or to pay amounts to the consumer, and the consumer's obligation to repay is deferred. A distinguishing characteristic is that a fee, charge, or interest is imposed in respect of the deferred payment.

[48] Section 8(3) of the NCA states that an agreement is a credit facility if:

(a) a credit provider undertakes

(i) to supply goods or services or to pay amounts as determined by the consumer from time to time, to the consumer or on behalf of or at the direction of the consumer; and

(ii) either to

(aa) defer the consumer's obligation to pay any part of the cost of the goods or services, or to repay to the credit provider any part of the amount contemplated in subparagraph (i) or

(bb) bill the consumer periodically for any part of the cost of goods or services, or any part of an amount, contemplated in subparagraph (i) and

(b) any charge, fee or interest is payable to the credit provider in respect of

—

(i) any amount deferred as contemplated in paragraph (a)(ii)(aa); or

(ii) any amount billed as contemplated in paragraph (a)(ii)(bb) and not paid within the time provided in the agreement.

[49] The purpose of a credit facility is the provision of access to credit, frequently on an ongoing basis, with an associated cost. The intention to provide credit for a fee from inception of the agreement is central to these agreements. charges are levied for this credit from the point of its utilization or the deferral

of payment.²⁸

Incidental Credit Agreement

[50] The primary purpose of this type of credit agreement is not the extension of credit from the inception. The credit element arises incidentally when a consumer fails to pay a due amount for goods or services within a specified period, and a fee, charge, or interest is then imposed for that late payment.²⁹

[51] Such agreement is defined as:

an agreement, irrespective of its form, in terms of which an account was tendered for goods or services that have been provided to the consumer, or goods or services that are to be provided to a consumer over a period of time and either or both of the following conditions apply:

(a) A fee, charge or interest became payable when payment of an amount charged in terms of that account was not made on or before a determined period or date; or

(b) Two prices were quoted for the settlement of the account, the lower price being applicable if the account is paid on or before a determined date, and the higher price being applicable due to the account not having been paid by that date..³⁰

[52] A distinguishing feature is that no fee, charge, or interest is imposed before the due date or the expiry of the 30-day period.

[53] A claim for late payment interest on outstanding amounts for goods and services rendered, constitutes an incidental credit agreement as the primary purpose of the agreement is the provision of goods or services, and a charge

²⁸ JMV Textiles (Pty) Ltd v De Chalain Spareinvest 14 CC and Others ZAKZDHC 54

²⁹ Investec Bank Ltd v Franchise Central (Pty) Ltd & Another JDR 0019 (SCA), 2012). JMV Textiles (n 34 above). Voltex (Pty) Ltd v Chenleza CC 2010 (5) SA 267 (KZP) and Voltex (Pty) Ltd v SWP Projects CC 2012 (6) SA 60 (GSJ)

³⁰ Sect 1 NCA

for credit (interest) only becomes payable after an amount was billed and not paid within the prescribed period.³¹

[54] In essence, a credit facility is designed to provide credit as its central function, whereas an incidental credit agreement is a non-credit transaction that morphs into a credit agreement due to a consumer's late payment and the subsequent imposition of a charge.

[55] Failure to pay by the due date where goods and services are sold on standard terms requiring payment within a specified period of time and that interest would be charged on all overdue amounts does not render the agreement a credit facility due to the primary object of the contract being for the sale of goods and services and no interest was charged for the initial period and not an offer of credit for a fee.³² The obligation to pay interest (the credit element) was conditional upon the buyer's failure to pay on time. It was thus a consequence of default, not an intrinsic part of the transaction from the outset.

Application

[56] The first aspect to be evaluated is whether the payment plan and the accommodation of payment meet the requirements of a liquid document.

[57] The heading of the payment plan reads as follows:

"Global Merchant Supply Services (Pty) Ltd Payment Plan in respect of agreed outstanding fees in favour of Richard Meaden and Associates Inc"

[58] The plan refers to an "agreed account as at 31 January 2022 in the

³¹ Investec Bank Ltd v Franchise Central (Pty) Ltd & Another (n 34 above)

³² JMV Textiles (Pty) Ltd v De Chalain Spareinvest 14 CC and Others ZAKZDHC 54. Voltex (Pty) Ltd v Chenleza CC 2010 (5) SA 267 (KZP). Voltex (Pty) Ltd v SWP Projects CC 2012 (6) SA 60 (GSJ)

aggregate sum of R1 324 358.43"

- [59] The respondents are referred to as the debtors who confirm and acknowledge the indebtedness in the mentioned amount and undertake and commit to settle the agreed outstanding amount.
- [60] A phased payment structure is created in the plan with the debtors agreeing to the terms of each phase.
- [61] Should any of the agreed payments not be honoured timeously an acceleration clause to which the debtors agreed will be activated and the outstanding amount due at that stage will be evidenced by a certificate of balance.
- [62] The respondents ceded their rights to the taxation of as bill of costs granted in their favour to the applicant.
- [63] Second and third respondents signed the plan as debtors and on behalf of the first respondent as a debtor.
- [64] The respondents contend that the plan does not amount to a liquid document on the basis that:
- 64.1 There is no certificate of balance;
- 64.2 The taxation of the bill of costs did not occur and the applicant did not fulfil its obligations in this regard;
- 64.3 The third defendant bears no knowledge of the payments made in the reduction of the outstanding amount;
- 64.4 Regarding the payments received, the third respondent denies any

knowledge of the payments in the amount of R710 000 made in reduction of the outstanding amount as they were made by the second respondent. In response to the submission in the replying affidavit that these payments were reallocated to the payment plan on instruction by the second respondent, he denies that he ever authorised the second respondent to make such allocation. This is clearly inherently improbable and contradictory.

64.5 The discrepancy between the figures in the payment plan and the accommodation on payment;

64.6 The accommodation on payment novated the payment plan.

[65] None of the reasons advanced by the third respondent destroys the liquidity of the payment plan.

[66] The certificate of balance is not a requirement for a liquid document. All that is required to complete the claim is simple evidence. The provision of statements evidencing the payments received meets this requirement.³³

[67] The taxation of the bill of costs has no bearing on the nature of the document. It is merely a provision dealing with the collection of fees to be done by the applicant to reduce the indebtedness of the respondents.

[68] That there is or could be discrepancies in the figures mentioned in the respective documents has no bearing on the liquidity of the payment plan.

[69] The accommodation on payment mentions specifically that the payment plan remains in full force and effect. The accommodation on payment furthermore deals with a different period than the payment plan namely after 31 January 2022 whilst the payment plan deals with the period before the

³³ Rich and Others v Langerwey (n 2 above)

mentioned date.

[70] The third respondent in his supplementary affirmation raises the point that he did not read the payment plan and that he was consequently not aware of the content thereof and that the information contained in the document is a misrepresentation, that he signed it in error based on a common mistake based on a common assumption of a present or past fact. The alleged common mistake is that a particular item on the invoice does not deal with a matter involving the first respondent but the second respondent and that he as the first respondent never authorised the expenditure, would never have authorised it and that the second respondent acted without authority. The conduct of the second respondent is consequently unauthorised and should the first respondent not be liable therefore.

[71] Apart from this defence having no bearing on the liquidity of the payment plan it loses sight of the original mandate provided to the applicant which reads as follows:

I/we the undersigned ("the Client") hereby nominate and appoint Richard Meaden and Associates Incorporated Registration number.....(appointed Attorneys) to be my/our lawful attorneys regarding all matters entrusted to this law firm. This includes matters arising from incidental or related as well as any subsequent matters of or involving a party that I/we represent or have an interest in. This appointment constitutes the "Mandate".

[72] The matter that the third respondent is complaining about deal with a specific instruction issued to the applicant to represent the second and third respondents in a criminal matter.

[73] I therefore conclude that the payment plan meets the requirements of a liquid document and amounts to an acknowledgement of debt and is the applicant entitled to provisional sentence based on the document.

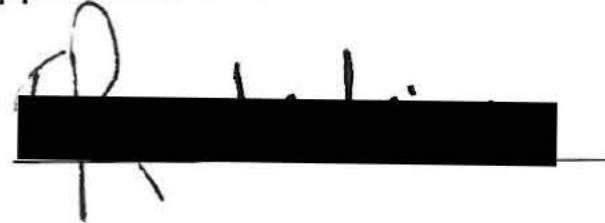
- [74] The next document is the accommodation on payment. This document records that the agreed indebtedness is the amount of R1 138 195.45. The second respondent accepted and agreed to the indebtedness unconditionally. The second respondent signed the document on 18 January 2023. The document record on two occasions that the original acknowledgement of debt remains in full force and effect.
- [75] The third respondent did not sign the document and the second defendant filed no opposing papers.
- [76] I therefore likewise conclude that the accommodation on payment meets the criteria of a liquid document and is the applicant entitled to provisional sentence as claimed in the provisional sentence summons.
- [77] The defence that the payment plan and the accommodation on payment amounts to credit agreements is misguided. It is clear that the purpose of the agreements was not the provision of credit but the sale of goods and services. No interest was charged for the initial period and the obligation to pay interest was only activated when the respondents failed to pay on time. Payment of the interest was thus a result of the failure to pay timeously and not an intrinsic part of the transaction from the outset.
- [78] Both parties applied for the admission of further affidavits to be received. It is trite that this should only be permitted in exceptional circumstances and should the court exercise its discretion to prevent a possible injustice. The third respondent raised complex commercial defences including reference to the NCA and its influence on an acknowledgement of debt. Application for the filing of the further affidavits is hereby granted.

Conclusion

- [79] Based on the reasons above the applicant is granted provisional sentence as follows:

- 79.1 Against the first and third respondent in the amount of R614 358.43;
- 79.2 Against the second defendant in the amount of R1 068 195.42

[80] The respondents shall pay the cost of the application on scale C.



E Raubenheimer

**ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION
JOHANNESBURG**

Electronically submitted

Delivered: This judgement was prepared and authored by the Acting 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 of the judgment is deemed to be **7 October 2025**

COUNSEL FOR THE PLAINTIFFS:

Adv Oosthuizen SC

INSTRUCTED BY:

Richard Meaden & Associates

COUNSEL FOR THE RESPONDENT:

Adv HB Marais SC

Adv S Cohen

INSTRUCTED BY:

Larry Marks Attorneys

DATE OF ARGUMENT: 19 May 2025

DATE OF JUDGMENT: 7 October 2025