IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 053255/2023

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: ***NO***
(2) OF INTEREST TO OTHER JUDGES: ***NO***
(3) REVISED.
Date: ***08 April 2026*** Signature: [redacted]

In the matter between:

NATSURE PROPERTY INVESTMENT HOLDING COMPANY (PTY) LTD Plaintiff / Applicant

and

KHOMBO MIELLIANT MOTSEPE First Defendant / Respondent

SIKHUMBUZO VUMI DLAMINI Second Defendant / Respondent

JUDGMENT

NYATHI J

A. Introduction

[1] Before this Court is an opposed application for summary judgment brought by the Plaintiff in terms of Rule 32 of the Uniform Rules of Court. The Plaintiff seeks judgment against the First Defendant in her capacity as surety and co-principal debtor for alleged arrear rental and charges arising from a lease agreement concluded between the Plaintiff and Praetorian Group International (Pty) Ltd ("PGI").

[2] The First Defendant opposes the application and advances several grounds of defence in her plea and in her affidavit resisting summary judgment. These include two special pleas—non-joinder of PGI and no cause of action—as well as disputes concerning the quantum, the validity of the certificate of balance, the effect of alleged lock-out and rent remission, and certain alleged discrepancies in the statement of account.

[3] I summarise the relevant defences and assess whether they meet the threshold for resisting summary judgment

B. Legal framework

[4] Rule 32 requires that a defendant resisting summary judgment must "disclose fully the nature and grounds of the defence and the material facts relied upon therefor". The

Court is not tasked with determining probabilities or resolving disputes of fact at this stage, but only whether the defence appears *bona fide* and raises triable issues.

[5] The principles have frequently been restated, notably in *Joob Joob Investments (Pty) Ltd v Stocks Mavundla Zek Joint Venture* 2009 (5) SA 1 (SCA), *Breitenbach v Fiat SA (Edms) Bpk* 1976 (2) SA 226 (T), and *Tumileng Trading CC v National Security and Fire (Pty) Ltd* 2020 (6) SA 624 (WCC), emphasising that a defendant must meaningfully engage with the claim and demonstrate a genuine defence in law.

C. Common Cause Facts

[6] The following facts are undisputed on the pleadings:

6.1 The Plaintiff and PGI concluded a written commercial lease agreement on 8 September 2020.

6.2 The First Defendant was at all relevant times a director of PGI and executed a written deed of suretyship, binding herself as surety and co-principal debtor for all PGI's obligations under the lease.

6.3 The First Defendant renounced the benefits of excussion, division, errors of calculation and others.

6.4 PGI fell into arrears with payment of rental and related charges.

D. The Special Plea of Non-Joinder

[7] The First Defendant argues that PGI must be joined because a surety's liability is accessory in nature. Reliance is placed on *Van Zyl v Auto Commodities (Pty) Ltd* [2021] ZASCA 67.

[8] The difficulty with this defence is twofold:

8.1 As surety and co-principal debtor who renounced excussion, the First Defendant's liability is co-equal with that of PGI. A creditor may sue any co-principal debtor without joining the others (*Consolidated Textile Mills Ltd v Weiniger* 1961 (3) SA 335 (O)).

8.2 The First Defendant herself pleads that PGI is "in the process of deregistration" but does not plead that it no longer exists. Even if deregistered, liabilities do not vest in the State; only assets do (*Miller v Nafcoc Investment Holding Co Ltd* 2010 (6) SA 390 (SCA)).

[9] There is therefore no merit in the special plea. It does not raise a triable issue and must be dismissed.

E. Special Plea: No Cause of Action (Absence of Certificate of Balance)

[10] The First Defendant argues that the Plaintiff was obliged to attach a certificate of balance to the particulars of claim, failing which the Plaintiff has no cause of action.

[11] Clause 11 of the suretyship and clause 16.4 of the lease deal with evidentiary facilitation, not substantive validity of the claim. They create a mechanism for prima facie proof of indebtedness—they do not create a jurisdictional prerequisite for the institution of action.

[12] The Plaintiff attached a detailed statement of account (“Annexure C”), which the First Defendant conspicuously avoids engaging with. In any event, a certificate of balance was later furnished in the summary judgment application. It is trite law that a certificate of balance may be produced at the summary judgment hearing *(Rossouw v First Rand Bank Ltd* 2010 (6) SA 439 (SCA) para 47).

[13] This special plea is thus also without merit.

F. The Defence of Incorrect Quantum

[14] The First Defendant alleges:

14.1 The Plaintiff “concealed” a payment of R93 655.31.

14.2 There is a contradiction between the amount in the letter of demand (R448 492.01) and the amount later claimed (R364 013.41).

14.3 Annexure “C” is not a true reflection of the account; and the Plaintiff applied VAT incorrectly.

[15] The Plaintiff explains that the amount of R93 655.31 reflects a deposit and first month’s rental; the deposit portion (R70 512.25 including VAT) is reflected in the final

credit line of Annexure C. The First Defendant does not engage with this explanation nor identify which entries are wrong.

[16] A defendant must do more than raise unparticularised suspicions *(Saglo Auto v Black Shades Investments* 2021 (2) SA 587 (GP)).

[17] The defence concerning VAT revolves around an amount of approximately R9 197.25. Even if such a defence were competent (which is doubtful), it concerns only a minute portion of the claim and does not defeat summary judgment for the undisputed balance *(Brandhouse Ltd v Sasfin Bank Ltd* [2009] 1 All SA 22 (SCA)).

[18] The Court finds that no genuine dispute of quantum has been raised.

G. Alleged Lock-Out and Rent Remission

[19] The First Defendant pleads that the Plaintiff locked PGI out of the premises, entitling PGI to full remission of rent.

[20] However, the First Defendant simultaneously pleads:

20.1 PGI vacated the premises;

20.2 PGI was locked out;

20.3 The premises were re-let to another tenant; and

20.4 PGI continued to make payments after the alleged lock-out.

These versions are mutually destructive and not pleaded in the alternative.

[21] Furthermore, the First Defendant fails to plead:

21.1 dates of the alleged lock-out;

21.2 duration;

21.3 the periods for which remission is claimed;

21.4 how the lock-out rendered performance objectively impossible.

[22] A defendant must meaningfully engage with the allegations and set out facts, not mere conclusions (*Tumileng Trading*, supra).

[23] As rent in this lease was payable in advance, the defence of remission (which usually applies where obligations are reciprocal) is in any event doubtful *(Thompson v Scholtz* 1999 (1) SA 232 (SCA)).

[24] This defence therefore does not raise a triable issue.

H. Applicability of the National Credit Act

[25] The First Defendant baldly denies that the NCA applies. Section 8(2)(b) of the Act expressly excludes leases of immovable property. This defence is legally unsustainable.

I. Assessment

[26] The First Defendant's affidavit does not disclose:

26.1 a defence good in law;

26.2 facts supporting any alleged defence;

26.3 nor any triable issue requiring ventilation at trial.

[27] The opposing affidavit is replete with contradictions, vague allegations, and legal misconceptions. The overall impression is not of a defendant with a *bona fide* defence, but of one seeking to delay the inevitable.

J. Conclusion

[28] The Plaintiff has made out a proper case for summary judgment. The defences raised—whether procedural or substantive—do not meet the requirements of Rule 32(3)(b) and do not constitute *bona fide* defences.

[29] The Plaintiff is accordingly entitled to judgment.

K. Order

It is ordered that:

1. Summary judgment is granted against the First Defendant in the amount of R364 013.41.

2. The First Defendant shall pay interest on the aforesaid amount at the prescribed rate of 10.75% per annum from 7 March 2023 to date of final payment, both days inclusive.

3. The First Defendant shall pay the costs of suit on the attorney-and-client scale, as provided for in the lease and suretyship agreements.

[redacted]

J.S. NYATHI

Judge of the High Court

Gauteng Division, Pretoria

Date of Judgment: 08 April 2026

On behalf of the Plaintiff: Adv. H. Scholtz
Instructed by: Wessel Immink Botha Inc.

On behalf of the Defendants: Adv. R.E. Radama
Instructed by: Mabasa C.L. Attorneys.

Delivery: This judgment was handed down electronically by circulation to the parties' legal representatives by email and uploaded on the CaseLines electronic platform. The date for hand-down is deemed to be 08 April 2026.