



**IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN**

Not reportable

Case no: 4434/2023

In the matter between

DIPITSENG MAROPENG MANAMELA

FIRST APPLICANT

LEMAKATSO MOOROSI

SECOND APPLICANT

MMATHEBE ANNAH FAITH MOJA

THIRD APPLICANT

THEDA NTIKILE SANDLANA

FOURTH APPLICANT

PUSELETSO MATETE

FIFTH APPLICANT

LUVUYO XOLA NTOYI

SIXTH APPLICANT

**LOUIS EVELYN VAN RHEEDE VAN OUDTSHOORN
APPLICANT**

SEVENTH

and

TRANSUNION CREDIT BEREAU

FIRST RESPONDENT

**KEOLEBOGILE CONSORTIUM (PTY)LTD
RESPONDENT**

SECOND

HENDRICK NKOMO

THIRD RESPONDENT

**NATIONAL CREDIT REGULATOR
RESPONDENT**

FOURTH

Neutral citation: *Manamela & Others v Transunion Credit Bereau* (4434/2023)
[2025] ZAFSHC 355 (13 November 2025)

Coram: MHLAMBI J

Heard: Matter disposed of without oral hearing in terms of s 19(a) of the Superior Court Act 10 of 2013 on 12 November 2025.

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email and released to SAFLII. The date and time for hand-down is deemed to be 12h00 on 13 November.

Summary: Application for leave to appeal – s 17(1)(a) of the Superior Courts Act 10 of 2013 – adverse credit listing – National Credit Act 34 of 2005 – verification of consumer credit information – reasonable prospects of success or other compelling reason.

ORDER

The application for leave to appeal is dismissed with costs, which shall include counsel's fees on scale C.

JUDGMENT

MHLAMBI J

[1] This is an opposed application for leave to appeal to the full bench of this Division or the Supreme Court of Appeal against paragraphs 1 and 2 of the order I granted on 12 September 2024. The order I granted reads as follows:

- '1. Prayers 1 and 4 of the notice of motion are granted.
2. The first and second respondents are to pay the applicants' application costs jointly and severally, with counsel's fees on scale C, the one paying the other to be absolved.
3. The applicants must pay the wasted costs occasioned by the postponement of the application on 7 March 2024 on a scale between party and party, jointly and severally, the one paying the other to be absolved.'

[2] The prayers in 1 and 4, which were made court orders, read as follows:

- '1. The submission of the consumer credit information by the second respondent, represented by the third respondent, to the first respondent that resulted in the second respondent's recording an adverse credit listing styled "bad debt written off" in its records on its credit database, which regards the first to seventh applicants, is declared invalid, unlawful, or unconstitutional.

...

4. The first and second respondents shall pay the costs of the application, jointly and severally with the third respondent if the latter opposes the application, on the scale as between attorney and client, alternatively on such scale as the court deems just.'

[3] Parties were advised that the application for leave to appeal would be disposed of in terms of s 19(a) of the Superior Courts Act 10 of 2013 (Superior Courts Act). The parties submitted substantive heads of argument, for which I am grateful.

[4] The rulings of law, findings of fact, and grounds on which the appeal is based are as follows:

1.1 by disregarding the fact that the Respondents blatantly ignored its obligations set upon them by section 72(1)(C)(ii) in the National Credit Act 34 of 2005 ("NCA") by not following the due processes to challenge the information through the proper channels available to them and/or ignoring the domestic remedies available to the Respondents/Applicants which should have been exhausted prior to approaching a Court as is highlighted in *Trans Union Africa vs Ngecenge* (CA/2021) [2021] ZAECMHC 40;

1.2 by disregarding interpreting the provisions of section 70 of the NCA in isolation from the provisions of section 72 and thereby obligating credit bureaus to fully investigate each and every listing request received. This interpretation has a grave impact on the credit industry at large and will significantly overburden credit bureaus;

1.3 by declaring the listing of the default unconstitutional, the Court invertedly created a precedent whereby the creditors cannot submit any default listings to the credit bureaus and the credit bureaus cannot fulfil their obligations under section 70 of the National Credit Act 34 of 2005;

1.4 the Honourable Court decided to ignore the fact that the cause of action had been extinguished at the time the application was issued, the cause of action, being the listing of the credit information, had already been extinguish thus the application was academic in nature;

1.5 line Honourable Judge failed to rule in respect of the point in limine raised by the Appellant and in doing so, ruled upon an application which was fatally flawed and non-compliant with the Uniform Court Rules. In this respect the Respondents/Applicants failed to comply with the requirements of class proceedings despite the institution of and the application, which exhibits all the elements of class proceedings in that the First Respondent deposed to the Founding Affidavit on behalf of the second to seventh Respondents/Applicants all of whom brought the application in their personal capacities. The learned Judge ought to have dismissed the application on the basis of non-compliance prior to the consideration of the merits.

2 The Appellant is of the view that there are reasonable prospects of success in the Appeal and that another court will come to a different conclusion than the court a quo;

3 The Appellant reserves the right to supplement the above reasons for leave to appeal should same become necessary at a later stage.'

[5] The applicant seeks leave to amend and supplement the application for leave as follows:

'1. By substituting the word 'Appellant' whether it appears in the application for the word 'Applicant';

2. By inserting after the sentence in paragraph 2, the following content:

"The Applicant contends furthermore that there exist compelling reasons why the appeal should be heard. It is so because there is (1) no other judgement/s which deals expressly with the issues in this application or the Order; (2) the conflicting **Ngcenge** judgement; (3) the novelty reach of the Order granted; and (4) the constitutional gloss put on paragraph 1 of the Order and referred to by the court in the judgement at [19]".'

[6] The respondents correctly pointed out that the applicant failed to recognise that it must accept information only after verification, and that if it claims to act under the provisions of the National Credit Act 34 of 2005, it may receive only information related to the matters specified by the Act. The court was not obligated to follow the *Transunion Africa (Pty) Ltd v Ngcenge*¹ judgment, as it failed to appreciate that adverse credit information is retained until the credit bureau completes its investigation. That did not constitute an effective remedy for the applicants because the threshold requirement for listing was not met. The applicants' constitutional rights were impaired.

[7] Section 17(1)(a)(i) and (ii) of the Superior Courts Act, provides that leave to appeal may only be given where the judge or judges concerned think that the appeal would have a reasonable prospect of success or there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration.

[8] The main argument of the applicant is that s 70(2)(c) should be read together with ss 70(2)(a), 70(2)(c), and 72. The extra and supporting reasons in the amended application for leave to appeal do not strengthen the applicant's case. I believe I have addressed all the issues raised in the leave to appeal application in

¹ *Transunion Africa (Pty) Ltd v Ngcenge* [2021] ZAECHMC 40.

the judgment. I am not convinced there are reasonable chances of success or that another court would come to a different conclusion in this case.

[9] I, therefore, make the following order:

The application for leave to appeal is dismissed with costs, which shall include counsel's fees on scale C.

J J MHLAMBI
JUDGE OF THE HIGH COURT

Heads prepared by

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