REPUBLIC OF SOUTH AFRICA

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

Case Number: 2024-068432

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

21 NOVEMBER 2025 [redacted]

DATE SIGNATURE

In the matter between:

SILVERSTONE BODY CORPORATE First Applicant

and

GABISILE LUNGILE THANDAZILE NTLAMA First Respondent

JUDGMENT

FURMAN AJ

Introduction

[1] This matter comes before me as an Application for Summary Judgment wherein the Plaintiff seeks Judgment against the First and Second Defendants for the following: -

(a) Payment of the amount of R198 528.73 (One Hundred and Ninety-Eight Thousand Five Hundred and Twenty-Eight Rand and Seventy-Three Cents);
(b) Interest on the aforesaid sum at the prescribed interest rate per annum capitalized monthly in arrears, a *temporae morae* from date of demand to date of full and final payment;
(c) Costs of suit on the basis as between attorney and client which includes VAT (to be taxed) including tracing fees, collection commission, alternatively costs on the party and party scale; and
(d) Further and/or alternative relief.

[2] The Plaintiff is a Body Corporate pursuant to the registration of the Sectional Title Scheme, Scheme No. 32-1999 in terms of and is required by the provisions of the Sectional Titles Schemes Management Act, Act 8 of 2011 ("the Act"). The Plaintiff proceeded with Summons against the Defendants, which was served on 10 July 2024.

[3] The Defendants filed a Notice of Intention to Defend on 17 July 2024, followed by a Plea on 6 September 2024.

THE PLAINTIFF'S CASE

[4] The Plaintiff's claim arises from the provisions of Section 21 of the Act, wherein a person in a Sectional Scheme becomes a member of the Body Corporate in question *ex lege*. As such, the Plaintiff alleges that the Defendants are members of the Plaintiff arising from their ownership of the property.

[5] The Plaintiff contends that in terms of Section 3(2) of the Act, the Defendants are liable to make payment to the Plaintiff for all contributions levied by the Plaintiff on a monthly basis, together with all charges relating to utilities and consumption charges on a monthly basis.

[6] The Plaintiff alleges that the Defendants are indebted to the Plaintiff in the amount of R198 528.73 (One Hundred and Ninety-Eight Thousand Five Hundred and Twenty-Eight Rand and Seventy-Three Cents) plus interest and costs in respect of unpaid levies, community schemes, ombud service levies, special

levies, interest and related charges, which have been debited to the Defendants' account.

THE DEFENDANTS' CASE

[7] The Defendants filed a Plea in which they raised two Special Pleas. The first Special Plea relates to *lis alibi pendens*, alleging that there are two pending matters both in the Magistrates Court for the District of Roodepoort, under Case No.'s 11870/2014 and 12879/2016.

[8] The second Special Plea raised by the Defendants is *exceptaio rai judicatae vel litis finitae* wherein they allege that the relief sought by the plaintiff have been litigated to finality between the parties in the Magistrates Court for the District of Roodepoort and that the issues have been adjudicated previously.

[9] The Defendant pleads over and in its Plea, *inter alia* places into dispute its liability to the Plaintiff, including alleged arrear interest and alleged legal costs in respect of the former legal claims against the Defendants.

DISCUSSION

[10] At paragraph 11 of the Plaintiff's Particulars of Claim the following is stated: -

> *"11. In terms of Prescribed Managed Rule 21(3)(c) of the STSMA, the Plaintiff is entitled to charge interest on any overdue amount payable by the Defendant to the Plaintiff, provided that the interest rate may not exceed the maximum rate of interest per annum prescribed by the National Credit Act, Act 34 of 2005 (hereinafter referred to as the "NCA") which interest rate is currently 24% (twenty-four percentum) per year.*
>
> *11.1 In terms of the provisions of the STSMA, the Plaintiff has duly resolved that interest may be charged on arrear amounts at the rate of 24% (twenty-four percentum) per annum, compounded monthly in arrears from until the date of full and final payment.*
>
> *11.1.1 In furtherance of the above, the Plaintiff refers to Annexure "B" a copy of the duly passed Resolution."*

[11] When one has regard to Annexure "B" as referred to in paragraph 11 of the Particulars of Claim, the following is stated in the Trustees' Resolution: -

> ***THEREFORE IT IS RESOLVED THAT*** *the Trustees shall be entitled to charge interest in terms of the provisions of the Sectional Titles Scheme Management Act 8 of 2011, PMR21(1)(c) as provided for under the National Credit Act 2005 Act No. 34 of 2005.*

The Trustees have agreed to charge interest on all arrear levies, whereby the home-owners have failed, refused, neglected or not on a payment arrangement, at a rate of 12% (twelve prementum) per annum, compounded monthly in arrears managing agent to consult Trustees first before loading interest, home-owners' levy statements.

[12] It is clear from the above, that the Plaintiff's Particulars of Claim, do not accord with the provisions of Annexure "B" in relation to the rate of interest to be levied against the Defendants' account.

[13] The Plaintiff further in its Particulars of Claim, relies on Annexure "C" to quantify the Defendants' indebtedness to it. Having regard to Annexure "C" to the Plaintiff's Particulars of Claim, it is impossible to extrapolate the basis upon which interest has been levied as and against the Defendants' account.

[14] This issue was raised by this Court in the course of the argument of this Application. The Plaintiff's counsel, submitted that the percentage pleaded in the Particulars of Claim was a typographical error but was unable to shed any further light on the computation of the interest levied against the Defendants' account, from the document Annexure "C" to the particulars claim, which the Plaintiff utilizes to quantify the amount of its claim.

[15] On the papers before this Court in Summary Judgment proceedings, there is no evidence before this Court, which clearly sets out the basis upon which interest was charged to the Defendants, and as such, the Plaintiff is unable to quantify to this Court, the Defendants' indebtedness to it.

[16] The Defendants' denial of the correctness of the quantum, places this issue into dispute, and the dispute cannot be properly adjudicated by this Court.

CONCLUSION

[17] As such, the Plaintiff's Application for Summary Judgment falls to be dismissed.

Order

1. The Application for Summary Judgment is dismissed.
2. Costs of the Summary Judgment Application are costs in the cause.

[redacted]

FURMAN AJ

ACTING JUDGE OF THE HIGH COURT

JOHANNESBURG

For the Applicant: Mirtle T instructed by Heerschop Pienaar Attorneys

For the Respondent: GLT Ntama