IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case No: 2025-119922

Date: 04.03.2026

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED

In the matter between

BMW FINANCIAL SERVICES (SOUTH AFRICA) PTY LTD Plaintiff / Applicant

and

SEGOOA, HARRIET BASETSANA Defendant / Respondent

J U D G M E N T

MOULTRIE J: The applicant seeks summary judgment in relation to a claim in an action instituted as cedent, pursuant to the respondent's breach of an instalment sale agreement in respect of a motor vehicle.

Although the respondent opposes the application, upon entering the court at 12h00 today, being the scheduled time for the hearing, I found only counsel for the applicant present. I enquired as to whether she had any information regarding an appearance on behalf of the respondent. She informed me that she had telephoned Mr Selebi, the attorney for the respondent, who had advised her that he had briefed counsel (as it turned out, this was a reference to Mr Raulinga, an attorney with rights of appearance) to represent the respondent, and that the representative was "just parking" and would be in Court shortly.

I therefore agreed that the matter would stand down until 12h20. The respondent's representative did not arrive by 12h20, and I then proceeded with the hearing in the absence of a representative for the respondent. At 12h50 the Court was forced to rise due to an interruption of electricity.

The hearing then reconvened at 14h00, whereupon to my surprise Mr Raulinga introduced himself as the representative for the respondent. I enquired from him as to his lateness, for which he apologised, and he indicated that he had not come to court earlier because he had "been given the impression that the matter would settle", but that when it had not settled by 11h30, he had left his office in Rosebank to attend Court. While I attempted to obtain from Mr Raulinga a comprehensible explanation as to why he could still not have been in Court by 12h50 when the Court had risen, especially since he was apparently "just parking" at 12h20, he was not able to do so. As I have said, however, he did apologise, and I allowed him to address me.

The merits of the matter have effectively been conceded by the respondent, both in the written heads of argument and in oral argument before me. It is conceded that the respondent fell behind on her instalments under the agreement, and for that reason the applicant was entitled, as a matter of law, to cancel and to claim repossession of the vehicle.

The summary judgment that is sought is only in relation to the cancellation and in relation to the repossession of the vehicle itself, which is an immediate consequence of the cancellation. In the circumstances, at least in relation to prayers one and two (to which the application is limited), the applicant is, as a matter of law, at least *prima facie* entitled to the summary judgment.

In her affidavit opposing summary judgment, the respondent raised a whole raft of alleged defences, none of which appear to me to avail her in any manner whatsoever. Of those defences, the only ones that Mr Raulinga persisted with were the following.

Firstly, on the question of jurisdiction, Mr Raulinga attempted to persuade me that the Court had no geographical jurisdiction over the respondent on the basis that she is domiciled within the geographical area of the

Pretoria High Court. I then engaged with Mr Raulinga over the relevance of the notices that had been published by the Minister in the Government Gazette in January 2016 and December 2015 under section 6(3) of the Superior Courts Act, 10 of 2013 regarding the jurisdiction of the Court. Although Mr Raulinga accepted and acknowledged the existence of those notices, he attempted to argue on the basis of the authority of *Standard Bank v Mpongo* 2021 (6) SA 403 (SCA) that they were not of application. The argument is incorrect, misconceived, misguided, and unavailing. This is well-established in a range of cases (cf. *Isibonelo Property Services (Pty) Ltd v Uchemek World Cargo Link Freight CC and Others* [2023] ZAGPJHC 156).

The respondent's next contention is that the affidavit in support of summary judgment is invalid because the attorney who commissioned it was admitted under the Legal Practice Act 28 of 2014, and not under the Attorneys Act, 53 of 1979 as specified in paragraph 2(b) of the designation notice (GN 903 in GG 19033 of 10 July 1998, as most recently amended in GN 6896 in GG 53767 of 2 December 2025) published under the Justices of the Peace and Commissioners of Oaths Act, 16 of 1963. This contention is not sustainable in view of section 12(1) of the Interpretation Act, 33 of 1957, which provides that:

> "Where a law repeals and re-enacts with

> or without modifications, any provision of a former law, references in any other law to the provision so appealed shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted."

The next point that Mr Raulinga attempted to advance was the contention that the applicant had failed to engage in a fair manner with the respondent over proposals that she had made in seeking to bring her arrears up to date. Mr Raulinga did not suggest to me that any of those attempts had been undertaken in terms of any particular section of the National Credit Act, 34 of 2005 and sought to rely solely on section 3 thereof. He was ultimately constrained to concede that this section affords no person any right. It simply sets out the purposes of the Act: the rights of consumers, as well as the obligations and rights of the various other participants in the credit market are set out elsewhere in the Act. And as I have said, Mr Raulinga was not able to identify any particular section giving rise to a defence.

Mr Raulinga did attempt to persist in alleging that there were various fraudulent misrepresentations made in various documents. In the first place, it is contended that in an Affidavit of Service, an employee of the applicant had incorrectly stated that the section 129 letter had in fact been delivered or collected by the respondent or a family member. It is also contended that it is incorrectly stated that a Notice of Bar had been delivered. Even if I were to accept that these affidavits contained inaccuracies (and I put it no higher than that) or even if I were, for the purposes of the judgment, to accept that they contained intentional falsehoods, I do not accept that that would undermine the right of the applicant to obtain summary judgment in this matter. The reason for that is, as Mr Raulinga very correctly conceded, those statements would have no effect whatsoever on the right of the applicant to relief, because the section 129 letter had, in fact, been delivered in terms of the requirements under the Constitutional Court's judgment in *Sebola and Another v Standard Bank of South Africa Ltd and Another* [2012] ZACC 11; 2012 (5) SA 142 (CC); 2012 (8) BCLR 785 (CC). In the circumstances, I wish to make it clear that I make no finding as to whether or not, in fact, any perjury or fraud has been committed, but I do not consider that it would be relevant to reach any conclusion in that regard. As I have said, on the merits, there is no defence, and in the circumstances, the applicant is entitled to summary judgment for conformation of the cancellation of the agreement, as well as an order requiring the return of the vehicle.

The question of costs has exercised my mind in this matter. Before expressing my views in this regard, I wish to indicate that the submissions advanced by both representatives before me were equally disappointing. Neither representative appeared to be fully prepared. And in fact, both representatives appeared to not be aware of critical and relevant law in relation to the issues that have been raised. However, their clients should not suffer as a result of that.

Ultimately, I conclude that the correct approach is simply that the costs should follow the cause and that the respondent should pay the applicant's costs. Of course, that will, without specifying so, constitute a costs order on the party-and-party scale including include the costs of counsel. The failure to reference any particular scale will result in the costs order for counsel being on scale "A". In the circumstances, I make the following order.

SUMMARY JUDGMENT is granted in favour of the plaintiff / applicant against the defendant / respondent as follows:

1. The plaintiff / applicant's cancellation of the instalment agreement is confirmed.
2. The Sheriff of the High Court is authorised to attach, seize and hand over the following motor vehicle to the plaintiff / applicant: BMW X3 XDrive

20d (G01), Engine number 6[...], Chassis number W[...].

3. The defendant / respondent is ordered to pay the plaintiff / applicant's costs.

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MOULTRIE J

JUDGE OF THE HIGH COURT

Hearing and judgment:	4 March 2026
Ex tempore judgment revised:	14 May 2026

For the plaintiff: S Masitenyane instructed by MacRobert Inc.

For the defendant: S Raulinga (attorney) on instruction from Selibi & Co.