



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 2024-114615

DELETE WHICHEVER IS NOT APPLICABLE

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

26/03/2026
DATE

SIGNATURE

In the matter between:

K2012190864 (PTY) LTD

Applicant

and

CITY OF JOHANNESBURG

METROPOLITAN MUNICIPALITY

Respondent

This judgment was handed down electronically and by circulation to the Parties' legal representatives by a way of email and shall be uploaded on caselines/court online. The date for hand down is deemed to be on _____

JUDGMENT

MOGOTSI AJ

Introduction

1. This is an application concerning a protracted municipal billing dispute between the parties. The matter arises from what the Applicant describes as exorbitant and incorrect electricity and water charges levied by the Respondent over a sustained period.

Background

2. The Applicant was aggrieved by the Respondent's levies and launched an application, which culminated in Terment AJ's order dated 26 September 2023. That order directed the Respondent to rectify the Applicant's account for the relevant period and compelled the parties to engage in a debatement process. The parties, in vain, held two debatement meetings, and the Applicant launched the present application.

Relevant Factual Matrix

3. The Applicant settled all historical arrears in late 2018. Thereafter, the Respondent levied the following four electricity charges:
 - a November 2018: R497 774.25
 - b December 2018: R151 433.53
 - c January 2019: R233 359.75
 - d February 2019: R239 137.36
4. The Respondent's contractor, Mr G F Losch, attended the Applicant's property and, upon inspecting the meter, concluded that the anomalously high readings were

caused by an incorrectly connected electricity meter. The Applicant provided the Respondent with photographic evidence of the contractor's attendance and the defective meter.

5. Regarding water charges, the Applicant closed the water supply to the relevant portion of the property in November 2023. Despite this, and notwithstanding the Respondent's awareness of the situation since the first debatement meeting in April 2024, the Respondent continued to levy fluctuating estimated water charges.

Issues for Determination

6. Firstly, this court is called upon to determine whether the current application constitutes an impermissible relitigation of issues already disposed of by Terment AJ's order of 26 September 2023; and second, if not, whether the Applicant has exhausted the Respondent's internal dispute resolution mechanisms as required by section 102 of the Local Government: Municipal Systems Act¹ ('the Systems Act') and the Respondent's Credit Control and Debt Collection Policy, before approaching this court.

The Applicant's Submissions

7. The Applicant counsel correctly, in my view, conceded that the parties, the facts and the relief sought are the same as those in previous matter that led to the Terment order.

¹ *Municipal Systems Act* 32 of 2000

The Respondent's Submissions

8. The Respondent's counsel submitted that the Applicant is impermissibly attempting to relitigate issues already determined and that the present application constitutes an abuse of process, analogous to the doctrine of *lis pendens*.

9. The Respondent further contends that the Applicant failed to follow the mandatory internal dispute resolution procedure prescribed by section 102(2) of the Systems Act and clause 16 of the Respondent's Credit Control and Debt Collection Policy. That procedure requires a consumer first to lodge a specific query, and thereafter, if dissatisfied after 30 days, to declare a formal dispute. The Applicant has not tendered proof of compliance with this procedure.

Applicable Legal Principles

10. The right of a municipal consumer to challenge incorrect accounts is well established. In *Rademan v Moqhaka Local Municipality and Others*², the Constitutional Court confirmed that municipalities are constitutionally obliged to bill consumers accurately and that consumers retain the right to dispute and withhold payment of disputed amounts, provided they comply with the prescribed processes.

11. The internal dispute resolution requirement under section 102 of the Systems Act is a condition precedent to judicial relief in municipal billing disputes. In *City of*

² 2013 (4) SA 225 (CC)

Cape Town v Khaya Projects (Pty) Ltd and Others³ [2015] ZAWCHC 63, the court confirmed that failure to exhaust internal remedies before approaching the court is, in principle, fatal to the relief sought, absent exceptional circumstances.

12. Regarding relitigation, the principle of *res judicata* requires that the same parties may not relitigate a cause of action that has been finally determined. The requirements were articulated in *Bafokeng Tribe v Impala Platinum Ltd and Others*⁴ as follows: the parties, the cause of action, and the relief sought must be the same. Where a new cause of action has arisen from events after the original judgment, relitigation is not established.
13. Similarly, the doctrine of *lis pendens* applies only where litigation is presently pending between the same parties on the same cause of action and for the same relief.⁵ Where the prior proceedings have been finalised, *lis pendens* cannot apply.

Analysis

14. The Applicant's counsel correctly conceded that the current application is based on substantially the same cause of action as the previous matter that culminated in Terment AJ's order. Accordingly, I find that the present application impermissibly relitigates the earlier proceedings. It follows that the inquiry into the Applicant's compliance with the internal dispute resolution requirements becomes moot.

³ [2015] ZAWCHC 63

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⁵ *Nestlé (South Africa) (Pty) Ltd v Mars Inc 2001 (4) SA 542 (SCA)*

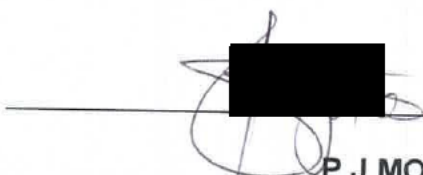
Costs

15. The Respondent's dilatory and uncooperative conduct in resolving the underlying billing dispute has materially contributed to the present litigation. Consequently, I am inclined to deviate from the established principle that costs follow the result. Each party shall accordingly bear its own costs.

Order

In the premises, the following order is made:

1. The application is dismissed.
2. Each party is to bear its own costs.


P J MOGOTSI
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

Appearances

Counsel for applicant:

Attorney for applicant:

Counsel for respondents:

Attorney for respondents:

Date heard:

Date of Judgment: