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

Case Number: **2025-047085**

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

16 February 2026

In the matter between:

ABSA BANK LIMITED Plaintiff

and

LINDIWE SIBILOANE Defendant

JUDGMENT

MODIBA, J

[1] The plaintiff seeks summary judgment against the defendant in terms of Rule 32 of the Uniform Rules of Court. It seeks an order for the return of a motor vehicle as a result of the alleged breach of the instalment sale agreement concluded between the parties. The plaintiff's alleges that the defendant breached the agreement by failing to pay her monthly instalments in terms of thereof. As at 14 August 2025, her indebtedness to it amounted to R588 279.75. The plaintiff further contends that none of the defences the defendant pleaded in her plea are *bona fide*. She only raised them to delay its claim.

[2] The Defendant admits that the agreement concluded. She admits the terms thereof. However, she denies breaching the agreement. She alleges that she lost her employment and made an effort to engage with the Plaintiff regarding a reasonable solution to her arrears. She denies that she is liable for the amount claimed in the summons or that the plaintiff is entitled to claim return of motor vehicle. She also denied that she received the notice in terms of s 129 of the National Credit Act 34 of 2005 (NCA) as the notice attached to the summons served on her is not in her name. As a result, further contends the defendant, the plaintiff denied her an opportunity to remedy her indebtedness in terms of s 129.

[3] Ultimately, in respect of the alleged breach of the agreement, the defendant's defence crystallised into the plaintiff's refusal to accept lower payments to accommodate her reduced earnings. The plaintiff had restructured her payments for six months, of which she only honoured two months. She could not sell the motor vehicle through the plaintiff's Fastbuy facility and she in unable to meet the monthly instalments on her reduced earnings. It is patently clear from the defendant's version that despite the plaintiff's efforts to assist her, she cannot afford the monthly instalments. The fact that she had explored selling the motor vehicle through Fastbuy is an acknowledgment of that fact. The arrears are substantial. There are no prospects that she could defray them and continue honouring the monthly instalments. The plaintiff is under no obligation to accept her offer of reduced instalments.

[4] There is no merit to the issues raised in respect of the s 129 notice. The plaintiff acknowledges that an incorrect copy of the s 129 notice was attached to the summons. In the affidavit in support of summary judgment, the plaintiff attached the s 129 notice addressed to the defendant, and reflecting her chosen *domicilum* for the service of notices and proof that the s 129 notice was sent by registered post. It also attached proof that the notice was received by the defendant's local post office, a notification of receipt of the notice was dispatched to the defendant and that as a result of the notice not being collected from the post office, it was returned to it. On the authority of *Sebola and Another v Standard Bank of South*

Africa Ltd and Another,[1] I am satisfied that the plaintiff complied its obligations in terms of s 129.

[5] As contended on behalf of the plaintiff, the defendant's plea constitutes a bare denial and, in her affidavit, resisting summary judgment, she has failed to provide the factual basis for her averments in her plea. She does not dispute her indebtedness to the plaintiff. None of the issues she raises constitute a bona fide defence. For all the above reasons, I am satisfied that the plaintiff has made out a proper case for summary judgment as prayed for in her notice of motion for summary judgment. Therefore, I made the following order:

Order

1. The agreement concluded between the plaintiff and the defendant is cancelled.

2. The Sheriff of the High Court is authorised to attach, seize and hand over the following motor vehicle to the plaintiff;

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3. The defendant shall pay the plaintiff's costs of suit;

4. The plaintiff is granted leave to approach the above Court on the same papers duly supplemented for payment of the difference between the balance outstanding and the market value of the vehicle in the event of there being a shortfall after the vehicle has been repossessed and sold or re-leased and there being a balance outstanding by the defendant to the plaintiff.

[1] *Sebola and Another v Standard Bank of South Africa Ltd and Another* 2012 (5) SA 142 (CC),

LT MODIBA
JUDGE OF THE HIGH COURT
JOHANNESBURG

Appearances

For the Plaintiff:	Adv Naude
Instructed by:	Hammond Pole Attorneys

For the Defendant: In person

Date of hearing: 09 February 2026

Date of judgment: 16 February 2026

This Judgment is handed down electronically by circulation to the parties' legal representatives by email and publication on Case Lines and SAFLII. The date for the handing down is deemed 10am on 16 February 2026.