

REPUBLIC OF SOUTH AFRICA



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

Case Number: **137062/2023**

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


SIGNATURE

13 February 2026
DATE

In the appeal between:

INDLELA CONSULTANTS (PTY) LTD

Plaintiff

and

ACUMEN GROUP (PTY) LTD

Defendant

JUDGMENT

JANSE VAN NIEUWENHUIZEN J

Introduction

- [1] The plaintiff issued summons against the defendant for the payment of an amount of R 1 030 777, 11 with interest and costs. The defendant defended the claim and filed a plea. Upon receipt of the plea the plaintiff brought the present application for summary judgment in terms of the provisions of rule 32 of the Uniform rules of court.

Pleadings

Particulars of claim

- [2] The plaintiff's claim is based on an oral agreement entered into between the parties on or about 18 October 2023 in terms of which the plaintiff will supply water treatment products to the defendant at the defendant's special instance and request. The plaintiff was represented by Roberson Phiri and the defendant by Gideon Petrus Reyneke.
- [3] The plaintiff avers that the defendant, in terms of the oral agreement between the parties, placed 23 orders during the period October 2023 to August 2024. The plaintiff pleads in respect of each order the date on which the order was received, the date on which the product was delivered or collected, and the date and amount of the invoice issued in respect of the 23 Orders. In each instance, copies of the purchase order, delivery or collection note, and the invoice are attached to the particulars of claim.
- [4] The plaintiff alleged that as at 30 September 2024, an amount of R 1 030 777, 11 was due and owing in respect of the orders and attached a statement of account. The statement of account reflects payments made by the defendant during the period October 2023 to September 2024.

[5] In a letter dated 15 May 2024, Reyneke, in his capacity as CEO of the defendant, acknowledged that the defendant is indebted to the plaintiff in the amount of R 510 621, 68. Reyneke explained the financial difficulties faced by the defendant and stated the following: *"We assure you of our earnest intent to settle this account at the earliest opportunity."*

[6] On the same day, Lucia Modisane, the Operations Manager of the defendant send an email to the plaintiff stating the following:

"Acumen is committed to addressing this matter promptly and responsibly. We will be making a payment of R 400, 000.00 before the end of May, which will reduce the outstanding balance to R 760, 058.36.

Subsequently, we will endeavour to settle the remaining balance of R 510,621.68 no later than June 15, 2024. This will result in a final outstanding balance of R 249,406,48."

[7] Notwithstanding written demand for payment on 18 October 2024, the defendant failed, neglected and/or refused to pay the amount.

Plea

[8] The defendant denied that an oral agreement was entered into as alleged by the plaintiff.

[9] The defendant pleaded that the details regarding the offers made by the defendant to the plaintiff and the information or details appearing in the invoices attached to the particulars of claim are noted; i.e the defendant did not deny the specified detail in respect of the 23 orders averred by the plaintiff.

[10] The defendant did not deny the letter written by Reyneke, the email send by Modisane or the fact that a written demand was made by the plaintiff. The defendant pleaded as follows to the allegations:

"However, the Defendant denies that the Plaintiff has made any verbal demands to the Defendant and that the Defendant has refused to pay. Thus, the Defendant puts the Plaintiff to the proof thereof."

Summary judgment application

- [11] Phiri, the managing director of the plaintiff and the person that allegedly represented the plaintiff when the verbal agreement was concluded with the defendant, allegedly represented by Reyneke, deposed to the affidavit in support of summary judgment.
- [12] Phiri swore positively to and verified the facts, the cause of action, the amounts set out in the summons, and the particulars of claim. Phiri also dealt with the defence raised in the defendant's plea and concluded by stating that the defendant does not have a valid and *bona fide* defence to the claim.
- [13] Reyneke, in his capacity as the sole director of the defendant, deposed to the affidavit resisting summary judgment. Reyneke expressed the view that there existed issues between the parties *"that need to be substantially ventilated in the trial court.."* One such issue, according to Reyneke, is the fact that the alleged verbal agreement between himself and Phiri was never reduced to writing.
- [14] Furthermore, and once again, according to Reyneke, *"the Plaintiff alleged in its Particulars of claim both parties had the requisite legal authority to enter into the verbal agreement. However, there is no proof attached to the Particulars of claim evidencing such allegation, The evidentiary gap occasioned by the lack of proof of legal authority will have to be remedied through adducing evidence in the trial court."*
- [15] Non-compliance with the provisions of rule 32(2)(b) was also raised, but Mr Lekota, the attorney representing the defendant, wisely did not persist with this defence during argument. Lastly, Reyneke stated that the defendant's *bona fide* defence stems from the lack of proof that a verbal agreement exists between the parties.

Legal position and discussion

- [16] The test that is applied in a summary judgment application was succinctly summarised by the Supreme Court of Appeal in *Joob Joob Investments (Pty) Ltd v Stocks Mavundla Zek Joint Venture* 2009 (5) SA 1 (SCA) as follows at par [32]:

“The rationale for summary judgment proceedings is impeccable. The procedure is not intended to deprive a defendant without a triable issue or a sustainable defence of her/his day in court. After almost a century of successful application in our courts, summary judgment proceedings can hardly continue to be described as extraordinary. Our courts, both of first instance and at appellate level, have during that time rightly been trusted to ensure that a defendant with a triable issue is not shut out. In the Maharaj case at 425G - 426E, Corbett JA was keen to ensure, first, an examination of whether there has been sufficient disclosure by a defendant of the nature and grounds of his defence and the facts upon which it is founded. The second consideration is that the defence so disclosed must be both bona fide and good in law. A court which is satisfied that this threshold has been crossed is then bound to refuse summary judgment. ...”

[Also see: *Jiji v Firstrand Banf Ltd t/a Wesbank* 2015 (3) SA 586 (SCA)]

- [17] Applying the aforesaid test to the facts in *casu* it is first of all necessary to examine whether the defendant has sufficiently disclosed the nature and grounds of its defence and the facts upon which the defence is founded.
- [18] Although the defendant denies that a verbal agreement was reached between the parties as alleged, the performance in terms of the alleged agreement is not denied. The defendant did not deny that the 23 orders were placed, that the orders were received and that invoices were issued in respect of the orders. The defendant does not deny that it made payment to the plaintiff in respect of the orders. Reyneke admitted in writing that the defendant is indebted to the plaintiff in the amount of R 510 621, 68 and Modisane made a payment proposal in respect of the amount that is owed to the plaintiff.
- [19] In formulating its plea, the defendant lost sight of the fact that each order which was placed by it, constitutes an agreement. The defendant made an offer which the plaintiff accepted and delivered on. The only outstanding issue is the payment of the goods that were delivered to the defendant upon its special instance and request.
- [20] The defendant has failed dismally to plead a defence in law that justifies its non-payment for the goods it had received.

[21] The view expressed by Reyneke that the alleged verbal agreement should have been reduced to writing and that it is a "*major aspect*" that needs to be traversed in the trial court is without any legal foundation. It is unfortunate that those who advised him did not inform him of the legal principles applicable to verbal agreements. A verbal agreement is just as enforceable as a written agreement and was actually, in *casu* given effect too.

[22] Similarly the view expressed in respect of the authority to enter into the verbal agreement is sadly misplaced. The authority of Phiri and Reyneke to act on behalf of the plaintiff and defendant is not an issue on the pleadings. The written admission by Reyneke in his capacity as CEO and, according to the answering affidavit, the sole director of the defendant, that the defendant owes the plaintiff money dispels, in any event, any notion of lack of authority.

[23] In the premises, the plaintiff is entitled to summary judgment.

Costs

[24] Costs should follow the event, and I am of the view that the issues raised in the matter justify counsel's fees on scale B.

Order

Judgment is granted against the defendant in favour of the plaintiff for payment of:

1. The amount of R 1 030 777, 11;
2. Interest on the aforesaid amount at the prescribed interest rate *a temporae morae* from 18 October 2024 to date of payment;
3. Cost of suit. Counsel's fees on scale B.


JANSE VAN NIEUWENHUIZEN J
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION

DATE OF HEARING : 09 February 2026

DATE OF JUDGMENT : 13 February 2026

APPEARANCES

Counsel for the plaintiff:	Mr Molefi
Instructed by:	Leseka Molefi Attorneys Inc
Attorney for the defendant:	Mr Lekota
Instructed by :	Lekota Incorporated Attorneys

