



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

CASE NO: 2024-041182

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

6 February 2026
DATE

.....
SIGNATURE

In the matter between:

**GRAND BRIDGE TRADING 74 (PTY) LTD T/A RED
APPLE FURNITURE**

Plaintiff (Respondent)

and

SIZWE AFRICA IT GROUP (PTY) LTD

Defendant (Excipient)

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties / their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date of the judgment is deemed to be 6 February 2026

JUDGMENT ON EXCEPTION

T. OSSIN AJ:

INTRODUCTION

[1] The plaintiff is Grand Bridge Trading 74 (Pty) Ltd t/a/ Red Apple Furniture (hereafter: Grand Bridge). The defendant is Sizwe Africa IT Group (Pty) Ltd (hereafter: Sizwe). I am seized with Sizwe's exception to Grand Bridge's amended particulars of claim (hereafter: PoC).

- [2] Sizwe excepts to Grand Bridge's PoC on the basis that they are "*vague and embarrassing and lack averments which are necessary to sustain a cause of action and/or fail to comply with Rule 18 of the Uniform Rules of Court*". Sizwe raises five complaints (grounds) upon which it alleges the PoC is so excipiable.

THE PARTICULARS OF CLAIM

- [3] The assessment of Sizwe's five complaints is better understood from the standpoint of a summary of Grand Bridge's PoC.
- [4] Grand Bridge is a furniture dealer, focussing on virtual store environments and online sales.¹ Its range includes high-end panel furniture, bedding, sofas, and custom furniture. It also offers corporate-business office furniture solutions.²
- [5] In 2014, Grand Bridge decided to enhance its online sales and presence, and improve overall consumer experience from point of purchase to delivery of product, through the deployment of a new E-Commerce Platform (hereafter: the platform).³ Successful deployment of the platform required a "*collaboration, communications and network solution, that was robust, scalable and which would grow as [Grand Bridge's] business grew*".⁴ This collaborative solution would be required to meet certain core requirements.⁵ In order to meet the core requirements, Grand Bridge determined to "*utilize a Cisco Network Infrastructure, and Cisco Collaboration Solutions, comprising the software and hardware and user licences required to meet the core requirements*."⁶
- [6] Sizwe, a digital services provider, held itself out as being a "*Cisco Gold Certified Solutions Partner, specialising in the provision of Cisco products...*" Sizwe also held itself out as being able to meet Grand Bridge's core requirements.⁷

¹ PoC: annexure PoC2 (Sizwe's Red Apple Collaboration Proposal) / paragraph 1.1

² PoC: paragraph 4

³ PoC: paragraphs 5 and 6

⁴ PoC: paragraph 7

⁵ PoC: paragraph 8

⁶ PoC: paragraph 9

⁷ PoC: paragraph 10

- [7] Sizwe presented Grand Bridge with a partly oral, partly written proposal in terms of which Sizwe would *"provide, supply, install, configure, deploy and maintain the hardware and software required by [Grand Bridge], to meet the core requirements."*⁸ The written portion of the proposal, constituted by Sizwe's *"Red Apple Collaboration Proposal"*, forms part of the PoC through its attachment as PoC2.⁹
- [8] In terms of its proposal, Sizwe proposed that the solution would be based on the *"Cisco Collaboration Infrastructure and Cisco Wireless network solution"*¹⁰ which would comprise of the deployment of some fifteen pleaded applications.¹¹
- [9] Sizwe's proposal also pointed out that because of the *"technical nature and extensive requirements of the proposal, the platform could not be supplied by [Sizwe] as a once-off process and had to be divided into three different phases, commencing with Phase 1."*¹² Sizwe proposed that in *"Phase 1, the necessary Cisco wireless network infrastructure and Cisco Collaboration solution and user licenses would be supplied, installed and/or configured, in order to fully deploy the platform."*¹³ whilst in *"Phases 2 and 3, further scale and capacity would be added to the platform network capacity to satisfy [Grand Bridge's] new online business model."*¹⁴
- [10] Consequently, during July 2017, Grand Bridge and Sizwe concluded a partly oral, partly written agreement relating to the completion of Phase 1 of the platform (hereafter: the Phase 1 Agreement).¹⁵ The written portion of the Phase 1 Agreement was constituted by the Sizwe's Collaboration Scope of Work Phase 1 (attached to the PoC as POC3.1), Sizwe's 28 July 2017 quotation (attached to the PoC as POC3.2), and Sizwe's Red Apple Collaboration Project Timeline (attached to the PoC as POC3.3).¹⁶

⁸ PoC: paragraph 12

⁹ PoC: paragraph 13

¹⁰ PoC: paragraph 13.3

¹¹ PoC: paragraphs 13.3.1 to 13.3.15

¹² PoC: paragraph 13.5

¹³ PoC: paragraph 13.6

¹⁴ PoC: paragraph 13.7

¹⁵ PoC: paragraph 15

¹⁶ PoC: paragraph 15

[11] The material express, alternatively, implied, further alternatively, tacit terms of the Phase 1 Agreement included the following:¹⁷

[11.1] Based on the Cisco Business Edition 6000 application (hereafter: the network infrastructure), Sizwe would provide Grand Bridge with seventy nine pleaded services;¹⁸

[11.2] Sizwe identified and proposed the Cisco Collaboration Solution and Cisco Indoor and Outdoor Wireless Solutions as *"the hardware, software, and user licences required to meet the core requirements and for the complete deployment of the Phase 1 agreement"*;¹⁹

[11.3] The network infrastructure would *"permit the complete deployment by [Sizwe] of Phase 1"*, and *"meet the core requirements"*;²⁰

[11.4] Sizwe would *"supply, install, configure, and deploy (as the case may be) the collaboration solution and wireless network infrastructure in accordance with the time periods specified in the timeline"*.²¹

[12] A further pleaded term of the Phase 1 Agreement was that Sizwe would complete Phase 1 by 9 April 2018.²²

[13] An additional pleaded term of the Phase 1 Agreement was that Grand Bridge would be required to make an upfront payment to Sizwe of R2 470 011.39 (hereafter: the upfront payment), and that this payment was required to be made prior to Sizwe commencing with the provision of services in terms of the Phase 1 Agreement.²³

¹⁷ PoC: paragraph 16

¹⁸ PoC: paragraphs 16.1.1 to 16.1.79

¹⁹ PoC: paragraph 16.2

²⁰ PoC: paragraph 16.3

²¹ PoC: paragraph 16.5

²² PoC: paragraph 16.6

²³ PoC: paragraph 16.7

- [14] On 28 July 2017, and in compliance with its obligation under the Phase 1 Agreement, Grand Bridge paid Sizwe the upfront payment.²⁴
- [15] Sizwe, however, breached the Phase 1 Agreement by failing to complete Phase 1 by 9 April 2018.²⁵
- [16] After 9 April 2018, and from 10 April 2018 to 30 April 2021, Grand Bridge provided Sizwe with various extensions of time to remedy its breach (and to complete Phase 1).²⁶
- [17] On 30 November 2022, in terms of a written notice of the same date, Grand Bridge, through its attorneys, gave Sizwe "*a final opportunity to remedy its breach within a period of fourteen days*". The written notice and proof of its transmission are POC4 and POC5 to the PoC.²⁷
- [18] The written notice (POC4 to the PoC) *inter alia* records the following:
13. Consequently, our instructions are to afford Sizwe a final opportunity to rectify its breach and comply with its obligations in terms of the agreement within fourteen days from date hereof.
 14. Your failure to adhere to this demand will cause our client to consider its position and elect its available remedies, inclusive but not limited to litigation claiming specific performance or cancellation coupled with a claim for damages.
- [19] Sizwe failed to remedy its breach. Grand Bridge then cancelled the Phase 1 Agreement by way of its 22 December 2022 notice of cancellation. The cancellation notice and proof of its transmission are POC6 and POC7 to the PoC.²⁸
- [20] Grand Bridge alleges that as a "*direct result of Sizwe's breach*", and Grand Bridge's "*consequent cancellation of the Phase 1 Agreement*", it has sustained damages as follows:

²⁴ PoC: paragraph 17

²⁵ PoC: paragraph 18

²⁶ PoC: paragraph 19

²⁷ PoC: paragraphs 23 and 24

²⁸ PoC: paragraphs 23 and 24

[20.1] R2 470 011.39 which it paid to Sizwe (this is the upfront payment referred to above);

[20.2] R37 445 760.00 in the form of projected loss of profits "*over the period of March 2021 to 22 December 2022 (being the date of cancellation), brought about by [Sizwe's] failure to complete Phase 1 of the platform.*"²⁹

[21] I now turn to Sizwe's exception.

THE EXCEPTION

The exception's preamble

[22] The first paragraph of Sizwe's exception (hereafter: the preamble) is formulated as follows:

...the defendant hereby except (sic) to the [PoC]...on the basis that the [PoC] are vague and embarrassing and lack averments which are necessary to sustain a cause of action and/or fail to comply with Rule 18 of the Uniform Rules of Court..., with resultant prejudice to the defendant, on the following grounds:

[23] The "*following grounds*" are the five complaints to which I have alluded above.

[24] One of the difficulties I have faced with understanding the ambit of the exception is the following. The preamble asserts that the PoC is excipiable because (1) it is vague and embarrassing, (2) lacks averments necessary to sustain a cause of action and/or (3) does not comply with URC 18. Each of the five complaints do not, however, always identify upon which one of these three the particular complaint relies. Leaving aside for the moment the third contended basis for excipiability of the PoC (non-compliance with URC 18), an exception that a pleading is vague and embarrassing is very different from one which asserts a failure to plead a cause of action.

[25] Uniform Rule of Court 23(3) provides that "*Wherever an exception is taken to any pleading, the grounds upon which the exception is founded shall be clearly and concisely stated.*" An exception which does not expressly connect a particular ground

²⁹ PoC: paragraph 28.2. Prior to its amendment, paragraph 28.2 of the PoC read as follows: "*R37 445 760.00 being the plaintiff's projected loss of profits over the period of March 2021 to February 2023 brought about by [Sizwe's] failure to complete Phase 1 of the platform.*"

of exception or cause of complaint to the category of exception being asserted may fall foul of URC 23(3). This deficiency is unlikely to arise where only one category of exception is being asserted in a preamble. Where, however, both categories of exception are being asserted (as is the case with Sizwe's exception), if the particular grounds or causes of complaint are not expressly asserted as giving rise to a particular category of exception, the exception might, depending on how the cause of complaint itself is formulated, fall foul of URC 23(3). In such circumstances, the opposing party and the court will be left to speculate as to the intended basis for the exception (or at least the particular ground or cause of complaint). This is a consequence which URC 23(3), in my view, seeks to prevent.

- [26] An exception is a pleading. In terms of URC 23(1), there are only two kinds of exceptions: where the pleading is vague and embarrassing, or the pleading lacks averments which are necessary to sustain an action or defence. URC 23(3) requires that the grounds of exception must be clearly stated. The excipient may be held to the manner in which its exception is formulated.³⁰ An exception which is formulated along the lines I have described above, apart from not being clearly stated, may also give rise to an inference that the excepting party is hedging its bets. This is not permitted. An excepting party ought to be able, and required, to assert clearly the category of exception under which each of its complaints fall.

Impermissible reliance on URC 18 as a basis for excepting

- [27] One the basis for Sizwe's exception is that the PoC fails to comply with URC 18. I asked Sizwe's counsel³¹ to explain how Sizwe could justifiably look to URC 18 as a basis for an exception.
- [28] The answer given to me relied on URC 18(12). URC18(12) provides that "*If a party fails to comply with any of the provisions of this rule, such pleading shall be deemed to be an irregular step and the opposite party shall be entitled to act in accordance with rule 30.*" URC 30 is the rule which addresses irregular proceedings. It permits a complaining party to call on the other party to remove a notified procedural

³⁰ *Jowell v Bramwell-Jones and Others* 1998 (1) SA 836 (W) at 898F-899A

³¹ Sizwe's counsel appearing before me does not appear to have been the author of Sizwe's exception and its heads of argument

irregularity, failing which the complaining party will be entitled to have the irregularity set aside by way of an application to court.

[29] Counsel drew my attention to *Erasmus* commentary to URC 18(12) which states as follows: "*If a pleading both fails to comply with rule 18 and is vague and embarrassing, the defendant has a choice of remedies: he may either bring an application in terms of rule 30 or raise an exception in terms of rule 23(1).*"³² Counsel's understanding of this comment was that the choice of remedies permitted a complaining party to except to a pleading on the basis of non-compliance with URC 18.

[30] I queried this position because URC 23(1) is very specific in terms of what exceptions may be brought, whilst considerations applicable to setting aside a procedural irregularity are quite different to considerations which are brought to bear in adjudicating an exception. In my view, and as expressed to counsel, the choice of remedies referred to in the commentary means no more than this: A party faced with a pleading which is vague and embarrassing and which fails to comply with URC 18, may choose which of URC 23 or URC 30 it follows. If the party chooses URC 23, then the issue will be adjudicated in terms of the principles relating to exception; if the party chooses URC 30, then the issue will be adjudicated in terms of the principles relating to irregular proceedings. Of course, a party may choose to utilise both paths, but what is not permitted is for a party to create a hybrid process. I believe that this is what the *Erasmus* commentary immediately after the extract which counsel quoted to me is getting at: "*The complaints that the pleading fails to comply with rule 18 and is vague and embarrassing remain, however, separate and distinct complaints requiring different adjudication.*"³³ The following extract from the judgment in *Jowell* puts this issue to bed:

The framers of the Rules have provided different remedies in Rules 18 and 23. The presumption is that they are not coextensive, but designed to deal with different situations. Rule 18 is restrictive and sets out the bare minimum required of a factual averment, while Rule 23 goes to a vagueness and embarrassment which strikes at the whole of the cause of action pleaded. As Cloete J said in *Sasol Industries (Pty) Ltd t/a Sasol 1 v Electrical Repair Engineering (Pty) Ltd t/a L H Marthinusen* 1992 (4) SA 466 (W) at 469J--470, '... if a pleading both fails to comply with Rule 18 and is vague and embarrassing, the defendant has a choice of remedies' (ie to proceed

³² *Erasmus Superior Court Practice*, (Cape Town: Juta & Co (Pty) Ltd) by D E van Loggerenberg at RS 25, 2024, D1 Rule 18-21

³³ *Erasmus* (supra)

by way of Rule 23 or Rule 30). I agree with counsel that the crucial distinction between Rules 23 and 30 may be summarised as follows:

- (a) an exception that the pleading is vague and embarrassing may only be taken when the vagueness and embarrassment strikes at the root of the cause of action as pleaded; whereas
- (b) Rule 30 may be invoked to strike out the claim pleaded when individual averments do not contain sufficient particularity; it is not necessary that the failure to plead material facts goes to the root of the cause of action.³⁴

[31] Any reliance by Sizwe on alleged non-compliance with URC 18 as the basis for any one of its five complaints in the context of its exception, does not get out of the starting blocks.

[32] I now turn to each complaint.

First complaint

[33] In this complaint, Sizwe refers to URC 18(4) which states that "*every pleading shall contain a clear and concise statement of the material facts upon which the pleader relies for his or her claim, defence or answer to any pleading, as the case may be, with sufficient particularity to enable the opposite party to reply thereto.*" Sizwe then asserts that certain documents annexed to Grand Bridge's PoC, "*amount to facta probanda and not facta probantia alternatively amount to evidence and not material facts.*"

[34] This complaint does not identify the basis of the exception. The lack of clarity as to the basis for this complaint arises first and foremost from Sizwe's failure to expressly state the basis for the complaint. Furthermore, if Sizwe itself is uncertain as to the basis for the complaint, I fail to see how the court and Grand Bridge could be placed in a fair position in assessing the complaint.

[35] In argument before me Sizwe's counsel submitted that this complaint relies solely on URC 18(4). As stated previously, in the context of an exception, reliance on URC 18 is impermissible. The complaint would accordingly fail for this reason.

³⁴ Jowell (supra) at 902D-G

[36] Sizwe's heads of argument contend that "*by attaching the evidence, the plaintiff acts contrary to Uniform Rule 18(4), and, the pleading is vague and embarrassing.*" Although Sizwe's exception did not expressly rely on a vague and embarrassing basis, for the sake of completion I address this basis as submitted in Sizwe's heads of argument.

[37] Principles relevant to the assessment as to whether a pleading is vague and embarrassing include the following:

- An exception that a pleading is vague and embarrassing cannot be directed at a particular paragraph within a cause of action. The exception must go to the whole cause of action, which must be demonstrated to be vague and embarrassing.³⁵
- An exception to a pleading on the ground that it is vague and embarrassing involves a two-fold consideration: This first is whether the pleading lacks particularity to the extent that it is vague. The second is whether the vagueness causes embarrassment of such a nature that the excipient is prejudiced.³⁶
- [11] A statement is vague when it is either meaningless or capable of more than one meaning or can be read 'in any one of a number of ways'.³⁷ To put it at its simplest: the reader must be unable to extract from the statement a clear, single meaning.

[12] In the context of pleadings such a statement in particulars of claim would then be embarrassing 'in that it cannot be gathered from it what ground is relied on' by the pleader. As was remarked by Davis AJA in the *General Commercial* case at 454:

After all, we have to look at the matter from the point of view of the party who is faced with a pleading of this nature. How is he to know what case he is called upon to meet?

[13] This leads logically to the inference that particulars of claim could hardly be called vague and embarrassing if the defendant is fairly able to plead thereto. In the *Lockhat* case at 777E Henochsberg J summarised this as follows:

As long as a declaration reasonably states the nature, extent and grounds of the cause of action, the Court will not as a rule strike out paragraphs as vague and embarrassing, provided the information given is reasonably sufficient and provided it does not appear to the Court that the paragraphs cannot be pleaded to by the defendant.³⁸

[38] The contention that some of the annexed documents are to be regarded as *facta probantia*, their attachment breaches URC 18(4) and also renders the PoC vague and embarrassing (as submitted in Sizwe's heads of argument) is, in my view, unsustainable.

³⁵ *Jowell* (supra) at 899G

³⁶ *Trope v South African Reserve Bank and Another* 1992 (3) SA 208 (T) at 211B

³⁷ See also *Jowell* (supra) at 899D-E

³⁸ *Venter and Others NNO v Barritt; Venter and Others NNO v Wolfsberg Arch Investments 2 (Pty) Ltd* 2008 (4) SA 639 (C)

- [38.1] The first document is a copy of a CIPC report which confirms Sizwe's registered address. Assuming that strictly speaking this document amounts to evidence, Sizwe's objection is so overly and overtly technical, that it is to be dismissed out of hand. And in any event its attachment certainly does not render the PoC vague and embarrassing.
- [38.2] The second document is Sizwe's written proposal to which reference is made in paragraph [7] above. It does not appear to me that the written proposal is mere evidence. Not only does the written proposal lay the basis for the contract concluded between the parties, it, *inter alia* provides details of the applications which Sizwe would be required to deliver, and their purpose.
- [38.3] The third document is Grand Bridge's notice to Sizwe to remedy its breach, whilst the fourth document is the proof of transmission of this notice. The notice itself does not constitute *facta probantia*. Whilst its proof of transmission may, once again Sizwe's objection on this score is overly and overtly technical. And again, these attachments do not render the PoC vague and embarrassing.
- [38.4] The fifth document is Grand Bridge's notice of cancellation to Sizwe, and the sixth document is the proof of transmission. The answer to Sizwe's objection to these documents is the same as those applying to the third and fourth documents.
- [39] The first complaint fails.

Second complaint

- [40] The second complaint is formulated as follows:
4. In paragraphs 19 of the amended particulars of claim, the plaintiff pleads that various extensions were provided to the defendant to in effect, complete Phase 1 of the agreement.
 5. In paragraph 23 of the particulars of claim, the plaintiff pleads that on " *the 30th of November 2022, the Plaintiff afforded the Defendant a final opportunity to remedy its breach, within a period of fourteen (14) days.* "
 6. In paragraphs 28.2 of the particulars of claim, the plaintiff pleads that it suffered damage in the amount of R37, 445, 750.00, " *being the Plaintiff's projected loss of profits over the*

period of March 2021 to 22 December 2022 (being the date of cancellation), brought about by the Defendant's failure to complete phase 1 of the platform."

7. It is unclear how the plaintiff could have suffered damage in a period where extensions were provided to the defendant.

[41] The nature of the exception relied on for this complaint does not appear from its formulation. Sizwe's counsel submitted that Sizwe contended for a vague and embarrassing exception, and that Sizwe was unable to plead to Grand Bridge's pleading as presently formulated. Sizwe's heads of argument further contended that it would be prejudiced by having to plead to these paragraphs in the PoC.

[42] If this be the basis for this complaint, then it fails to get off the ground. Grand Bridge's pleading is, in my view, clear and Sizwe is well able to plead to it.

[43] The second complaint fails.

Third complaint

[44] The third complaint reads as follows:

8. In paragraph 23 of the amended particulars of claim, the plaintiff pleads that on "*the 30th of November 2022, the Plaintiff afforded the Defendant a final opportunity to rectify its breach, within a period of fourteen (14) days.*"
9. It is unclear whether the plaintiff acted in accordance with a term of the alleged partly oral, partly written agreement, seeing as the term had not been pleaded.

[45] As with the other complaints, Sizwe did not expressly state the basis for this complaint. Sizwe's counsel submitted, however, that Sizwe contended for this complaint on the basis that the PoC was vague and embarrassing. Sizwe's heads of argument appear to accept the basis for this complaint as rendering the PoC vague and embarrassing: the heads of argument assert that Sizwe would be prejudiced by having to plead to these paragraphs in the PoC.

[46] Sizwe's complaint is therefore that the PoC is vague and embarrassing because Grand Bridge did not plead, as a term of the agreement, an entitlement on Grand Bridge's part to afford Sizwe an opportunity to rectify its breach. When taken to its logical conclusion, Sizwe's contention is that if an agreement does not expressly provide for rectification of a breach, the innocent party can never be entitled to call on the delinquent party to remedy its breach.

[47] In the context of Grand Bridge's PoC, and Sizwe's complaint, I can see no difficulty in Grand Bridge affording Sizwe an opportunity to rectify its breach, even in the absence of an express term in the agreement to this effect, and such term not having been expressly pleaded. Sizwe is able to plead to Grand Bridge's pleading.

[48] The third complaint fails.

Fourth complaint

[49] This complaint is as follows:

10. The plaintiff in paragraph 16 of its particulars of claim, pleads certain "*express, alternatively, implied further alternatively, tacit terms of the agreement.*"

11. It is unclear which terms are express, implied or tacit.

[50] Sizwe's exception did not expressly state the basis for this complaint. Sizwe's counsel submitted, however, that this complaint was on the basis that the PoC was vague and embarrassing.

[51] Grand Bridge's heads of argument point out that *Amler's Precedents of Pleadings* contains no such requirement.³⁹ Grand Bridge also refers to a recent judgment of this division in *Hassim v Lashiva*,⁴⁰ which dismissed an exception which was brought on the same basis as the fourth complaint. In *Hassim*, the court stated as follows:

Again, this complaint is ill-conceived as it could easily be dealt with by way of a request for further particulars. In any event, I fail to see why it is embarrassed and able to plead simply because it has not been pleaded which terms were tacit alternatively implied. In such cases, the defendant could simply admit, deny, confess or avoid all those material facts alleged there in, which are in any event sufficiently and intelligibly pleaded.⁴¹

[52] I have always understood the position to be that which was expressed in *Hassim* above.

[53] The fourth complaint fails.

³⁹ *Harms Amler's Precedents of Pleadings* 9th ed at 105 - 109

⁴⁰ *Hassim v Lashiva* [2021] JOL 51620 (GJ)

⁴¹ *Hassim* supra at [24]

Fifth complaint

[54] This complaint is as follows:

12. Plaintiff's amended claim is purportedly based on breach of a partly oral partly written agreement concluded in July 2017.
13. The plaintiff avers in paragraph 26 that the agreement was cancelled as a consequence of the defendant's breach.
14. The plaintiff failed to plead any terms which entitles or entitled the plaintiff to cancel the agreement.

[55] Once again Sizwe's exception did not expressly state the basis for this complaint. Sizwe's submission is that the failure by the plaintiff to plead a term of the agreement entitling it to cancel, renders the PoC vague and embarrassing, and Sizwe will be prejudiced by having to plead to it.

[56] As with Sizwe's third complaint, the logical conclusion of Sizwe's fifth complaint appears to be that if an agreement does not make express provision for its cancellation, the innocent party can never cancel it under any circumstances. This is not the law.

[57] A breach of the nature pleaded by the plaintiff, i.e., Sizwe's failure to complete Phase 1, is one which on the face of it would entitle Grand Bridge to cancel the agreement even if the agreement was silent on such entitlement.

[58] The fifth complaint fails.

ORDER

[59] All five of Sizwe's complaints have no merit and fail. The order that I grant will therefore include dismissal of the exception with the defendant being ordered to pay the plaintiff's costs.

[60] I am cognisant that Sizwe's exception, as well as its previous notices has had the effect of delaying the progress of the action. I therefore intend to place Sizwe on terms to plead over to Grand Bridge's PoC.

[61] I accordingly make the following order:

- (i) The defendant's exception is dismissed;
- (ii) The defendant is ordered to pay the plaintiff's costs, including the costs of counsel on Scale C;
- (iii) The defendant is to serve and file its plea, without or without a counterclaim, within 20 court days of this order;
- (iv) In the event that the defendant does not take the steps envisaged in paragraph (iii) above, within the time period set out in paragraph (iii) above, the plaintiff will be entitled to serve a notice of bar on the defendant. Thereafter the provisions of the Uniform Rules of Court will apply.



T. OSSIN

**Acting Judge of the High Court of South
Africa**

Gauteng Local Division, Johannesburg

COUNSEL FOR EXCIPIENT (DEFENDANT):
INSTRUCTED BY:
COUNSEL FOR RESPONDENT (PLAINTIFF):
INSTRUCTED BY:
DATE OF HEARING:
DATE OF JUDGMENT:

J. Van Zyl
CR Law Incorporated
M. Carolia
ZI Attorneys Incorporated
25 November 2025
6 February 2026