



**IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN**

Not reportable

Case no: 3210/2022

In the matter between:

BOOMPIES KITCHEN (PTY) LTD

PLAINTIFF

and

CENTLEC (SOC) LTD

DEFENDANT

Neutral citation: *Boompies Kitchen (Pty) Ltd v Centlec (Soc) Ltd* (3210/2022) [2026]
ZAFSHC 96 (13 March 2026)

Coram: MOLITSOANE J

Heard: 20 February 2026

Delivered: 13 March 2026

Summary: Locus standi - misdescription of an entity - whether such misdescription affects the standing of a party.

ORDER

- 1 The objection to the locus standi of the plaintiff is dismissed.
 - 2 The defendant shall bear the costs of the application which shall include the costs of counsel on scale B.
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JUDGMENT

Molitsoane J

[1] The plaintiff instituted a delictual claim against the defendant for damages. The claim arises out of an alleged legal duty the defendant owes the plaintiff. At this stage the court is seized with the locus standi of the plaintiff and by agreement, the issue of locus standi was argued separately in terms of Uniform rule 33(4). The challenge of the standing of the plaintiff was not raised in the usual manner by way of an exception or a special plea. In its plea, the defendant denied the allegations made by the plaintiff as to its existence. Since this denial went against the standing of the plaintiff, it became imperative for the plaintiff to deal with its standing before proceeding to the merits of the main case.

[2] The principle of locus standi is *iudicio* essentially relates to the right or legal capacity of a party to sue or be sued. In *Four Wheel Drive Accessory Distributors CC and Rattan NO*,¹ the court said the following on the question of locus standi:

'The logical starting point is *locus standi* - whether in the circumstances the plaintiff had an interest in relief claimed, which entitled it to bring the action. Generally, the requirements for local standard are these. The plaintiff must have an adequate interest in the subject matter of the litigation, usually described as a direct interest in their relief sought; the interest must not be too remote; the interest must be an actual, not abstract or academic; and it must be a current interest and not a hypothetical one. The duty to allege and prove *locus standi* rests on the party institute the proceedings.

The rule that only a person who has a direct interest in their relief sort can claim a remedy, is no

¹ *Four Wheel Drive Accessory Distributors CC v Rattan NO* [2018] ZASCA 124; 2019 (3) SA 451 (SCA) paras 7 and 8.

more clearly expressed than in the judgment of Innes CJ in *Dalrymple*:

"The general rule of our law is that no man can sue in respect of a wrongful act unless it constitutes a breach of a duty owed to him by the wrongdoer, or unless it causes him some damage in law".'

[3] In *Firm-O-Seal CC v Prinsloo & Van Eeden Inc and Another*,² the court also said the following regarding standing:

'Standing is thus not just a procedural question, it is also a question of substance, concerning as it does the sufficiency of a litigant's interest in the proceedings. The sufficiency of the interest depends on the particular facts in any given situation. The real inquiry being whether the events constitute a wrong as against the litigant.'

[4] The plaintiff called a single witness, Mr Charlie. His testimony boils down to the fact that he is the founding member of the plaintiff, hence he testified that he was the owner of the plaintiff. The evidence reveals that the plaintiff is cited in these proceedings as Boompies Kitchen (Pty) Ltd. However, a registration certificate issued by the Commissioner of Companies and Intellectual Property Commissions has issued such certificate to an entity known as Boompies Trading Company, registration number 2015/408607/07. This certificate has listed the postal and registered address of Boompies Trading Company as 688 Ngalo St Rocklands, Bloemfontein, which address resembles that of the plaintiff in these proceedings. Mr Charlie is also listed as an 'active/director' of Boompies Trading Company.

[5] The defendant disputes the existence of the plaintiff and further that it carries on business of a restaurant at 688 Ngalo St, Rocklands, Bloemfontein. In my view the difference in the names which appear on the amended particulars of claim, namely, Boompies Kitchen (Pty) Ltd and those which appear in the registration certificate, Boompies Trading Company do not necessarily disprove the testimony of Mr Charlie. It is undisputed that the registration number of Boompies Trading Company is 2015/408607/07. When the plaintiff instituted an urgent interdict application in this Court under case number 415/2025 against the defendant, it was cited as Boompies Kitchen (Pty) Ltd, with the same registration number as that of Boompies Trading. The relief sought in the interdict emanated from the decision of the defendant to deprive the plaintiff

² *Firm-O-Seal CC v Prinsloo & Van Eeden Inc and Another* [2023] ZASCA 107; 2024 (6) SA 52 (SCA) para 6.

of electricity by removing an electricity meter box. In these proceedings, damages are sought on the deprivation of electricity which prompted the launching of the urgent application.

[6] It is submitted on behalf of the defendant that the use of 'Boompies Kitchen (Pty) Ltd' is not a misdescription of the plaintiff in the pleadings as the plaintiff had been using the same name for the past 5 years in litigation between the parties. It is further submitted that the plaintiff seeks to 'sneak an amendment of the parties without following proper procedure'. I disagree with these contentions.

[7] The undisputed evidence of Mr Charlie is that there was a misdescription of the plaintiff in the particulars of claim. This evidence was unchallenged during the hearing before me as Mr Charlie was not cross examined and his evidence thus remains undisputed. Misdescription may point to an error as in this case and does not necessarily affect the standing of a party in the proceedings. The court in *HUV Cape Spice v Hotspice Sauces CC*,³ said the following:

'In my view the contentions on behalf of the respondent are based on a fallacy. The description of a party to a suit does not immutably determine the nature and identity of a party. The law reports are replete with instances where the incorrect description of a party was allowed, in the absence of prejudice to other parties involved, to be changed to reflect the true state of affairs. See for instance, *Four Tower Investments (Pty) Ltd v Andre's Motors 2005 (3) SA 39 (NPD)*. In an action in a magistrates' court which went on appeal to the High Court, the plaintiff was cited in the summons as a company. Shortly before the hearing of the appeal, it was established that the plaintiff was in fact a close corporation. The plaintiff then asked for an amendment on appeal to change the citation of the plaintiff from that of a company, to a close corporation. The defendant resisted the application for the amendment on the basis that since the plaintiff as cited was a non-existent entity, the summons was a nullity and that in any event, the service of the summons, not having been issued and served at the instance of the plaintiff as a close corporation, even if the summons were not a nullity, did not interrupt prescription. On the

³ *HUV Cape Spice v Hotspice Sauces CC* [2011] ZAWCHC 218.

evidence which showed that it was a close corporation which had acted throughout, and that the citation was in fact nothing but a misdescription of the plaintiff, the amendment was allowed.

At 47E it was held that:

"... if the citation of a party is nothing more than a misdescription, it should not matter whether the incorrect citation happens on the face of it to refer to a non-existing entity or indeed to an existing but uninvolved entity".

[8] Having regard to the evidence before me including the order of Van Zyl J, and the relief sought in the interdict together with the allegations in the proceedings before me, I am satisfied that the plaintiff is the true party in these proceedings and has the necessary capacity to litigate. In its particulars of claim, the plaintiff pleaded as follows:

- (a) The defendant is an electricity utility entity which has its objective, the development, operations and maintenance of the electricity distribution system in the jurisdiction of the Mangaung Metropolitan Municipality.
- (b) At all relevant times, the defendant had a legal duty to:
 - (i) within its administrative and technical capacity efficiently and uninterruptedly supply electricity to the populace of Mangaung Metropolitan Municipality including the premises at which the plaintiff operates its business as set out above by virtue of the relevant loss and the agreement the defendant has with MA Charlie; and
 - (ii) ensure that the electricity supply to the premises at which the plaintiff operates business is not interrupted and / or discontinued irregularly and / or unlawfully end / or without legal

[9] The defendant in its plea admitted the above allegations and thus confirmed that it had a legal duty towards the plaintiff to supply it with uninterrupted electricity. It is because of an alleged breach of this duty that the plaintiff instituted these proceedings. This court is not seized with the question of whether the plaintiff would ultimately succeed or not. What the particulars of claim and the plea thereto demonstrate is that the plaintiff has direct and substantial interest in the relief it seeks. For these reasons, it has the necessary locus standi to bring these proceedings.

[10] I accordingly order as follows:

- 1 The objection to the locus standi of the plaintiff is dismissed.
- 2 The defendant shall bear the costs of the application which shall include the costs of counsel on scale B.




P E MOLITSOANE
JUDGE OF THE HIGH COURT

Appearances

For the plaintiff:

Instructed by:

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For the defendant:

Instructed by:

Z Nyezi

Rampai Attorneys,
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