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**REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

Case Number: 2025-058372

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
_____	_____
DATE	SIGNATURE

In the matter between:

FIRSTRAND BANK LIMITED

Applicant

and

EUGENE HANGWANI LUFHUGU

Respondent

JUDGMENT

ROBERTSON, AJ

Introduction

[1] This is an application by the applicant for payment of the sum of R2 195 829.43 arising from a mortgage loan agreement concluded with the respondent,

together with interest and an order declaring the respondent's immovable property specially executable.

- [2] The property concerned is Holding 7 Blignautsrus Agricultural Holdings, Registration Division IQ, Province of Gauteng, measuring 1,7131 hectares, held under Deed of Transfer Number T[...].
- [3] The matter came before me on 12 May 2026. The respondent appeared in person and was unrepresented.
- [4] The respondent's answering affidavit and heads of argument were, however, prepared and filed while he was legally represented. I have considered those papers, together with the submissions advanced by the respondent in person.
- [5] There is also an application for condonation for the late filing of the answering affidavit. The condonation application is not opposed. The delay is relatively limited, an explanation has been provided, and no material prejudice appears to arise. In the circumstances, condonation for the late filing of the answering affidavit is granted.

The Respondent's Request for a Postponement

- [6] After argument had concluded, and after I had indicated that I would reserve judgment, the respondent asked whether the matter could be postponed for a month or two to enable him to obtain legal representation and to place further information before the Court.
- [7] I have considered that request carefully, particularly because the respondent is unrepresented and because the property is his primary residence.
- [8] In favour of the respondent, I take into account that he appeared in person, that he says his attorney ceased acting only shortly before the hearing, that he alleges that his financial position has recently improved, and that he has made payments of R18 000 per month during January, February, March and April 2026.

- [9] The application for a postponement was made orally at the conclusion of the hearing, after the parties had fully addressed the Court on the merits and the respondent himself had participated in the hearing and advanced submissions on the merits.
- [10] The respondent explained that he wished to place further information before the Court concerning his present financial circumstances and recent income stream. However, no supporting documentation was produced at the hearing demonstrating the respondent's present income, his ability to cure the arrears, or the basis upon which the ongoing monthly instalments would be maintained.
- [11] The respondent also did not place before the Court any concrete repayment proposal or indicate the timeframe within which the arrears could realistically be cured. The latest certificate of balance records monthly instalments of R30 691.42, arrears of R485 187.56, and a total indebtedness of R2 195 829.43 as at 4 May 2026.
- [12] The recent payments of R18 000 per month, although relevant, are materially below the monthly instalment and do not address the arrears. On the applicant's uncontested evidence, the indebtedness has continued to increase.
- [13] The matter has also been pending for a considerable period. The respondent has known for some time that the applicant seeks payment and execution against the property. There were previous attempts to reach payment arrangements, and previous undertakings by the respondent were not fulfilled. The respondent had previously reinstated the agreement after earlier proceedings were instituted by the applicant, but thereafter again fell into arrears.
- [14] Even accepting the respondent's dissatisfaction with his former attorney, the respondent has not shown that a postponement would probably result in a proper and realistic proposal being placed before the Court. A postponement would meanwhile prejudice the applicant, because the debt and enforcement costs would continue to escalate and the security would continue to be eroded.

[15] In the circumstances, I am not persuaded that a postponement is justified. The request for a postponement is refused.

The Applicant's Claim

[16] I turn then to the applicant's claim.

[17] The respondent does not ultimately dispute the conclusion of the facility agreement and mortgage bond. He also does not ultimately dispute the indebtedness or that the account fell into arrears. Although the answering affidavit, at paragraphs 6.8 and 6.33, denies the indebtedness and puts the applicant to the proof thereof, the denial is bare and unparticularised, unsupported by any alternative calculation and unaccompanied by any factual basis for the dispute. Such a denial is, in the well-established line of authority, insufficient to displace the prima facie effect of a certificate of balance issued under a clause of the kind contained in clause 15.6 of the facility.¹

[18] The applicant relies on the latest certificate of balance dated 4 May 2026, which certifies that the respondent is indebted to the applicant in the sum of R2 195 829.43, together with interest at the agreed rate from 4 May 2026 to date of payment.

[19] The respondent's heads of argument initially raised section 129 of the National Credit Act.² That point was not persisted with during oral argument. In any event, on the papers, the applicant has placed evidence before the Court of dispatch of the section 129 notice and of the respondent's engagement with the correspondence thereafter.

[20] Applying the test laid down in *Sebola and Another v Standard Bank of South Africa Ltd and Another*³, and developed in *Kubyana v Standard Bank of South Africa Ltd*⁴, I am in any event satisfied that the applicant took all the reasonable steps required of it: the section 129 notice was dispatched on 11 December 2024 by registered mail to the respondent's chosen *domicilium* and reached the

¹ *Senekal v Trust Bank of Africa Ltd* 1978 (3) SA 375 (T) at 382–383

² 34 of 2005

³ 2012 (5) SA 142 (CC) at para 87 [2012] ZACC 11

⁴ 2014 (3) SA 56 (CC), [2014] ZACC 1

Ormonde Post Office, first physical notification was delivered on the same day, and a certified email containing the notice reflects a “read” status on 11 December 2024. The respondent’s own subsequent emails (FA8–FA11) refer to the subject line and Mail-ID of the notice and engage directly with its content. Compliance with section 129 read with section 130 of the Act is, accordingly, established.

[21] The replying affidavit refers to certain clause numbers in the facility agreement concerning acceleration and enforcement which do not correspond precisely with the numbering appearing in the annexure uploaded to Caselines. Nothing ultimately turns on that discrepancy. The applicant’s entitlement to seek enforcement arises from the facility agreement, the mortgage bond, the respondent’s default, and the applicable legal framework governing execution against immovable property.

Rule 46A And The Respondent’s Personal Circumstances

[22] The property is the respondent’s primary residence. Rule 46A, read with section 26 of the Constitution,⁵ therefore requires this Court to consider all relevant circumstances before declaring the property specially executable.

[23] I have done so.

[24] The respondent explained that he was unemployed for a period during 2025, that he has since started an accounting and bookkeeping practice, and that his financial position has improved. He also explained that he has made payments during 2026 and wishes to avoid losing his home.

[25] I accept that the respondent wishes to retain the property. I also accept that the loss of a primary residence is a serious matter. But the Court must ultimately determine the matter on the evidence properly before it.

[26] The respondent has not placed before the Court sufficient evidence of his present income, his present expenses, the financial position of his alleged

⁵ Act 108 of 1996

accounting practice, or any concrete proposal to cure the arrears within a reasonable period.

[27] Nor has he placed evidence before the Court that alternative means of satisfying the debt exist, or that execution against movable property would be sufficient.

[28] The applicant, on the other hand, has established the indebtedness, the arrears, the mortgage security, and the basis upon which execution is sought.

[29] I have also considered the question of the reserve price. The applicant seeks a reserve price of R1 300 000.00. The respondent disputes that amount and contends that the property is worth substantially more. However, no valuation evidence supporting that contention has been placed before the Court.

[30] The applicant has placed valuation material before the Court and has explained the basis upon which the reserve price has been calculated. On the evidence before me, I am satisfied that a reserve price of R1 300 000.00 is appropriate. That figure reflects, broadly, 70% of the average of the municipal valuation (R2 200 000.00, per Annexure FA13) and the independent valuation by Mr J S Mailula, a registered professional valuer (R2 000 000.00, per Annexure FA12), less outstanding rates and taxes of R150 957.00. That is the methodology endorsed by the full court of this division in *ABSA Bank Limited v Mokebe and Related Cases*.⁶

[31] A sale in execution is an inherently forced sale. Prospective purchasers must factor in the cost of clearing municipal arrears, the risk of reinstatement under section 129(3) of the National Credit Act, and the cost of evicting any occupants. In the absence of competing expert valuation evidence, the respondent's bare assertion from the bar that the property is worth more does not displace the figure proposed.

[32] I also take into account that the respondent is not without further practical remedies. Even if judgment is granted, the respondent remains entitled to engage with the applicant, to pay the arrears and enforcement costs in terms of

⁶ 2018 (6) SA 492 (GJ)

the National Credit Act where applicable, to seek to reinstate the agreement before the property is sold in execution, or to sell the property privately if he is able to do so. Those possibilities do not justify refusing the relief, but they are relevant to the overall fairness of the order.

[33] Having considered all relevant circumstances, I am satisfied that there is no sufficient evidential basis upon which execution should presently be refused or delayed.

Relief and Costs

[34] The applicant is accordingly entitled to judgment and to an order declaring the property specially executable.

[35] The agreement provides for costs on the attorney-and-client scale. I see no reason, on these papers, not to give effect to that provision.

Order

[36] The following order is made:

1. Condonation for the late filing of the answering affidavit is granted;
2. The respondent's application for a postponement is refused;
3. Judgment is granted against the respondent in favour of the applicant for payment of the sum of R2 195 829.43;
4. Interest shall run on the said amount at the rate of 0.85% above the publicly noted prime interest rate per annum, calculated daily and compounded monthly in arrears, from 4 May 2026 to date of payment, both days inclusive;
5. Holding 7 Blignautsrus Agricultural Holdings, Registration Division IQ, Province of Gauteng, measuring 1,7131 hectares, held under Deed of Transfer Number T[...], is declared specially executable for the judgment debt, interest and costs;
6. The property may be sold in execution by the Sheriff of the High Court,

subject to a reserve price of R1 300 000.00;

7. The Registrar is directed to issue a writ of attachment to enable the Sheriff to attach the property in satisfaction of the judgment debt, interest and costs;
8. The respondent is advised that the provisions of section 129(3) and (4) of the National Credit Act 34 of 2005 apply to the judgment granted in this matter. The respondent may prevent the sale of the property if he pays to the applicant all arrear amounts owing by him to the applicant, together with all enforcement costs and default charges, prior to the property being sold in execution;
9. The arrear amounts and enforcement costs referred to above may be obtained from the applicant. The respondent is advised that the arrear amount is not the full amount of the judgment debt, but the arrear amount owing by him to the applicant, without reference to the accelerated amount;
10. The respondent is directed to pay the costs of suit on the attorney-and-client scale.

CL ROBERTSON
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

This judgment was handed down electronically by circulation to the parties' legal representatives by email and by upload to Caselines. The date for hand-down is deemed to be 2 June 2026.

APPEARANCES

For the Applicant : HM Viljoen and Ms Malinga
Instructed : Charl Cilliers Inc

For the Respondent : Unrepresented
Instructed : None

Date of hearing : 12 May 2026
Date of Judgment : 2 June 2026

