




IN THE HIGH COURT OF SOUTH AFRICA,  
MPUMALANGA DIVISION, MIDDELBURG (LOCAL SEAT)

CASE NUMBER: 3947/2023

DELETE WHICHEVER IS NOT APPLICABLE	
(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED YES/NO
(4)	
	12/06/2026
signature	DATE

In the matter between:

JACOB THANDIZWE DUMA

APPLICANT

And

FIRST RAND AUTO RECEIVABLES (RF) LIMITED

RESPONDENT

*Delivered: this judgment was handed down electronically by circulation to the parties' legal representatives by email. The date of hand down is deemed to be 12 June 2026*

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JUDGMENT

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Phahlamohlaka J

## **Introduction**

[1] This is an application for rescission of a default judgment granted against the Applicant, Mr. Jacob Thandizwe Duma, in favour of the Respondent, Firstrand Auto Receivables (RF) Ltd, arising from a dispute over a vehicle sale and financing agreement.

## **Background and Facts**

[2] On 29 March 2018, the parties entered into a written instalment sale agreement for a 2018 Hyundai Creta 1.6 Executive AT.

[3] The agreement required a deposit of R10,000, 71 monthly instalments of R6,219.32, and a balloon payment of R111,863.03 due on 25 April 2024. Ownership of the vehicle would only pass to the Applicant upon full payment of all amounts due.

[4] The Applicant fell into arrears from August 2022 and made only sporadic payments thereafter. Despite some payments, the arrears were not cleared, and the account remained in default.

[5] Upon expiry of the agreement in April 2024, the balloon payment became due, further increasing the arrears to R151,590.86 as of the date of the answering affidavit.

[6] The Respondent sent a Section 129 notice (as required by the National Credit Act) to the Applicant's chosen address via registered post and email.

[7] The summons was served at the Applicant's chosen *domicilium citandi et executandi* by affixing it to the entrance gate.

[8] The respondent applied for judgment by default which was granted on 10 May 2024 after the applicant failed to defend the action. The vehicle was subsequently repossessed by the Sheriff on 2 July 2024.

## **The Applicant's Grounds for Rescission**

[6] The Applicant seeks rescission under Rule 42(1)(a), alleging that he did not receive the section 129 notice and that he was not served with the summons. Alternatively, the applicant submitted that if the court finds that he was properly issued with the section 129 notice and that the summons was properly served on him, the judgment must be rescinded on the basis that he has a bona fide defence to the respondent's particulars of claim.

### **Analysis**

[7] Evidence shows the Section 129 notice was sent to the correct address and email, and a first notification was issued by the Post Office. The Applicant's own affidavit acknowledges receipt of the notice via email.

[8] the applicant does not allege that the summons was not properly served. The return of service confirms the summons was served at the correct address by affixing, which is valid service under the rules. The applicant complains that he did not receive the summons.

[9] It is the applicant's case that should the court find that the judgment was not granted erroneously, then the court must find that the applicant has a bona fide defence to the respondent's particulars of claim.

[10] It is not in dispute that at the time summons was issued the applicant was in arrears in breach of the agreement, and that he is still in arrears. The applicant therefore has not provided a bona fide defence to the Respondent's claim.

[11] As the titleholder, the respondent is entitled to repossess the vehicle upon default.


[12] as alluded to earlier, there is no evidence of any irregularity or error in the granting of the default judgment. I am satisfied that the respondent complied with all procedural and substantive requirements. I further find that the applicant has no bona fide defence to the respondent's particulars of claim.

[13] Consequently, the applicant has failed to establish grounds for rescission of the default judgment. Therefore, the application for rescission lacks merit.

## Order

[14] In the result I make the following order:

1. The application for rescission of judgment is dismissed.
2. The Applicant is ordered to pay the costs of this application on scale B.

  
K F Phahlamohlaka  
Judge of the High Court

### Appearances

For the plaintiff: Adv BR Ledwaba

Instructed by: E Talane Attorneys

Email: [talane@icon.co.za](mailto:talane@icon.co.za)  
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For the defendant: Adv S Niemand

Instructed by: Fabricious Attorney

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Date judgment reserved: 3 March 2026