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

**CASE NO: 37159/2020**

In the matter between:

**MTHELELI CONRADE PASIYA**

Applicant

and

**THE STANDARD BANK OF SOUTH AFRICA LIMITED**

Respondent

*In re:*

**THE STANDARD BANK OF SOUTH AFRICA LIMITED**

Plaintiff

**MTHELELI CONRADE PASIYA**

Defendant

*This judgment is handed down electronically by circulating to the parties or their legal representatives by email and by uploading the judgment onto CaseLines. The date and time for hand down of the judgment are deemed to be 10:00 on 03 March 2026.*

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**JUDGMENT**

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**Matlapeng AJ**

## **INTRODUCTION**

1 This opposed application is predicated against the Particulars of Claim<sup>1</sup> as well as Annexure thereto, Notice of Motion<sup>2</sup>, Founding Affidavit<sup>3</sup>, as well as the Respondent's Answering Affidavit<sup>4</sup> inclusive of Annexure thereto and as fortified by the written submissions of the respective parties.<sup>5</sup>

2 The Applicant is Mthetheleli Conrade Pasiya, ("the Applicant"), a major male with *domicillum citandi et executandi* at [...] A[...] Street, Noordwyk Midrand.<sup>6</sup>

3 The Respondent is The Standard bank of South Africa Limited ("the Respondent") a limited company registered and incorporated in accordance with the company laws of the Republic of South Africa having its principal place of business at [...]th Floor, [...] S[...] Street, Johannesburg, Gauteng Province.<sup>7</sup>

4 It is so that on 04 August 1994 and 08 January 2004 the Parties entered into 2 (Two) home loan agreements ("the Agreements") wherein the Respondent advanced the sum of R117 000.00 (Hundred and Seventeen Thousand Rands) as well as R160 000.00 (Hundred and Sixty Thousand Rands) to the Applicant.<sup>8</sup>

5 It is so that the Applicant has defaulted in respect of servicing the Agreements which prompted the Respondent to issue Summons against the Applicant for the property described as ERF 1[...] N[...] Extension 10 Township, to be declared executable.<sup>9</sup>

6 This application, is brought by the Applicant in terms of Uniform Rule 30 and 30A of the Uniform Rules of Court. The Applicant bids this Court to set-aside the Respondent's amended Particulars of Claim and a subsequent Notice of Bar.<sup>10</sup>

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<sup>1</sup> **CaseLines: 001-5-24.**

<sup>2</sup> **CaseLines: 008-1-3.**

<sup>3</sup> **CaseLines: 008-4-7.**

<sup>4</sup> **CaseLines: 011-9-20.**

<sup>5</sup> **CaseLines: 020-1-6 & 012-19.**

<sup>6</sup> **CaseLines: 001-5 para 2.**

<sup>7</sup> **CaseLines: 001-5 para 1.**

<sup>8</sup> **Caselines: 001-1-6.**

<sup>9</sup> **Caselines: 001-23.**

<sup>10</sup> **Caselines: 008-1.**

7 In turn, the Respondent opposes the application on the basis that the amendment was validly effected in terms of Uniform Rule 28 and more pointed, the Notice of Bar was procedurally competent and finally, the Uniform Rule 30 and 30A launched by the Respondent, is fatally defective for want of condonation and the absence of prejudice.

### **BRIEF BACKGROUND FACTS**

8 It is so that on 12 August 2020 the Respondent issued Summons against the Applicant arising from a breach of the Agreements as stated above. In response to the Summons, the Applicant delivered his Notice of Intention to Defend on 9 September 2020.<sup>11</sup>

9 It is also so that on 8 January 2021 the Respondent served a Notice of Intention to Amend its Particulars of Claim on the Applicant and prescribed 10 (Ten) day period for objecting to such Notice, expired.

10 The Applicant, purported to object to the Notice on 26 January 2021 which objection, was simultaneously followed by the filing of the amended Particulars of Claim on 27 January 2021.

11 It is so that the Applicant is yet to file its Plea which led to the Respondent delivering its Notice of Bar on the Respondent on 5 October 2022.<sup>12</sup>

12 Subsequent to that and on 10 October 2022 the Applicant served and filed a Uniform Rule 30 and 30A Notice alleging that the amendment as well as the Notice of Bar, constitute irregular steps and the formal Uniform Rule 30 application was launched nearly 2 (Two) years after the amendment was effected.

### **ISSUES NOT IN DISPUTE**

13 It is common cause that the Notice of Intention to amend was served on 8 January 2021 and the Applicant failed to object within the required 10 (Ten) days).

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<sup>11</sup> Caselines: 003-1-2.

<sup>12</sup> Caselines: 007-1-2.

14 It is also common cause that the amendment was effected on 27 January 2021 and to date, the Applicant has not filed his Plea.

15 Finally, it is common cause that the Uniform Rule 30 application was brought well beyond the required 10 (Ten) days from becoming aware of the alleged irregularity and no condonation application accompanied the Uniform Rule 30 application.

### **ISSUES IN DISPUTE**

16 This Court is called upon to make a determination on the following issues:

16.1 Whether the Respondent's amendment was irregular in light of the Applicant's objection?

16.2 Whether the Notice of Bar constitute an irregular step?

16.3 Whether the absence of the condonation application is fatal?

16.4 Whether the Applicant has demonstrated any prejudice?

### **APPLICABLE LEGAL PRINCIPLES**

17 It is so that Uniform Rule 28(2) expressly and unambiguously provides that, unless written objection to the proposed amendment is delivered within 10 (Ten) days of delivery of the Notice to Amend, the amendment will be effected.<sup>13</sup>

18 It is also so that Uniform Rule 28(5) provides that if no objection is delivered within that period of 10 (Ten) days, the recipient of the Notice is deemed to have consent to the amendment.<sup>14</sup>

19 It is also so that Uniform Rule 28(7)<sup>15</sup> impel a party entitle to amend to effect the amendment by delivering the amended pages and only where a valid and timeous

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<sup>13</sup> **Uniform Rule 28 (2).**

<sup>14</sup> **Uniform Rule 28(5).**

<sup>15</sup> **Uniform Rule 28(7).**

objection is delivered, does Uniform Rule 28(4)<sup>16</sup> require the amending party to bid leave of the Court to effect the amendment.

20 With regards to Uniform Rule 30(1)<sup>17</sup>, this Rule allows a party to set-aside an irregular step which is complimented by Uniform Rule 30(2)(b)<sup>18</sup> which impel an applicant to deliver his notice of objection, within 10 (Ten) days from becoming aware of the irregularity.

21 The Rule requires prompt action and no further step to be taken with the knowledge of the irregularity by the other party who must demonstrate prejudice.

### **ANALYSIS**

22 The Applicant contends that the Respondent effected the amendment despite the Applicant filing an objection and that, the Respondent failed to apply for leave to amend which made the Notice of Bar irregular.

23 It is also the Applicant's contention that Uniform Rule 28(4), requires the Respondent to approach the Court once an objection is delivered. This argument, ignores a fundamental defect, which is that the objection was out of time as the amendment was effected and the Applicant is barred and no application for the upliftment of Bar was prosecuted by the Applicant.

24 For its part, the Respondent submitted that it was well within its right to effect the amendment due to the Applicant's failure to timeously object to the Notice to Amendment and more pointed, the Applicant remained in default to Plea due to the Notice of Bar which pass master as it was received by the Applicant and ignored.

25 Finally, it was the Respondent's submissions that the current application is late by over 2 (Two) years and the Applicant failed to accompany the application with a condonation application and that no prejudice was demonstrated by the Applicant.

26 It is so that the Applicant failed to object to the amendment within the prescribed

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<sup>16</sup> **Uniform Rule 28(4).**

<sup>17</sup> **Uniform Rule 30(1).**

<sup>18</sup> **Uniform Rule 30(2)(b).**

10 (Ten) days and failed to apply for condonation for the late objection.

27 It is also so that the Applicant failed to file a Plea for almost 2 (Two) years and waited until the service of the Notice of Bar, before raising procedural complaints.

28 The Applicant also failed to bid the Court to grant him condonation for the Rule 30 application. Litigation is not a tactical game of delay. The Uniform Rules exist to secure the expeditious and inexpensive resolution of disputes.

29 It is so that the Uniform Rule 30 procedure, is not designed as a shield for dilatory litigants. It exists to remove procedural hinderances and not to manufacture them.

30 The Applicant's conduct, demonstrates an attempt to avoid joining issue in the merits while exploiting technicalities long after the time for raising them has since expired.

31 Such conduct, is inconsistent with the duty of litigants to assist the Court in the proper administration of justice. There is no prejudice that has been demonstrated by the Applicant on the facts before the Court.

32 When one examines the amendment, it did not alter the cause of action which is mounted on the failure of the Applicant to make payment on the Agreements which led to his default.

33 The Applicant remains free to lift the Bar then plead, raise exceptions and defend the claim on the merits which is in contrast with the Respondent who has suffered ongoing delay in prosecuting its claim against the Applicant.

34 The amendment was validly effected by the Respondent in terms of Uniform Rule 28(5) which was complimented by the Notice of Bar which the Court finds was procedurally competent.

35 With regards to the Uniform Rule 30 application, this Court finds that it was brought out of the prescribed periods and the failure to contemporaneously bring a condonation application, is fatal to the Applicant's case.

36 The Rule 30 application, is enrolled out of time and is not properly before the Court without an application for condonation showing cause why it was not prosecuted within the prerequisite period in terms of the Uniform Rules.

37 It stands to reason that a party who has not complied with the Uniform Rules applicable in this Court, must explain the basis for non-compliance.

38 In sum, there is no prejudice demonstrated and the application is fatally defective and devoid of merit.

### **COSTS**

39 What remains is the issue of costs. In my view there are no circumstances which warrant a deviation from the general rule that costs follow the event.

### **ORDER**

40 In the circumstances, I make the following Order:

40.1 The application is dismissed with costs and on Scale B.

**MT MATLAPENG**  
**ACTING JUDGE OF THE HIGH COURT**

Attorneys

Applicant's Counsel: Professor Mtizi.

Applicant's Attorneys: Snail Attorneys @ Law.

Respondent's Counsel: M Ramabulana-Mathiba.

Respondent's Attorneys: Ramsay Webber.

Date of Hearing:

28 October 2025.

Date of Judgment:

04 March 2026.