



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

Case Number: 5287/19

(1)	REPORTABLE: No
(2)	OF INTEREST TO OTHER JUDGES: No
(3)	REVISED.
<u>20/01/2025</u>	<u>[REDACTED]</u>
DATE	SIGNATURE

In the matter between:

H J WOLMARANS

Plaintiff

and

VERBIZEST (PTY) LTD

Defendant

JUDGMENT

MBONGWE, J:

INTRODUCTION

- [1] This is an application for leave to appeal against the whole judgment and orders of this court that were handed down on 31 October 2025.

- [2] This court has heard arguments by both parties and considered the same and has concluded that the Applicant, despite its lengthy arguments, has failed to refute, most poignantly, the crucial finding in the judgment sought to be appealed against, that the Applicant had failed despite numerous requests and Rule 35 notices, to prove that it had paid over the money it had received allegedly on behalf of its alleged principal. The Applicant has thereby failed to demonstrate and refute the inescapable conclusion that it is liable to repay the total amount it received from the Respondent without legal cause (*condictio in debiti*).
- [3] The granting of leave to appeal is regulated by the provisions of section 17 of the Superior Courts Act 10 of 2013, in terms of which leave to appeal may be granted only where the court whose judgment is sought to be appealed against is of the view that the appeal has prospects of success or that there are compelling reasons for the appeal to be heard.
- [4] The Applicant has failed in particular to produce proof that it had not retained the amount claimed and that it had transmitted the same to its alleged principal. By retaining the claimed amount, the payment by the respondent will be without just cause and the Applicant unduly enriched thereby. The appeal is without merit in these circumstances and stands to be dismissed.

ORDER

- [5] Consequent to the finding above, the following order is made:

1. The application for leave is dismissed with costs, including the costs of counsel on scale C.


MPN MBONGWE
JUDGE OF THE HIGH COURT
GAUTENG DIVISION PRETORIA

APPEARANCES

For the Plaintiff: Advocate H P Wessels
Instructed by: Van Der Merwe & Associates

For the Defendant: Advocate J H F Le Roux
Instructed by: DBM Attorneys

Date of hearing: 31 October 2025
Date of judgement: 20 January 2026

THIS JUDGEMENT WAS ELECTRONICALLY TRANSMITTED TO THE PARTIES' LEGAL REPRESENTATIVES AND UPLOADED ONTO CASELINE ON 20 JANUARY 2026.