REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 146511/2025

(1) REPORTABLE: ~~YES~~ / NO

(2) OF INTEREST TO OTHER JUDGES: ~~YES~~/NO

(3) REVISED: NO

DATE 13 APRIL 2026

SIGNATURE

In the matter between:

FIRSTRAND BANK LIMITED Applicant
(Reg. No.: 1929/001225/06)

And

DAVID MOGASHOA Respondent

(ID.: 7[...])

Heard on: 25 February 2026

Delivered on: 13 April 2026

Delivered: *This judgment was prepared and authored by the Judge whose name is reflected and is electronically circulated to the parties/their legal representatives by e-mail and by uploading it to the electronic file of this matter on Caselines. The date for hand-down is deemed to be* ***13 April 2026.***

JUDGMENT

KEKANA AJ

[1] This is an application for a monetary judgment against the Respondent, whereby the Respondent is alleged to have stood surety for the obligations of the principal debtor, namely Perfect Drive Rand Airport (Pty) Ltd. The Respondent opposes the application and denies the existence of any suretyship between the Applicant and the Respondent.

Introduction and Background

[2] The principal debtor entered into various credit agreements with the Applicant and later failed to make payment of the balances, resulting in the Applicant cancelling the agreements. The Applicant claims to have entered into an overdraft facility agreement with the principal debtor on or about 06 February 2024, which has a current balance of R I 912 825,75 (One million nine hundred and twelve thousand eight hundred and twenty-five rands seventy-five cents). On the same day, there was a loan agreement with the principal debtor, which has a current balance of R 2 075 870,75 (Two million and seventy-five thousand eight hundred and seventy rands seventy-five cents). On 29 June 2022, there was another loan agreement with the principal debtor, which has a current balance of R 516 232, 76 (Five hundred and sixteen thousand two hundred and thirty-two rands seventy-six cents). On 26 October 2021, the Respondent entered into a surety agreement with the Applicant.

The Respondent signed as surety for Perfect Drive Rand Airport (Pty) Ltd. The Applicant claims that it is entitled to recover the monies from the surety as co-principal debtor.

Submissions by parties

[3] The Applicant makes several submissions that:

3.1 no genuine or bona fide dispute exists in that the Respondents only provide a bare denial and fail to take this Court into confidence by disclosing a defence or answer to any of the averments;

3.2 a bare denial is generally not sufficient to create a dispute of fact in application proceedings;

3.3 in a motion court, the Respondent's answering affidavit must seriously and unambiguously address the facts in the founding affidavit.

[4] The Respondent contends that;

4.1 there was no surety agreement entered into between himself and the Applicant to marry the debts claimed by the Applicant;

4.2 denies being indebted to the Applicant for any amount of R I 912 825,75;

4.3 denies being indebted to the Applicant for any amount of R 2 075 870,75;

4.4 denies being indebted to the Applicant for any amount of R 516 232, 76.

Legal principle and analysis.

[5] It is trite that a real, genuine and bona fide dispute of fact can only exist where the Court is satisfied that the party who purports to raise the dispute has seriously and unambiguously addressed the facts said to be disputed in his or her affidavit. The respondents do not meet this threshold. It is trite that motion proceedings, unless concerned with interim relief, are all about the resolution of legal issues based on common cause facts. Unless the circumstances are special, they

cannot be used to resolve factual issues because they are not designed to determine probabilities.[1]

[6] It is well established that if the material facts are in dispute and there is no request for the hearing of oral evidence, a final order will only be granted on notice of motion if the facts as stated by the respondent, together with the facts alleged by the applicant that are admitted by the respondent, justify such an order.[2] Unless, of course, the court is satisfied that the respondent's version consists of bald or uncreditworthy denials, raises fictitious disputes of fact, is so far-fetched or so clearly untenable or so palpably implausible as to warrant its rejection merely on the papers.[3]

[7] The Applicant was able to prove the following:

7.1 The overdraft facility agreement, it addendum and the certificate of balance thereto;

7.2 a first loan agreement, its addendum and the certificate of balance thereto;

7.3 a second loan agreement, its addendum and the certificate of balance thereto;

7.4 a statement of accounts for all accounts, the overdraft facility and the two loans;

7.4 a surety agreement signed by the Respondent;

7.5 letters of demand in relation to the outstanding amount on the loans;

7.5 letter of demand in relation to the outstanding amount on the overdraft facility.

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[1] *Cooper and Another NNO v Curro Heights Properties (Pty) Ltd* 2023 (5) SA 402 (SCA) at para 13.
[2] *Stellenbosch Farmers' Winery Ltd v Stellenvale Winery (Pty) Ltd* 1957 (4) SA 234 (C) at 235E.
[3] *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* [1984] ZASCA 51; 1984 (3) SA 623 (A) at 635C.

[8] For the Respondent to simply deny the existence of a surety agreement which he signed on 9 October 2018 cannot be bona fide while the surety agreement is in existence. Clause 12 of the deed of surety signed by the Respondent provides that:

> Additional security- "*This suretyship is in addition to and without prejudice to any other securities or suretyships now held or hereafter to be held from or on behalf of the Debtor and this suretyship shall remain in force despite the death or legal disability of myself or one or more of us until receipt by FRB's branches or divisions at which the Debtor in indebted of notice in writing terminating same advising the Debtor of termination of his suretyship*."

[9] There has been no evidence adduced by the Respondent to prove termination of the surety agreement.

[10] The crisp issue is whether there are fundamental disputes of fact which cannot be resolved on the papers. A bare denial raised by the Respondent does not offer any assistance in this regard. The Respondent, in its affidavit, fails to raise any issues that trigger a dispute warranting a trial. The Respondent's contention that the certificate of balance only shows the balance but not the breach cannot be sustained; nowhere does the Respondent make any averments that it paid the whole or part of the claimed amount. It is only then that a possibility of a dispute could arise. Absent any such averments on the part of the Respondent, no dispute of fact arises.

[11] The contention by the Respondent that a certificate of balance only shows the outstanding amount but not a breach becomes purely cosmetic once the agreements are cancelled. The certificate of balance will be sufficient to prove what is outstanding after the agreements have been cancelled.

Conclusion

[12] The facts of this matter are such that the court is satisfied that the Respondent's version consists of uncreditworthy denials and is clearly untenable. There is, quite simply, no defence to the Applicant's claim on the papers. The Respondents place absolutely no facts before the Court which could be considered a dispute, or which could raise a dispute or triable issue. On the contrary, the Applicant

has shown that the amounts due are owing to them. Accordingly, the only appropriate relief to be granted is that which is prayed for in the notice of motion, with costs.

[13] I accordingly grant the following order:

1. The Respondent to pay an amount of R I 912 825,75 (One million nine hundred and twelve thousand eight hundred and twenty-five rands seventy-five cents) to the Applicant.
2. The Respondent to pay an amount of R2 075 870,75 (Two million and seventy-five thousand eight hundred and seventy rands seventy-five cents) to the Applicant.
3. The Respondent to pay an amount of R 516 232, 76 (Five hundred and sixteen thousand two hundred and thirty-two rands seventy-six cents
4. The Respondent to pay the above-stated amounts with interest due, owing and payable to the Applicant in terms of the deed of surety for the obligations of the principal debtor
5. The Respondent to pay the costs of this application on a party and party scale B.

ND KEKANA

ACTING JUDGE OF THE HIGH COURT