

SAFLII Note: Certain personal/private details of parties or witnesses have been redacted from this document in compliance with the law and [SAFLII Policy](#)

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

CASE NO: 2025-054800

- (1) REPORTABLE: NO
- (2) OF INTEREST TO OTHER JUDGES: NO
- (3) REVISED: NO

_____ 13 November 2025

In the matter between:

LADY T PROTECTION SERVICES PTY LTD
(Registration No: 2004/013398/07)

Applicant

and

**BONGLEZ PTY LTD t/a BONGLEZ ACCOUNTANTS
AND TAX CONSULTANTS**
(Registration No: 2014/110484/07)

First Respondent

BONGANI WALTAS DLAMINI
(Identity Number: 8[...])

Second Respondent

SOUTH AFRICAN INSTITUTE OF CHARTERED ACCOUNTANTS
(NPO Registration No: 020-050-NPO)

Third Respondent

CHARTERED INSTITUTE FOR BUSINESS ACCOUNTANTS

Fourth Respondent

SOUTHERN AFRICAN INSTITUTE OF BUSINESS ACCOUNTANTS

Fifth Respondent

JUDGMENT

Mdalana-Mayisela J

Introduction

- [1] This is the return date of a rule nisi granted by this court on 25 April 2025. The applicant seeks to have the interim order, which restrains the first and second respondents from dealing with their assets, made final. The respondents seek the discharge of the rule nisi and the dismissal of the application with costs.
- [2] The application has a protracted history, marked by voluminous and often contentious affidavits. The core of the dispute is a payment of R1,101,919.47 made by the applicant to the first and second respondents. The applicant contends that this was an advance for a specific purpose to settle its tax liabilities with the South African Revenue Service ("SARS"), which was misappropriated. The first and second respondents contend it was a deposit for professional fees for accounting and tax services, which they duly rendered.

Background

- [3] The applicant, a security services company, engaged the first and second respondents as its accountants and tax practitioners around April 2023. The mandate included month-to-month bookkeeping, resolving long-standing tax issues with SARS, and negotiating a payment plan for tax debts.
- [4] On 12 May 2023, the second respondent sent a "Commitment letter" to the applicant stating, "Please provide us with proof of deposit payment of an amount of R1,101,919.47... to start with, providing you this service for debt management." The applicant paid the amount on 15 May 2023.
- [5] The applicant alleges that after this payment, communication from the respondents dwindled and they eventually ceased performing their duties, leaving the applicant non-compliant with SARS. The applicant further alleges that upon demanding a refund, the respondents offered a convoluted explanation involving a third-party associate, a "Ms J Brink", who purportedly held the funds in a trust account and was subsequently unavailable due to international travel.

- [6] The Applicant launched the urgent *ex-parte* application, obtaining an interim interdict that freezes the respondents' assets, particularly a specified bank account at First National Bank.
- [7] The respondents filed an answering affidavit on 29 May 2025. In it, they denied misappropriation and presented a detailed account of services rendered. Critically, in several paragraphs (notably paragraphs 13, 16, and 28), they acknowledged that arrangements were being made to refund the money, citing the unavailability of their associate, Ms Brink.
- [8] Following a letter from the applicant's attorneys on 26 June 2025, which highlighted these admissions, the respondents brought an application for leave to file a supplementary answering affidavit. In this subsequent affidavit, filed on 10 July 2025, they made a complete reversal, unequivocally denying any liability to refund the money and asserting that the entire sum was earned as fees for professional services rendered.

Issues

- [9] Two primary issues fall for determination:
 - [9.1] Whether the respondents should be granted leave to file their supplementary answering affidavit.
 - [9.2] Whether the applicant has met the requirements of a final interdict.

Leave to file the supplementary answering affidavit

- [10] Rule 6(5)(e) of the Uniform Rules of Court provides that further affidavits may only be filed with the leave of the court. This is not a right, but an indulgence granted judicially. Parties seeking leave must provide a satisfactory explanation for the late filing and demonstrate that it is in the interests of justice to permit it.
- [11] The respondents' explanation is that the supplementary affidavit is necessary to clarify and further supplement their opposition and to provide a more comprehensive articulation of their position after further consultation with legal representatives.

- [12] I find this explanation to be unsatisfactory. The shift between the two affidavits is not one of mere clarification or amplification; it is a fundamental and material contradiction. The first affidavit contained repeated admissions of an obligation to refund, coupled with explanations for the delay. This second affidavit denies that any such obligation exists and presents a completely different defence, that the money was fully earned.
- [13] The timing is highly suspect. The complete reversal occurred immediately after the applicant's attorneys, in their letter of 26 June 2025, pointed out the inescapable admissions in the first affidavit. This suggests that this supplementary affidavit is not a bona fide attempt to assist the court, but a tactical maneuver to disavow a version that has become untenable. It is, in essence, a "second bite at the cherry".
- [14] Allowing such a radical shift at this late stage, without a compelling explanation for the initial admissions, would be prejudicial to the applicant and would undermine the finality of litigation. The respondents had a full and fair opportunity to present their case in the answering affidavit. Their failure to do so coherently at the first instance cannot be remedied by simply filing a new contradictory version.
- [15] Consequently, the application for leave to file the supplementary answering affidavit is refused. The matter will be decided on the founding, answering, and replying affidavits.

The requirements for a final interdict

- [16] The requirements for a final interdict are trite¹:
- (a) a clear right of the applicant, which must be proven on a balance of probabilities;
 - (b) an injury actually committed or reasonably apprehended; and
 - (c) the absence of any other satisfactory remedy.
- [17] In application proceedings where disputes of fact arise, the court generally applies the rule in *Plascon Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd*², which dictates that final relief can be granted only if the facts as stated by the respondents, together with

¹ Setlogelo v Setlogelo 1914 AD 221 at 227; Hotz and Others v UCT 2017 (2) SA 485 (SCA) para [29]; Equistock Properties 8 (Pty) Ltd and Another v Oosthuizen and Others [2025] ZASCA 6 para [17].

² (53/84) [1984] ZASCA51; [1984] 2 ALL SA 366 (A); 1984 (3) SA 620 paras 7-9.

the admitted facts in the applicant's affidavit, justify such an order. A bare or uncreditworthy denial is not sufficient to create a real dispute of fact.

Clear right

- [18] The applicant's case is that it has a clear right to the return of R1,101,919.47, as the money was paid for a specific purpose that was not fulfilled. The respondents' own "Commitment Letter" of 12 May 2023 strongly supports this, explicitly linking the payment to the commencement of "debt management" services with SARS.
- [19] The respondents' defence in the answering affidavit is fatally compromised by their own admissions. They did not, in that affidavit, seriously contest that the money was intended for the SARS debt. Instead, they acknowledged an obligation to repay it. Paragraph 13 of the answering affidavit states they were "surprised" the applicant only requested R1 million back, and in paragraph 16, they admit they "agreed to repay the funds." Paragraph 28 details efforts to obtain the applicant's banking details to effect the refund.
- [20] In the face of these admissions, the respondents' belated attempt in the supplementary affidavit to recast the payment as a simple deposit for general fees is unconvincing and, as I have found, inadmissible. Even if it were considered, a version that emerges only after an adversary points out the flaws in the original version is inherently suspect.
- [21] On the papers properly before me, the applicant has established a clear right, which is strengthened considerably by the respondents' own initial concessions, to the return of the funds.

Injury committed or reasonably apprehended

- [22] The injury is self-evident: the applicant is out of pocket to the tune of over R1.1 million. Furthermore, there is a reasonable apprehension that if the interdict is not made final, the remaining funds will be dissipated, leaving the applicant with a hollow judgment. The respondents' shifting and evasive conduct, including the story of the unavailable third party holding the funds, only serves to heighten this apprehension.
- [23] The respondents argued that the freezing of their accounts is causing them operational harm. While this may be the case, the harm must be weighed against the applicant's

right to secure the funds it claims. In this case, the respondents' hardship is a direct consequence of their own failure to account for or return the funds, despite their initial admissions. The balance on this point favors the applicant.

Absence of an alternative remedy

[24] The applicant has undertaken to institute a main action for the recovery of the money. A claim for damages is, in theory, an alternative remedy. However, a damages claim is an inadequate remedy if there is a real risk that by the time judgment is obtained, there will be no assets against which to execute. Given the circumstances and the respondent's conduct, the apprehension of dissipation is reasonable. A preservation order, such as this, is the only practical remedy to ensure that the status quo is maintained and the main action is not rendered nugatory.

Conclusion

[25] The applicant has successfully met the requirements for a final interdict. The respondents' initial answering affidavit, read with the applicant's founding papers, justifies the relief sought. The respondents' version, insofar as it sought to explain away the admissions, is so fraught with contradiction and opportunism as to be deemed not genuinely disputing the core facts as presented by the applicant.

[26] Regarding costs, the applicant has argued for punitive costs. The respondents' conduct, particularly the stark reversal in their affidavits following the applicant's letter, appears to be a deliberate effort to deceive the court and frustrate the process. This justifies a mark of the court's displeasure. However, the applicant has not prayed for punitive costs in the notice of motion.

ORDER

[27] In the result, the following order is made:

1. The first and second respondents' application for leave to file a supplementary answering affidavit is dismissed.
2. The rule nisi granted on 25 April 2025 and amended on 8 May 2025 by Joubert AJ is confirmed and made final.

3. The first and second respondents are hereby restrained, pending the final outcome of an action to be instituted by the applicant against them for the recovery of R1,101,919.47 (main action), from dealing in any way (including selling, alienating, encumbering, or removing from the Republic of South Africa) with any of their present or future assets, including, but not limited to, any funds held in the First National Bank account number 6[...].

4. This order shall not prevent any bank, building society, or financial institution from honoring any obligations to third parties which were incurred prior to such institution receiving service of this order, including exercising any right of set-off which such bank, building society, or financial institution may have in respect of loan facilities made available to the first and second respondents prior to being served with this order.

5. The applicant is directed to institute the main action on or before 31 January 2026, failing which this order shall lapse.

6. The first and second respondents, jointly and severally, the one paying the other to be absolved, are ordered to pay the costs of this application.

**MMP Mdalana-Mayisela
Judge of the High Court
Gauteng Division,
Johannesburg**

Digitally delivered by uploading to Caselines and emailing to the parties.

Date of delivery:

13 November 2025

Appearances:

On behalf of the applicant:	Adv P Jagganath
Instructed by:	Juglal Ramkussan Incorporated
On behalf of respondents:	Adv L Makhoba
Instructed by:	Nhlamulo Mabunda Attorneys