



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

Not reportable

Case number: 3748/2020

In the matter between:

BIBI BEDIR

PLAINTIFF

and

WESTDENE FRUITERERS

DEFENDANT

Neutral Citation: *Bedir v Westdene Fruiterers* (3748/2020) [2026] ZAFSHC 21 (22
January 2026)

Coram: Loubser J

Heard: 17 October 2025

Delivered: 22 January 2026

Summary: Customer claiming damages for injuries she sustained when she slipped and fell while exiting a shop via a descending ramp at its main entrance – merits of the claim adjudicated first.

ORDER

1 The defendant is ordered to pay 70% of the plaintiff's proven or agreed damages arising from the injuries she sustained by slipping and falling at the defendant's premises on 14 April 2019.

2 The defendant is ordered to pay 70% the plaintiff's costs of the trial on the merits component on the party and party scale, including the qualifying and reservation costs of her expert witnesses, namely Mr. Akram Gool and Mrs. Marike Botha, and including the fees of counsel on scale B.

JUDGMENT

Loubser J

[1] On 14 April 2019 the plaintiff went shopping at the store of the defendant. Having done her shopping, she exited the shop via a descending slope at the main entrance, where she slipped and fell. She sustained injuries during the fall and instituted this action to claim damages for those injuries. The parties agreed to separate the issue of liability from the quantum and such an order was granted in terms of the provisions of rule 33(4) of the Uniform Rules of Court. In the result, the trial proceeded only in respect of the issue of liability. The parties further agreed that this issue should be adjudicated with reference to paras 1 to 5 of the particulars of claim.

[2] In para 5 of the particulars of claim it is alleged that the incident was caused by the wrongful and negligent conduct of the defendant and/or its employees in that they were negligent in one or more of the following respects:

5.1 They knew or ought to have known that the surface area of the entrance to the premises, particularly the ramp or incline leading to the doorway, was slippery when it became wet and posed a danger to the members of the public.

5.2 They failed to ensure that the surface area of the entrance to the premises, particularly

the ramp or incline leading to the doorway, did not become slippery when it became wet.

5.3 They allowed the surface area of the entrance to the premises, particularly the ramp or incline leading to the doorway, to remain wet and slippery despite being aware that it posed a danger to members of the public, in particular the plaintiff when entering and exiting the premises.

5.4 They failed to take adequate steps to prevent the surface area of the entrance to the premises, particularly the ramp or incline leading to the doorway, to become wet and slippery when they could and should have done so.

5.5 They failed to install anti-slip strips or provide a railing to mitigate the risk of slipping.

5.6 They failed to warn members of the public, in particular the plaintiff that the entrance to the premises, particularly the ramp or incline leading to the doorway was slippery when it was wet.

5.7 They failed to take adequate steps to prevent the plaintiff from slipping and falling when they could and should have done so.

5.8 They failed to ensure that the ramp at the entrance of their premises adhere to the required standards in terms of SANS.

5.9 They failed to ensure that a handrail is installed on the ramp at the entrance of their premises.'

[3] In response hereto the defendant filed a plea denying each and every one of these allegations. Alternatively, the defendant pleaded that if the court finds that the defendant was negligent in any manner as alleged, then such negligence was not causally related to the incident. In the further alternative it was pleaded that if the Court finds to the contrary, then the incident was also caused by the contributory negligence of the plaintiff in that she had been negligent in one or more of the following respects:

3.1 She failed to keep a proper lookout.

3.2 She failed to exercise reasonable care.

3.3 She knew or ought to have known or foreseen that, in the event that it was raining, then the ground may be slippery and require her to take extra care while walking.

3.4 She failed to avoid the incident when by the exercise of reasonable care, she could and should have done so.

[4] At the inception of the proceedings, the Court embarked on an inspection *in loco*

at the suggestion of the parties before any evidence was presented. The Court noted the following observations at the inspection: From the pavement in front of the doorway to the shop, there is a ramp or incline of some two metres leading up to the doorway. The surface of the incline consists of the same paving blocks as those on the pavement. The top portion of the ramp is covered by a carpet in its width. The carpet covers approximately three quarters of a metre of the top portion of the ramp. There are no handrails on the sides of or on the ramp. There is a solid roof covering about three quarters of the ramp with the bottom part being open. The sides of the ramp is also open so that rain coming from the sides would make the surface of the ramp, including the carpet area, wet. It was pointed out by the plaintiff that she slipped coming out of the shop when she stepped off the carpet. She was still under the roof when she slipped. She further pointed out that she fell on the pavement itself, some three metres from the point where she slipped on the ramp. Lastly, the Court noted that the gradient of the ramp appeared to be moderately steep.

[5] During the course of the trial that followed, the plaintiff presented the testimony of four witnesses, including that of herself. The defendant called only one witness to testify.

[6] Mrs. Bedir, the plaintiff, was the first witness to testify. She is married and is 53 years old. She testified that on 14 April 2019 her husband took her to the defendant's store to buy some ingredients. It was about 19h00 and it was raining heavily. She went into the store while her husband was waiting in the car. Having made her purchases, she paid and proceeded out of the doorway onto the ramp. She was carrying only one small shopping bag. It was still raining heavily. Her one foot slipped forward, and she tried to balance, but both feet then slipped down the slope, and she landed on her back on the pavement below. The water on the ramp caused her to slip, she testified.

[7] The plaintiff further told the court that she was wearing what she called 'froggy slip-on sandals' with crossed bands over the foot. It had rubber soles. When she landed on the pavement, two customers at the coffee machine situated at the entrance came to help her. She sustained injuries. Her right leg was cracked under the knee, and this was only established when the pain became severe at around 04h00 in the morning. She testified that there was no mat or carpet on the ramp on that day. Above the ramp there was only a canvas canopy, which was not as broad as the roof is nowadays. The canopy covered about half a metre of the ramp, and it did not cover the point where she slipped.

[8] In cross-examination the plaintiff conceded that she saw the heavy rain when she exited the store, and that she did not need a warning sign relating to wet surfaces. She testified that the shop was not really busy that day, and she did not have to wait long at the till. It was put to her that the owner of the business had done business there for 40 years, and she was the only person who had fallen there during this period.

[9] The plaintiff further testified in cross-examination that the rain had aggravated the slippery surface of the ramp on the day. She denied that the present roof was there since 2010. She saw the canvas canopy when she walked out of the shop to see how careful she should be. It was then pointed out to her that the further particulars provided by her attorneys stated that the rain and the wet surface may or may not have been the cause of the slippery conditions. She merely responded by saying that it cannot be. She also did not slip on the mat, as Dr. Du Plessis had intimated after an interview with her. The mat was inside the shop at the door, and she slipped as she stepped from the mat. Her right foot first slipped as she stepped past the mat. Both feet then slipped when she tried to balance. She went forward when she slipped, and landed on her elbows and knees, whereafter she rolled over on her back.

[10] The next witness for the plaintiff was Mr. Akram Gool, a qualified civil engineer with some seven years experience. He testified that he inspected the ramp in question on 22 August 2024, and he used instruments to establish that the ramp was steeper than the gradient allowed by the South African National Standard (SANS). In terms of SANS 400 D the slope of a ramp for pedestrian use must have a minimum of a 1 to 8 gradient. This means that for every eight metres distance, there must be one metre in vertical rise. The slope at the defendant measured 1 to 6. In cross-examination he denied that the measurement of slopes are necessarily done by a surveyor.

[11] Mr. Nico de Bruyn next testified. He has a B. Tech degree in Safety and Health at Unisa. He also inspected the ramp at the defendant on 22 August 2024. He tested the slipperiness of the ramp with water. He walked over the ramp when it was made wet and found that it was more slippery than it should be. When the surface was dry, it was already slippery, but when wet, even more slippery, he testified. He further expressed the view that the surface of the ramp definitely created a risk. The incident in question could have

been prevented if the surface of the ramp had been frequently cleaned, if warning signs were installed, if slip resistant slips were placed on the ramp, if handrails were installed on both sides of the ramp and if the ramp was at a slope of 1 to 12, he opined.

[12] In cross-examination Mr. De Bruyn informed the court that he used a five-litre bucket to pour water on the ramp, and he then walked over it. He did not slip and fall. When it was put to him that the slipperiness of the surface could only be tested in a laboratory, he said that he did not know.

[13] The last witness called by the plaintiff was Mrs. Marike Botha, a qualified architect who has been in practice for more than 31 years. She confirmed that the gradient of the slope was 1 to 6, while the SANS 400 D requirement is 1 to 8. She further expressed the opinion that handrails were needed at the ramp. There should be handrails at every public entrance of that kind, she testified. In cross-examination, she also confirmed that she did not test the surface of the ramp for slipperiness when wet. She explained that the pendulum test is used to test slip resistance, and this is done in a laboratory. A tribometer represents the manual version of the pendulum test, and it is also used in a laboratory.

[14] Hereafter the plaintiff's case was closed, and the defendant proceeded to call its only witness, Mr. Carlos Achadinha. He is the only director of the defendant, which is a close corporation, he said. He handed in 'Exhibit "B"', which shows the defendant to be a private company, however, Mr. Achadinha further testified that the canopy or roof over the ramp had been there since 2010. This canopy was never made of canvas or material. He has done business there at the same premises for the past 42 years. The ramp itself was there since 2000, and for the past 25 years, nobody had fallen on the ramp. From Mondays to Fridays just under 2000 customers would visit his shop.

[15] In cross-examination, Mr. Achadinha testified that the roof over the ramp served as protection against the rain and the sun. The roof had to keep the ramp dry. He conceded that the defendant did not see any risk of a slippery ramp. The carpet had the purpose of drying the feet of the customers when they enter the shop while it was raining. He denied that the carpet was brought forward to provide traction when it was raining. He further testified that the falling of the plaintiff was not reported to him by his employees. He denied that the surface of the ramp is smoother at the point where most customers

enter than on the remainder of the surface, or that the surface is darker there because of the residue left by shoe-soles. According to this witness, the paving on the ramp is the same everywhere.

[16] In further cross-examination, Mr. Achadinha conceded that the defendant is the shopkeeper at the premises in question, and that the defendant therefore had to ensure the safety of customers. He also added that he was not there on the evening of the incident, and that he knew nothing of the incident. In re-examination, however, he emphasized that the defendant is only liable for the safety of customers once they are inside the shop. With this, the testimony of Mr. Achadinha came to an end, and the defendant's case was closed.

[17] Now, in this case the plaintiff's cause of action lies in the allegation that the incident of her slipping and falling was caused by the wrongful and negligent conduct of the defendant. In order to succeed on this issue of liability, it is trite that the plaintiff had to prove wrongfulness on the part of the defendant, which could manifest itself in the breach of a duty of care. The plaintiff also had to prove negligence on the part of the defendant as well as the element of causation as far as wrongfulness is concerned. In respect of negligence, the plaintiff had to prove on a balance of probabilities that a reasonable person in the position of the defendant would have foreseen that its omission would injure another person and cause that person patrimonial loss, and that it consequently would have taken reasonable steps to guard against such occurrence. Further, the plaintiff had to prove that the defendant failed to take such steps.¹

[18] The plaintiff herself was a single witness concerning the circumstances and conditions on the evening in question, and the manner in which the incident occurred. A single witness in civil cases, more particularly where he or she is one of the parties, must be credible to the extent that his or her uncorroborated evidence must satisfy the court that, on the probabilities, it is the truth.²

[19] In the present case, the court has no reason to doubt the general scope of the evidence presented by the plaintiff. She appeared to be an honest and reliable witness.

¹ *Kruger v Coetzee* 1966 (2) SA 428 (A).

² *Daniels v General Accident Insurance Co. Ltd* 1992 (1) SA 757 (C) at 759-760.

The court is therefore justified in finding that she slipped on the wet and sloping ramp after exiting the doorway of the shop, landing on the pavement below. Her additional evidence that it was raining heavily, that there were no warning signs, that there were no handrails, that she was only carrying one small shopping bag and that the surface of the ramp was wet at the time, is also accepted.

[20] Furthermore, two expert witnesses testified that the gradient of the ramp exceeded the gradient allowed by the South African National Standard 400 D. The slope of the ramp was therefore steeper than is allowed. This is *prima facie* evidence of the negligence of the defendant. He ought to have ensured that the gradient was not too steep. Two of the experts also expressed the view that handrails were needed at a ramp of that nature. The defendant should have realized this as a reasonable man would have done. The expert evidence of how the slipperiness of the ramp's surface was tested, was unconvincing since it later transpired that such tests could only be performed in a laboratory. Nevertheless, pure logic dictates that any surface would be more slippery when pouring rain would make it wet. The defendant should have taken steps to ensure that the ramp did not become wet and slippery when it rains. The plaintiff indeed testified that the rain had aggravated the slippery surface of the ramp on that day. What the canopy over the ramp actually looked like on the day, is rather irrelevant in view of the Court's finding that the surface of the ramp was indeed wet.

[21] In the premises, I come to the conclusion that the plaintiff has proven on a balance of probabilities that the defendant acted wrongfully by breaching its duty of care towards its customers, and more particularly the plaintiff. This it did by negligently failing to take reasonable steps to ensure the safety of the customers on the wet ramp where the ramp was too steep in terms of the required specifications. The absence of reasonable steps was the direct cause of the incident and the injuries sustained by the plaintiff.

[22] The evidence of Mr. Achadinha in cross-examination that the defendant is only liable for the safety of customers when they are inside the shop, is not supported by any other evidence or documentary evidence and may be discarded on the basis of his evidence in cross-examination that the defendant was the shopkeeper and that it was the defendant who had to ensure the safety of its customers.

[23] On the other hand, the facts show that the plaintiff was contributory negligent in causing the incident. Although she testified that she stepped and walked cautiously on the ramp, it is clear that she was not cautious enough. She knew that the surface was wet, she knew that there were no handrails, she knew that the ramp had a downward slope that was moderately steep, and she knew that she was wearing casual sandals that were, on a balance of probabilities, not as stable as normal shoes would have been. The fact that she went on to slip and fall, is proof that she failed to conduct herself as a reasonable customer would have done. After all, there is no evidence that any other customer had slipped and fallen on the wet ramp that day.

[24] In my view, the plaintiff must carry 30% of the blame for the incident, and the defendant 70% of the blame.

[25] As for the costs, there is no reason why the defendant should not pay the costs on the merits component of this action. This is to include the reasonable qualifying and reservation costs of the plaintiff's expert witnesses, except for Mr. Nico de Bruyn, who did not impress as an expert witness. The method he applied to test the slipperiness of the ramp by pouring a bucket of water over it, has no scientific basis. That kind of test can only be performed in a laboratory.

[26] The following order is made:

1 The defendant is ordered to pay 70% of the plaintiff's proven or agreed damages arising from the injuries she sustained by slipping and falling at the defendant's premises on 14 April 2019.

2 The defendant is ordered to pay 70% of the plaintiff's costs of the trial on the merits component on the party and party scale, including the qualifying and reservation costs of her expert witnesses, namely Mr. Akram Gool and Mrs. Marike Botha, and including the fees of counsel on scale B.



PJ LOUBSER
JUDGE OF THE HIGH COURT

Appearances

For the plaintiff:

Instructed by:

W A van Aswegen

Phatshoane Henney Inc.

Bloemfontein

For the first defendant:

Instructed by:

S J Reinders

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c/o Webbers Attorneys

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