THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

Case no: 2023-012939

(1) REPORTABLE: Yes

(2) OF INTEREST TO OTHER JUDGES: Yes

(3) REVISED: Yes

Date: 12 May 2026

In the matter between:

THE STANDARD BANK OF SOUTH AFRICA LIMITED	Applicant
And	
EDGAR ADAMS	First Respondent
SHENAZ RENAY ADAMS	Second Respondent

Keywords: Summary judgment — mortgage bond — home loan — primary residence — bona fide defence — Rule 32(3)(b) — organised pseudolegal commercial arguments (OPCA) — sovereign citizen — strawman theory — ALL CAPS names — legal personality — natural persons — juristic persons — jurisdiction — constitutional supremacy — rule of law — Aboriginal or indigenous rights — Free Prior and Informed Consent — Indigenous Knowledge Act — securitisation — Rule 46A

JUDGMENT

DU PLESSIS J

Introduction

[1] This is an opposed application for summary judgment in respect of a home-loan agreement secured by a mortgage bond over the respondents'[1] residential immovable property.

[2] The respondents are self-represented. They do not meaningfully dispute that they concluded the home-loan agreement, that the bond was registered in favour of the applicant, or that they are in arrears. Their plea, affidavit and oral submissions rest on what is termed in foreign jurisdictions the "sovereign citizen" or "organised pseudo legal commercial arguments" ("OPCA").[2]

[3] In short, they contend that they are "sovereign Aboriginal living persons", that the applicant ("the bank") and this Court do not have jurisdiction over them, that the mortgage is invalid because of alleged indigenous rights, and that, in any event, the loan has been discharged by their signatures and the securitisation of the debt. They have also filed a counterclaim.

[4] Under our law, these submissions do not constitute bona fide defences in a summary judgment application regarding a mortgage debt, for reasons set out after I the background facts.

Background

[5] In May 2012, the parties concluded a written home-loan agreement under which the bank advanced approximately R1.26 million to the respondents, with the usual obligation to repay by way of monthly instalments over a period of 360 months.

[1] The parties will be referred to as they are in this application, and not "plaintiff" and "defendants".

[2] *Meads v Meads* 2012 ABQB 571.

The loan was secured by the registration of a mortgage bond over the immovable property (the respondents' residence) situated within the jurisdiction of this court.

[6] The respondents fell into arrears in 2021, after which a summons was issued for payment of the outstanding balance, together with interest, and for an order declaring the property executable. The respondents entered an appearance to defend and filed a lengthy plea.

[7] The bank then instituted these summary judgment proceedings, after which another lengthy opposing affidavit was filed. At the hearing, the first respondent addressed the Court at length on the themes and points set out in the plea and affidavit. The main themes concerned whether the Court has jurisdiction to hear the matter, whether I have the necessary authority to adjudicate the matter, and the assertion that the bank, as a corporation, could not have contracted with the first respondent as a "living man".

The defendants' contentions

[8] The defendants' central submissions are:

a. The defendants draw a distinction between themselves as "sovereign Aboriginal living man/woman" and the versions of their names that appear in official documents in capital letters, such as "EDGAR ADAMS" and "SHENAZ ADAMS". In their view, the ALL CAPS names denote separate corporate "strawmen" or Cestui Que Vie trusts that were created without their consent and are being traded or used by the State and banks. They submit that contracts and court processes directed at those "strawmen" are invalid, and that they, as living persons in flesh and blood, cannot be held liable on that basis. They assert that, as sovereign Aboriginal people and holders of allodial title within an "Empire" structure, they are not bound by South African statutes or courts. Instead, they recognise only "common law", "natural law," and an Aboriginal legal system that they claim. Therefore, they submit that this Court lacks jurisdiction over them and that its authority exists only if they consent.

b. They submit that the mortgaged property forms part of inalienable Aboriginal or indigenous territory, that the State recognises this through various instruments (including the Indigenous Knowledge Act[3] and Free Prior and Informed Consent principles), and that the plaintiff was required to obtain certificates or authorisations from indigenous-rights bodies (such as NIKSO) before trading on or lending against that land. In their view, the failure to obtain such approvals renders the mortgage "fraudulent, null and void".

c. They also submit that the "banks never lend money". Instead, when signing the home loan documents, the plaintiff allegedly generated the credit "out of thin air" through their signatures, making them the actual creditors and the bank the debtor. Moreover, they claim that the later securitisation of the mortgage debt on capital markets discharged the obligation, thus leaving the plaintiff with no enforceable claim.

d. They purport to bring a counterclaim in the hundreds of millions of US dollars against the bank, its attorneys and others, based on alleged identity theft, fraud, trading in their "strawman" estates, and violations of various foreign statutes, including provisions of the United States Code.

[9] I deem it necessary, to some extent, to address the main submissions as grouped together above, to develop an approach that is appropriate in instances such as these, where litigants purport to deliberately place themselves outside the rules and the law and rely on pseudolegal arguments to do so. Guidance can be found in foreign case law.

A comparative perspective

[10] The respondents' arguments are not unique. Courts in Canada, Australia and New Zealand have, over the last decade, had to grapple with similar arguments, often in mortgage and foreclosure cases. These jurisdictions have developed a helpful vocabulary and analytical framework and deserve mentioning.

[3] Act 6 of 2019.

[11] In *Meads v Meads*[4], the Alberta Court of Queen's Bench, in a comprehensive and lengthy judgment, coined the term "organised pseudolegal commercial arguments" (OPCA) to describe collections of legal-sounding words, documents and rituals that purport to create immunities from normal legal obligations, but have no foundation in any recognised legal source. The Court surveyed several cases in which such arguments were deployed, including mortgage-resistance schemes, and concluded that OPCA strategies are "pseudolaw": they mimic the form of law but are substantively empty.

[12] Foreign courts have described the "Strawman Theory"/ALL CAPS argument in some detail and have uniformly rejected it. After *Meads v Meads,*[5] Canadian courts have held that the notion of a separate "strawman" created by the use of capital letters is "factually false and legally irrelevant". In *Potvin (Re)*,[6] the Alberta Court of Queen's Bench summarised it as the notion that each individual is secretly linked to a separate "strawman" legal entity through birth registration, which is allegedly tied to a hidden fund. It is claimed that governments and banks can operate only through this entity and that, with certain techniques, a person might access the fund or evade legal responsibilities. The court, following *Fiander v Mills*,[7] held that the Strawman Theory is "notoriously" false, has "no basis in the law", and that its use in court is a marker of bad faith and vexatious, abusive litigation.

[13] As to the rejection of jurisdiction: In *Meads v Meads,*[8] the Court held that OPCA arguments denying the authority of courts unless the litigant "consents" are "obvious nonsense": the court's jurisdiction is prescribed by law and is not contingent on individual consent. In *Kosteska v Magistrate Manthey,*[9] the Court likewise held that courts derive their authority from statute and the constitution, not from an

[4] 2012 ABQB 571.

[5] 2012 ABQB 571.

[6] 2018 ABQB 652.

[7] 2015 NLCA 31.

[8] 2012 ABQB 571.

[9] QCA 105. Queensland Court of Appeal (Australia).

individual's acceptance. New Zealand's High Court has rejected similar "personal sovereignty" submissions in cases such as *James v District Court at Whanganui*.[10]

[14] In relation to the aboriginal argument, New Zealand courts have held that assertions of Māori sovereignty or reliance on the Treaty of Waitangi and He Whakaputanga do not create a personal exemption from the courts' jurisdiction or from generally applicable legislation. In *Creeks v R HC Auckland*[11] the Court stated:[12]

> "The Court of Appeal has made it clear that the courts are not the forum for a fundamental challenge to the entire constitutional structure of the country or for political campaigns of the sort the appellants are waging. Maori sovereignty can be the subject of debate in Parliament. The Waitangi Tribunal may be prepared to consider it. It can be debated in public meetings or the media. It may be the subject of lawful protest. But an assertion of Maori sovereignty does not raise a justiciable question. It cannot succeed in the general courts of New Zealand. Accordingly, this point should not be submitted to the Court of Appeal."

[15] In other words, claims framed as assertions of indigenous sovereignty cannot be asserted in ordinary courts tasked with enforcing private-law obligations.

[16] As for the arguments relating to banks not lending money, in *Crossroads-DMD Mortgage Investment Corp v Gauthier*,[13] the Alberta court, in a mortgage foreclosure, expressly rejected arguments that banks "never lend money", that mortgage loans are funded by the borrower's own signature or by "book-entry credit" created from nothing, and that therefore no real debt exists. The Court held that they are classic OPCA "money-for-nothing" schemes. In *Bank of Nova Scotia v Lee*,[14] the Ontario Superior Court held that securitisation of a mortgage portfolio is a

[10] NZHC 2196.

[11] A138/00 [2000] NZHC 1522.

[12] Para 7.

[13] 2015 ABQB 703.

[14] 2013 ONSC 6698.

financing arrangement between a bank and investors; it does not extinguish or novate the borrower's obligation, nor deprive the originating lender of standing to enforce the mortgage. The New Brunswick Court of Appeal in *Bossé v Farm Credit Canada*[15] described the contention that the borrower's signature alone creates the credit and discharges the debt as something that "defies logic". In *Crossroads-DMD and in Potvin (Re),*[16] Canadian courts dismissed OPCA defences to mortgage foreclosure, holding that such submissions do not disclose any triable issue.

[17] While these authorities are not binding on this court, they are instructive on how to approach the same cluster of submissions in the context of mortgage debts. With this information, I now turn to the South African legal position.

The law: summary judgment

[18] Rule 32(3)(b) provides that, in order to resist summary judgment, a defendant must satisfy the court that he or she has a bona fide defence to the action and must "disclose fully the nature and grounds of the defence and the material facts relied upon therefor".[17]

[19] The purpose of summary judgment was restated by the Supreme Court of Appeal in *Joob Joob Investments (Pty) Ltd v Stocks Mavundla Zek Joint Venture*.[18] The procedure is intended to prevent sham defences from defeating the rights of parties by delay and causing prejudice to plaintiffs who are endeavouring to enforce their rights. Properly applied, summary judgment is "drastic" only for a defendant who, in truth, has no defence.

[20] In mortgage cases involving a primary residence, the court must also have regard to sections 25 and 26 of the Constitution, the NCA, and Rule 46A. That entails careful scrutiny of the loan documentation, the arrears position, the

[15] 2014 NBCA 34.

[16] 2018 ABQB 652.

[17] *Maharaj v Barclays National Bank Ltd* 1976 (1) SA 418 (A) at 426A–D and *Breitenbach v Fiat SA (Edms) Bpk* 1976 (2) SA 226 (T) at 228B–E.

[18] 2009 (5) SA 1 (SCA).

defendants' personal circumstances, and the proportionality of execution, supported by the evidential matrix set out in a Rule 46A.

Do the respondents disclose a bona fide defence?

[21] Do these issues disclose a bona fide defence, supported by material facts, which, if proved at trial, would constitute an answer to the bank's claim? The answer must be no.

[22] Similar to the foreign cases dealt with above, they constitute pseudolaw arguments as described in *Meads v Meads.*[19] It uses the same legal terminology, and the respondents rely on the same statutes and (often foreign and from the previous century) cases as the litigants in those cases. They lack a foundation in South African law, and do not constitute a defence in law or otherwise to a valid mortgage claim.

Strawman

[23] The ALL CAPS/strawman theory is inconsistent with the basic principles of legal personality under our law. Legal personality is conferred on legal subjects, and there are two categories: natural persons (all human beings) and juristic or artificial persons. A juristic person, such as a company or bank, is a legal subject distinct from its members, often incorporated under general binding legislation. Such a juristic person has its own rights, duties and capacities to act through its various functionaries, and those actions of the functionaries bind the juristic person. Nothing in our law recognises a third category of hidden "strawmen" attached to natural persons via typography or birth registration, nor does the use of capital letters in a person's name create a separate legal subject.[20]

[24] In other words, a natural person's name may appear in different typographical forms in documents and records. This does not create a second legal person or a

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[19] 2012 ABQB 571. In para 44 the Court states: "As I have noted to Mr. Meads, these materials have no force or meaning in law, other than they indicate an intention on his part to evade his lawful obligations and the authority of the Court and government. He is an OPCA litigant."

[20] Heaton. The South African Law of Persons 6th Ed. Sixth edition. LexisNexis SA; 2021. Pp 3 – 4. See also LAWSA, Companies, volume 6(1) para 44.

juristic person, nor does it affect their capacity to contract, or their liability should they fail to honour the contract.

[25] The bank is incorporated as a public company under South African law and is a recognised juristic person. It is entitled to sue and be sued in its own name, and to enforce contracts into which it has lawfully entered. Nothing in our law prevents a bank, as a juristic person, from contracting with natural persons (or from being represented by attorneys and counsel in enforcing its rights). The "strawman" / ALL CAPS theory, therefore, provides no basis in law for the respondents not to be held to the contract.

Jurisdiction

[26] In its particulars of claim, the bank alleges that this Court has jurisdiction on two grounds: (1) the defendants reside within this court's area of jurisdiction; and (2) the mortgaged property is situated within this area, and the domicilium address chosen in the mortgage documentation likewise falls here. The bank alleges, and the respondents do not dispute, that they reside within this court's area of jurisdiction and that the mortgaged property and the chosen domicilium are situated here. Territorial jurisdiction is therefore established on ordinary principles.[21]

[27] Moreover, the loan agreement, signed by the respondents, provides that it is governed by South African law. This Court is furthermore obliged to apply the Constitution, statutes such as the National Credit Act,[22] and the common law as developed by our courts, not "common law" or "Aboriginal law" as unilaterally defined by a litigant.

[28] The submission that individuals can refuse to "consent" to the court's jurisdiction or legislation is misplaced. In a constitutional democracy, the courts' authority and the authority of generally applicable laws do not depend on personal consent. Section 2 of the Constitution explicitly states that "[t]his Constitution is the supreme law of the Republic; law or conduct inconsistent with it is invalid, and the

[21] *Bonugli v Standard Bank of South Africa Limited* [2012] ZASCA 48 paras 19 – 20.

[22] 34 of 2005.

obligations imposed by it must be fulfilled." This reflects the core principles of constitutional supremacy and the rule of law. Additionally, various provisions within the Bill of Rights clearly establish that rights are granted and obligations are imposed on both individuals and legal entities.[23] Our Constitution thus establishes a public constitutional order whose rules bind everyone within its jurisdiction. It is not a contract from which an individual can unilaterally "opt out" by withdrawing consent.

[29] In other words, jurisdiction is conferred by the Constitution and by legislation. Individuals cannot unilaterally exempt themselves from the operation of statutes or from the jurisdiction of courts by declaring themselves "sovereign". This is a consequence of constitutional supremacy and the rule of law. This is as true in South Africa as it is in Canada,[24] Australia[25] or New Zealand.[26] This does not constitute a defence to the claim.

[30] During the hearing, the first defendant alleged that, if this Court proceeded without first "proving" jurisdiction, the presiding judge would be engaged in "treason" and that any attorney who failed to report such "treason" would be criminally liable, relying on provisions of the United States Code. The first respondent further asserted that the presiding judge and counsel would be personally liable in the amount of 25 million rand for each claim if a "void judgment" were granted. These assertions are noted for the record, but they have no bearing on the outcome. Section 165(2) of the Constitution requires courts to apply the law "without fear, favour or prejudice", and the judicial oath in Schedule 2 obliges every judge to uphold and protect the Constitution and to administer justice to all persons alike, in accordance with the Constitution and the law. The court's task is to decide the case in accordance with South African law, and it has done so.

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[23] See for instance sections 8(1) and (2) and section 7(1).

[24] *Meads v Meads* 2012 ABQB 571 (Can).

[25] *Kosteska v Magistrate Manthey* QCA 105 (Aust).

[26] *James v District Court at Whanganui* NZHC 2196 (NZ).

Aboriginal claims

[31] The attempt to invoke Aboriginal or Indigenous rights, Free, Prior and Informed Consent ("FPIC") or the Indigenous Knowledge Act[27] as requiring the plaintiff to obtain authorisation before lending against, or enforcing a bond over, the mortgaged property is also not available to the respondents. FPIC is a principle of international indigenous-rights law that requires states and corporations to consult with indigenous peoples before undertaking activities that affect communal indigenous land and resources.[28] It is a collective community right. It does not confer on an individual homeowner a way out of private credit agreements voluntarily entered into over individually owned property. The Indigenous Knowledge Act deals with the protection and commercialisation of indigenous knowledge systems. It does not regulate mortgage lending. Neither instrument has the effect of invalidating a home-loan agreement concluded in 2012. Accordingly, this line of argument does not constitute a defence to the bank's claim.

Banks and securitisation

[32] Where a bank advances loan funds to a borrower, whether by paying out money or by crediting the borrower's account, a loan agreement comes into being. Once the borrower has received and uses the money, for example, to acquire a home, a debt exists on the agreed terms and must be repaid. The mortgage bond then serves as security for that indebtedness.

[33] The bank's internal and inter-bank funding mechanisms, including any securitisation of its loan book, do not remove the borrower's obligation. The agreement between the bank and the borrower remains; whatever agreement the bank may have with investors or third parties does not affect the home-loan indebtedness itself.[29] This submission does not disclose a bona fide defence that raises any triable issue and it therefore cannot resist summary judgment.

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[27] 6 of 2019.

[28] See for instance the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007, particularly Articles 10, 11, 19, 28 and 32.

[29] This was explained in *Bank of Nova Scotia v Lee* 2013 ONSC 6698.

Conclusion on summary judgment

[34] The respondents' submissions are advanced with conviction, but conviction does not convert pseudolaw into law. Foreign courts have observed that OPCA strategies can, in fact, compound the prejudice of indebted homeowners by delaying resolution and increasing costs. South African courts must, in my view, follow the same path: treat such arguments as legally ineffective, while ensuring that defendants are heard and that ordinary defences, where properly raised, are fully considered.

[35] I therefore find that the defendants have not disclosed a bona fide defence as required by Rule 32(3)(b). Their affidavit is largely argumentative and ideological, but does not raise any triable issue on the validity of the loan, the bond, the default, or the quantum.

The counterclaim

[36] In their papers, the defendants purport to advance an extensive counterclaim for very substantial unliquidated sums, premised on alleged identity theft, fraud, "monetisation" and trading of their "strawman" estates, and reliance on various foreign statutes.

[37] A counterclaim is not inherently a defence to the applicant's claim, and specifically not in this instance. The counterclaim does not operate as a defence for purposes of Rule 32 and cannot prevent summary judgment being granted.

Rule 46A and proportionality

[38] No factual disputes exist regarding the loan and bond, the default, or the amount shown in the plaintiff's balance certificate. There are no claims that the defendants did not receive the funds, failed to make the required payments, that the interest rate is wrong, or that the certificate inaccurately states the amount owed.

[39] The mortgaged property is the defendants' primary residence. I am accordingly required, under Rule 46A and the constitutional jurisprudence flowing from section 26 of the Constitution, to consider whether execution is just and equitable.

[40] The plaintiff has filed a detailed affidavit pursuant to Chapter 10.17 of the Practice Manual. It sets out the municipal valuation and independent valuations of market and forced-sale value, the amount of municipal rates and service charges outstanding, the arrears on the bond and the total indebtedness, and the proposed reserve price, calculated as the forced-sale value less municipal arrears. The defendants have not meaningfully engaged with these figures or proposed an alternative plan to cure the arrears

[41] The defendants did not place before the Court any concrete evidence of personal circumstances, such as income, dependants, or alternative accommodation, that would justify refusing or postponing execution. Their focus was almost entirely on jurisdictional and pseudolegal contentions. In the absence of such evidence, and given the magnitude of the arrears relative to the value of the property, I am satisfied that it is just and equitable to declare the property specially executable, with an appropriate reserve price.

[42] I adopt the reserve price proposed in the plaintiff's Rule 46A affidavit, being the forced-sale value less municipal arrears as calculated therein.

Costs

[43] The plaintiff seeks costs on the scale as between attorney and client in terms of the loan agreement and mortgage bond. Such clauses are generally enforceable, subject to the court's overriding discretion. I am satisfied that the contractual entitlement to attorney-and-client costs should be enforced in this instance.

Order

[44] The following order is made:

1. Judgment is granted against the respondents jointly and severally, the one paying the other to be absolved, in the following terms:
    1.1. Payment of the amount of R2,062,109.34;

1.2. Interest on the aforesaid sum at the rate of 11.090% per annum from 10 February 2026 to date of final payment, both dates inclusive;

1.3. Payment of monthly Insurance Premiums of R1,512.57 from 10 February 2026, both dates inclusive;

1.4. That the immovable property described as:

ERF 1[...] R[...] EXTENSION 5 TOWNSHIP, REGISTRATION DIVISION I.R, PROVINCE OF GAUTENG (hereinafter referred to as "the Property"), be declared executable for the aforesaid amounts;

1.5. The Registrar of the above Honourable Court is authorised to issue a warrant of attachment in respect of the property;

1.6. The Sheriff of the above Honourable Court is authorised to execute the warrant of attachment herein;

1.7. It is declared that the property is to be sold by the Sheriff at a sale in execution subject to a reserve price of R1900 000;

1.8. In the event that the reserve price is not attained, and subject to Rule 46A(9)(d) and (e), the applicant may approach this Honourable Court on the same papers, duly supplemented, to reconsider the reserve price in terms of Rule 46A(9)(c)

2. The respondents shall pay the costs of this application jointly and severally on an attorney client scale.

WJ du Plessis
Judge of the High Court
Gauteng Division,
Johannesburg

Date of hearing: 16 March 2026

Date of judgment: 12 May 2026

For the applicant: PR Long instructed by Van Hulsteyns

	Attorneys
For the respondents:	In person