REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case Number: 2021/17712

(1) REPORTABLE: NO

(2) OF INTEREST TO THE JUDGES: NO

(3) REVISED: YES

DATE: 4 February 2026

SIGNATURE:

In the matter between:

FIRST RAND BANK LTD t/a WESBANK	**Applicant/Plaintiff**
and	
HONNETSWENG TRADING ENTERPRISES (PTY) LTD	**1st Respondent/ Defendant**
KGADIMA NGOWA CHRISTOPH	**2nd Respondent/ Defendant**
KGADMIA MATSHWENYEGO LILLIAN	**3rd Respondent/ Defendant**

JUDGMENT

Klopper, AJ

INTRODUCTION:

[1] On 5 November 2025 I made the following order:

"1 The credit agreement is cancelled;

2 The First Defendant is directed to forthwith return to the Plaintiff a certain 2013 Toyota Quantum 2.5 D-4D 10 seat motor vehicle with engine number 2[…] and chassis number J[…] (hereinafter referred to as "the vehicle"), failing which the Sheriff is authorised to attach the vehicle wherever he may find same and hand the vehicle to the Plaintiff;

3 The remainder of the prayers contained in the particulars of claim are postponed sine die; and

4 Cost of suit on attorney and own client scale."

[2] I undertook to furnish the reasons later. Here are the reasons.

<u>BACKGROUND FACTS:</u>

[3] On 10 June 2016, the Applicant/Plaintiff entered into an electronic sale agreement in accordance with the provisions of the Electronic Communication and Transactions Act, 25 of 2002, in terms of which the Plaintiff sold to the First Defendant a 2013 model Toyota Quantum 2.5 D-4D ten-seater motor vehicle ("the motor vehicle") subject to the following material terms and conditions:

2.1 The Plaintiff sold the motor vehicle to First Defendant, who purchased same from Plaintiff;

2.2 The total amount payable amounts to R496 650.96 of which the first instalment of R6 966.33 was payable on 10 June 2016 and thereafter 71 instalments of R6 966.33 each on the same day of each successive month and a final instalment of R6 966.33 payable on 1 July 2022;

2.3 Plaintiff would remain the owner of the motor vehicle until First Defendant had paid all amounts due under the agreement;

2.4 In the event of the First Defendant failing to comply with any of the terms and conditions of the agreement or failing to pay any amount due under the agreement, Plaintiff would be entitled, at its election and without prejudice and in addition to any other rights which it may have under the agreement, to *inter alia*, cancel the agreement, obtain return of the motor vehicle, retain all payments already made in terms of the agreement and to claim as liquidated damages, payment of the difference between the balance outstanding and the market value of the motor vehicle, determined by a person nominated by the Plaintiff, the First Defendant having agreed to be bound by such valuation;

2.5 The First Defendant would be liable for legal cost and collection commission arising from its failure to comply with any of the terms and conditions of the agreement, if the matter was referred to an external debt collection company or attorney.

[4] On 15 June 2016, the Second and Third Defendants, acting personally, in writing bound themselves as surety and co-principal debtor with the First Defendant in favour of the Plaintiff for the repayment, on demand, of any amount which the First Defendant owes or may thereafter owe to the Plaintiff from whatever cause arising and for the due fulfilment of all obligations of the First Defendant to the Plaintiff in respect of such indebtedness.

[5] The Plaintiff contended that the First Defendant breached the agreement by falling into arrears with its monthly instalments, which amounted to R209 103.88 as at 23 February 2021. Pursuant to the Defendant's failure to remedy the breach, the Plaintiff served summons on the Defendants wherein it prayed for the cancellation of the agreement and the return of the motor vehicle to Plaintiff forthwith.

CONTENTIONS BY THE FIRST DEFENDANT:

[6] The Defendants, having filed an amended plea resist the application for summary judgment. In their plea and opposing affidavit against the summary judgment, the Defendants raised two defences. The Defendants firstly contend that the Plaintiff, First Rand Bank Ltd, failed to comply with section 129(1) and section 130 of the National Credit Act, No 33 of 2005, in that the notice calling up the loans was not issued and delivered to the Second and Third Defendants, both of whom bound themselves as surety and co-principal debtor with the First Defendant in favour of the Plaintiff.

[7] Secondly, the Defendant state that the Covid-19 pandemic constituted a *vis major* and that it was an implied term where *vis major* circumstances interrupted the Defendants payment obligations, the Defendants would be afforded an opportunity to make arrangements to pay any arrears, premised on an alleged implied term in the written agreement to the effect that any *vis major* event would pause the arrear payment from accumulating by affording the Defendants the opportunity to re-arrange their payments in favour of the Plaintiff.

[8] It is not in dispute that the parties entered into an instalment agreement for the purchase of a Toyota Quantum Minibus motor vehicle on 10 June 2016 and that the Defendants failed to make prompt monthly payments in terms of the agreement. It is also not in dispute that the National Credito Act ("NCA") is not applicable to the First Defendant.

ISSUES FOR DETERMINATION:

[9] The issues for determination are firstly whether there is a triable issue based on the defence of impossibility of performance due to Covid-19 and secondly, whether the alleged non-delivery of section 129(1) notice to the Second and Third Defendants offer refuge to the First and Second Defendants and thus a triable issue.

THE LEGAL PRINCIPLES:

Summary judgment:

[10] The summary judgment application is regulated by rule 32 of the Uniform Rules of Court, which states:

> *"Summary judgment*
>
> *(1) The Plaintiff may, after the Defendant has delivered a plea, apply to court for summary judgment on each of such claims in the summons as is only -*
>
> *(a) On a liquid document;*

(b) For a liquidated amount in money;

(c) For delivery of a specified movable property; or

(d) For ejectment."

[11] The objective of the rule is to prevent a plaintiff's claim, based upon certain causes of action, from being delayed by what amounts to abuse of the process of court.[1] The procedure is not to shut down a defendant that can show that there is a triable issue applicable to the claim from laying its defence before the court.[2]

[12] In ***Joob Joob Investments (Pty) Ltd v Stocks Mavundla Zek Joint Venture*** the court stated the following regarding the procedure:

> *"[32] The rationale for summary judgment proceedings is impeccable. The procedure is not intended to deprive a defendant with a friable 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 friable 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. Corbett JA also warned against requiring of a defendant the precision apposite to pleadings. However, the learned judge was equally astute to ensure that recalcitrant debtors pay what is due to a creditor.*
>
> *[33] Having regard to its purpose and its proper application, summary judgment proceedings only hold terrors and are 'drastic' for a defendant who has no defence. Perhaps the time has come to discard these labels and to*

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[1] See: **Meek v Kruger** 1958 (3) SA 154 (T) at 159 - 160; **Joob Joob Investments (Pty} Ltd v Stocks Mavundla Zek Joint Ventur**e 2000 (5) SA 1 (SCA) at 11 C - G

[2] **Majola v Nitro Securitization 1 (Pty) Ltd** 2012 (1) SA 226 (SCA) at 232 F - G

concentrate rather on the proper application of the rule, as set out with customary clarity and elegance by Corbett JA in the Maharaj case at 425G-426E."

[13] The principles applicable to summary judgment proceedings have been succinctly summarised by the Supreme Court of Appeal in **South African Land Arrangements CC v Nedbank Ltd**[3]

"[13] The legal principles governing summary judgment proceedings are we/1-established. In Maharaj v Barclays National Bank Ltd, [3]Corbett JA outlined the principles and what is required from a defendant in order to successfully oppose a claim for summary judgment as follows:
' … [One] of the ways in which a defendant may successfully oppose a claim for summary judgment is by satisfying the Court by affidavit that he has a bona fide defence to the claim. Where the defence is based upon facts, in the sense that material facts alleged by the plaintiff in his summons, or combined summons, are disputed or new facts are alleged constituting a defence, the Court does not attempt to decide these issues or to determine whether or not there is a balance of probabilities in favour of the one party or the other. All that the Court enquires into is: (a) whether the defendant had "fully" disclosed the nature and grounds of his defence and the material facts upon which it is founded, and (b) whether on the facts so disclosed the defendant appears to have, as to either the whole or part of the claim, a defence which is both bona fide and good in law. If satisfied on these matters the Court must refuse summary judgment either wholly or in part, as the case may be. The word "fully", as used in the context of the Rule (and its predecessors), has been the cause of some judicial controversy in the past. It connotes, in my view, that, while the defendant need not deal exhaustively with the facts and the evidence relied upon to substantiate them, he must at least disclose his defence and the material facts upon which it is based with sufficient particularity and completeness to enable the court to decide whether the affidavit discloses a bona fide defence.'"

[3] 2015 JDR 2364 (SCA)

[14] The full court in **Raumix Aggregates (Pty) Ltd v Richter Sand CC**[4] explains what is required of a respondent in summary judgment:

> *"[15] Under the amended Rule the applicant is required, 15 days after the date of delivery of a plea or an exception, to deliver a notice of application for summary judgment, together with an affidavit identifying any point of law relied upon and the facts underpinning the claim, briefly explaining why the defence, as pleaded, does not raise any friable issue. Under the old Rule, the plaintiff was required to file a brief affidavit 'verifying a cause of action' and opining that the defendant has no bona fide defence. These requirements are no longer applicable under the new procedure. The question is whether this change in procedure would, if applied retrospectively, adversely affect substantive rights.*
>
> *[16] The purpose of a summary judgment application is to allow the court to summarily dispense with actions that ought not to proceed to trial because they do not raise a genuine friable issue, thereby conserving scarce judicial resources and improving access to justice. Once an application for summary judgment is brought, the applicant obtains a substantive right for that application to be heard, and, bearing in mind the purpose of summary judgment, that hearing should be as soon as possible. That right is protected under section 34 of the Constitution."*

[15] In the matter of **Jily v First Rand Bank Ltd**[5], Willis JA held:

> *"....It is indeed trite that a court has a discretion as to whether to grant or refuse an application for summary judgment. It is a different matter where the liability of the defendant is undisputed: the discretion should not be exercised against a plaintiff so as to deprive it of the relief to which it is entitled. Where it is clear from the defendant's affidavit resisting summary judgment that the defence which has been advanced carries no reasonable possibility of succeeding in the trial action, a discretion should not be exercised against*

[4] 2020 (1) SA 532 (GJ)
[5] [2014] ZASCA 183 (26 November 2014)

granting summary judgment. The discretion should also not be exercised against a plaintiff on the basis of mere conjecture or speculation. …"

Applicability of the National Credit Act 34 of 2005 ("NCA"):

[16] The NCA defines a credit guarantee in section 8(5) as follows:

"An agreement, irrespective of its form but not including an agreement contemplated in subsection (2), constitutes a credit guarantee if, in terms of that agreement, a person undertakes or promises to satisfy upon demand any obligation of another consumer in terms of a credit facility or a credit transaction to which this Act 20 applies."

[17] In terms of subsection 2, referred to in the definition, no agreement is a credit agreement if it is a policy of insurance or credit extended by an insurer solely to maintain the payments of premiums on a policy of insurance, if it is a lease of immovable property, or if it is a specific stokvel transaction.

[18] A suretyship agreement therefore qualifies as a credit guarantee under the NCA, provided the underlying principal credit agreement (concluded in the name of the First Defendant), is itself regulated by the NCA. Section 4(2)(c) further specifies that the NCA applies to a credit guarantee only to the extent that it applies to the underlying credit agreement. Section 4(2)(c) of the NCA reads as follows:

"(c) this Act applies to a credit guarantee only to the extent that this Act applies to a credit facility or credit transaction in respect of which the credit guarantee is granted; ... "

[19] The applicability to the principal agreement (and thus the suretyship) depends on section 4 of the NCA. If the principal agreement is exempt, the suretyship does not constitute a credit guarantee under the NCA, and the Act does not apply to it-common law governs instead.

[20] In **First Rand Bank Ltd v Carl Beck Estates (Pty) Ltd and Another**[6], Satchwell J stated the following:

> *"22. The authorities on this point are clear. A surety who has bound himself as surety and co-principal debtor remains a surety whose liability arises wholly from the contract of suretyship. Signing as surety and co-principal debtor does not render a surety liable in any capacity other than a surety who has renounced the benefits of excussion and division. As De Villiers CJ stated, "the use of the words 'co-principal debtor' does not transform the contract into any other than suretyship.*
>
> *23. Second respondent could not be and was not sued in his capacity as co-principal debtor since his liability to the Bank remains that of surety who has renounced certain rights. This position is correctly referred to by the applicant in its summons.*
>
> *24. In the result, the second respondent is sued as a guarantor to the obligations of the first respondent in terms of a credit transaction to which the NCA does not apply. He cannot claim that he is entitled to have received a notice in terms of section 129 of the NCA."*

[21] In the matter of **Nedbank v Wizard Asset Holdings (Pty) Ltd and Others**[7] Van der Merwe AJ stated the following:

> *"10. This conclusion is also confirmed by the provisions of section 8(5) of the National Credit Act, to the effect that a credit guarantee constitutes a credit agreement for purposes of the Act, only if in terms of the credit guarantee a person undertakes or promises to satisfy an obligation of another consumer in terms of a credit facility or a credit transaction to which the Act applies. Since the National Credit Act does not apply to the credit transaction which gave rise to the principal debt, the suretyships in the present matter do not constitute credit agreements for purposes of the Act. (See also Firstrand Bank Ltd v Carl Beck Estates (Pty) Ltd 2009 (3) SA 384 (T). para 18.) The plaintiff was accordingly not obliged to give notice to the defendants as required by*

[6] 2009 (3) SA 384 (T)
[7] 2010 (5) SA 523 (GSJ)

section 129 of the Act in respect of credit agreements which are subject to the National Credit Act."

[22] The Constitutional Court in **Shabangu v Land and Agricultural Development Bank of South Africa and Others**[8] emphasised the necessity nature of suretyships, reinforcing that their validity and regulation depend on the principal obligation.

[23] In summary the NCA applies to both the entity (as principal debtor) and the sureties where the principal credit agreement falls within its scope. If the entity is a juristic person exempt under section 4, the Act applies to neither.

[24] The first defence relied upon by the Respondents in the opposing affidavit consequently do not constitute a defence to the Plaintiff's claim.

Implied term in a written contract:

[25] In the Defendants' combined amended plea, the principal defence of vis major raised by the Defendants is premised on a purported implied term in the written instalment sale agreement entered into by and between the parties on 10 June 2016. But for the two points *in limine*, the remainder of the Defendants' plea was tantamount of a bare denial of the material facts averred in support of the Plaintiff's claim. Thus, averments relating to certain terms and conditions of the agreement, its breach, the Plaintiff's demand for payment of arrears, Defendants failure to rectify the breach and consequent cancelation of the agreement, were baldly denied. Certain averments in the particulars of claim were not stated in the plea to be denied or to be admitted. Uniform rule 22(3) reads as follows:

"(3) Every allegation of fact in the combined summons or declaration which is not stated in the plea to be denied or to be admitted, shall be deemed to be admitted. If any explanation or qualification of any denial is necessary, it shall be stated in the plea."

[8] 2020 (1) SA 305 (CC)

[26] The allegations that were not stated in the plea to be denied ought to be admitted and thus deemed to be admitted, concerned the identity and details of the parties, the written instalment sale agreement entered into by and between the parties on 10 June 2016 and a copy of which is annexed to the particulars of claim marked annexure "A".

[27] The opposing affidavit filed by the Defendants was tantamount to a bare denial of the material facts averred in support of the summary judgment, but for the points *in limine* relating to the applicability of the NCA, and the purported implied term in the instalment sale agreement.

[28] A defendant seeking to rely on the existence of an implied term as a defence in a claim for payment of arrear instalments under a written instalment agreement must establish, on a balance of probabilities, that such term forms part of the contract.

[29] The Defendants failed to submit any evidence in support of the notion that the written instalment sale agreement contained an implied term that under the circumstances of Covid-19 restrictions, the Defendants are entitled to be afforded the opportunity to restructure their debts.

[30] In **Liquidator of Booysens Race Club, Ltd v Burton**[9] Wessels J stated the following:

> *"The court must be very slow to imply a term into a contract which the parties did not place there. It must not make contracts for people; it must only imply a term when it is quite clear that the parties intended that term to be understood in the contract; and that they would not have contracted otherwise than on the basis of the term."*

[9] 1910 TPD 597

[31] Wessels J also referred to the British judgment of **Hamlyn & Co v Wood & Co**[10] where the Learned Lord Esher stated the following:

> *"I have for a long time understood that the rule to be that the court has no right to imply in a written contract any such stipulation, unless, on considering the terms of the contract in a reasonable and business manner, an implication necessarily arises that the parties must have intended that the suggested stipulation should exist. It is not enough to say that it would be a reasonable thing to make such an implication. It must be a necessary implication in the sense that I have mentioned."*

[32] In **South African Forestry Co Ltd v York Timbers Ltd**[11] Brand JA dealt at some length with the concept of an implied term explaining, like tacit terms, which are based on the inferred intention of the party, implied terms are "*imported into contracts by law from without*". He pointed out that the courts have the inherent power to develop new implied terms stating as follows:

> *"Once an implied term has been recognised, however, it is incorporated into all contracts, if it is of general application, or into contracts of a specific class, unless it is specifically excluded by the parties .... It follows, in my view, that a term cannot be implied merely because it is reasonable or to promote fairness and justice between the parties in a particular case. It can be implied only if it is considered good law in general. The particular parties and set of facts can serve only as catalysts in the process of legal development."*

[33] The Defendants failed to furnished any authority in support of the interpretation contended for by the Defendants.

***Vis major*- supervening impossibility defence:**

[34] The plea delivered by and on behalf of the Defendants, inter alia, raised the defence founded in the principles of supervening impossibility/ vis major. In their

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[10] (1891) 2 QBD 488 at p 491
[11] 2005 (3) SA 323 (SCA)

amended plea and opposing affidavit, the Defendants, relying on a purported implied term of the agreement, claimed to have suffered a fundamental blow due to Covid-19 restrictions which resulted in the arrears accumulated. The Defendants further alleged that "*during the time when people were locked in their places without being allowed to freely move, there was no business for the First Respondent and is implied in the contract that in the event of natural disasters, then the applicant will afford the respondents the opportunity to re-arrange payment of arrears*."

The applicable legal principles:

[35] The principles underpinning the defence of supervening impossibility is adequately explained by Meyer J in **Unlocked Properties 4 (Pty) Ltd v A Commercial Properties CC**[12] as follows:

> *"[6] ... 'The legal rules relating to initial and supervening impossibility of performance, with their consequence, in certain circumstances, of the voidness of an agreement or the extinction of the obligations created by an agreement, relate to the initial or supervening impossibility of performance of the obligations purported to be created or created by the agreement.' (Per Cilliers AJ in Rosebank Mall (Pty) Ltd and another v Cradock heights (Pty) Ltd 2004 (2) SA 353 (W), para 64.) In MV Snow Crystal Transnet Ltd t/a National Ports Authority v Owner of MV Snow Crystal {2008] ZASCA 27; 2008 (4) SA 111 (SCA), para 28, Scott JA said the following about the defence:*
> *"As a general rule impossibility of performance brought about by vis major or casus fortuitous will excuse performance of a contract. But it will not always do so. In each case it is necessary to 'look to the nature of the contract, the relationship of the parties, the circumstances of the case, and the nature of the impossibility invoked by the defendant, to see whether the general rule ought, in the particular circumstances of the case, to be applied'. The rule will not avail a defendant if the impossibility is self-created; nor will it avail the defendant if the impossibility is due to his or her fault. Save possibly in*

[12] (18549/2015) [2016] ZAGPJHC 373 (29 July 2016) at [6]

circumstances where a plaintiff seeks specific performance, the onus of proving impossibility will lie upon the defendant.'" (footnotes omitted)

[36] The impossibility must be absolute or objective as opposed to relative or subjective. In **Scoin Trading (Pty) Ltd v Bernstein N.O.**[13] Pillay JA stated the following:

"… The law does not regard mere personal incapability to perform as constituting impossibility. [A Ramsden Supervening Impossibility of Performance in the South African law of Contract (1985) p 17]. The payment of the debt is not rendered impossible by the death of the deceased; as performance of a personal nature like singing in an opera would have been."

[37] Subjective impossibility to receive or to make performance does not terminate the contract or extinguish the obligation.[14]

[38] LAWSA Vol 5 (1st issue) par 160 states:

"The contract is void on the ground of impossibility of performance only if the impossibility is absolute (objective). This means, in principle, that it must not be possible for anyone to make that performance. If the impossibility is peculiar to a particular contracting party because of his personal situation, that is if the impossibility is merely relative (subjective), the contract is valid and the party who finds it impossible to render performance will be held liable for breach of contract. [D4513375 and C Frye's (Pty) Ltd v Ries 1957 (3) SA 575 (A)]."

[39] In **Johannesburg Consolidated Investment Co v Mendelsohn and Bruce Ltd**[15] rejected a claim for omission of rental because of a decline in custom rising from the outbreak of war and which rendered it no longer profitable to operate a stationer's shop. The court posited the following particularity relevant analogy:

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[13] 2011 (2) SA 118 (SCA), par 22

[14] **Unibank Savings and Loans Ltd (formerly Community Bank) v Absa Bank Ltd** 2000 (4) SA 191 (W) at 198 B - C

[15] 1903 TH 286 at 295, 296

"The consequence of holding that the defendants in this case are entitled to a remission of rent appears to be to be far reaching. It would involve this, that on the happening of any event amounting to vis major, which caused a temporary diminution of the population of a town, every tradesman who could show that he had sustained a temporary loss, or considerable diminution of profit might be entitled to a remission of rent. Supposed, for instance, that in consequence of the outbreak of an epidemic disease a large portion of the inhabitants fled, with the result that owing to the absence of their usual customers the tradesmen were temporarily carrying on business at a loss, and closed their shops, it would come as an unpleasant surprise to the lessors to find that the whole of the loss is to fall upon them, and that they occupy in effect the position of insurers of the lessees custom."

[40] In the matter of **Wesbank Ltd v PSG Haulers CC**[16] the following was stated:

"[14] As held in Glencore Grain Africa (Pty) Ltd v Du Plessis NO and Others, if provision is not made contractually by way of a force majeure clause, a party will only be able to rely on the very stringent provisions of the common law doctrine of supervening impossibility of performance, for which objective impossibility is a requirement. Performance is not excused in all cases of force majeure.

[15] The instalment sale agreement does not make provision for force majeure. …"

[41] It is noteworthy that the agreement between the Plaintiff and the Defendants do not make provision for *force majeure*. The agreement rather defines a material adverse effect.

[42] In paragraph 10.3 of the agreement, it is recorded that the Plaintiff may at its election, if an event of series of events occurs, which has a material adverse effect on the performance by the Defendants of their obligations under the agreement,

[16] Unreported judgment in Gauteng Local Division: Case no: 38511/2020 by Dippenaar J dated 25 August 2022

changed the terms of the agreement and/or regard such material adverse effect as being an event of default of the agreement. However, the discretion in terms of the agreement to assess the merits of such change in circumstances and the decision as to whether or not such changed circumstances justify a change in the terms of the agreement, remains with the Plaintiff.

CONCLUSION:

[43] Applying the above principles to the facts, it is clear that the Defendants failed to establish impossibility of performance as a legally cognisable defence. the Defendants failed to disclose cogent documentary evidence in support of their contentions. In addition, the impossibility upon which the Defendants rely is clearly subjective and the change in the Defendants financial position is not, as required by law, absolute.

[44] In the circumstances, I am not persuaded that the Defendants have illustrated a *bona fide* defence or that they have raised a triable issue in respect of any of the defences raised by them.

[45] For all these reasons I made an order referred to in paragraph [1] *supra*:

45.1. The credit agreement is cancelled;

45.2 The First Defendant is directed to forthwith return to the Plaintiff the Toyota Quantum 2.5 D-4D 10-seater motor vehicle with engine number 2[…] and chassis number J[…] (hereinafter referred to as "the vehicle"), failing which the Sheriff is authorised to attach the vehicle wherever he may find same and hand the vehicle to the Plaintiff;

45.3 The Plaintiff is granted leave to return to this court on the same papers, duly supplemented to obtain judgment in respect of damages suffered by the Plaintiff once the vehicle has been sold; and

45.4 The Defendants are ordered to pay the cost of suit, including the cost of the opposed summary judgment application, jointly and severally, the

JA KLOPPER

ACTING JUDGE

HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

This Judgment was handed down electronically by circulation to the parties' and or parties' representatives by email and by being uploaded to CaseLines. The date and time for the hand down is deemed to be on 4 February 2026

Appearances

Counsel for the Plaintiff:	Adv I Ochman
Instructed by:	Attorneys CF van Coller Inc
	Ref.:
Appearance for Defendants:	No appearance for Defendants
Defendants' attorneys:	Noveni Eddy Kubayi Inc
Date of Hearing:	5 November 2025
Date of Judgment:	4 February 2026