


**REPUBLIC OF SOUTH AFRICA**



**IN THE HIGH COURT OF SOUTH AFRICA**

**GAUTENG DIVISION, JOHANNESBURG**

**CASE NO: 2023-118280**

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED.
<b>10 June 2026</b>	
DATE	SIGNATURE

In the matter between:

**LOUISE ANN RIVETT**

Plaintiff

**And**

**ROBERT BLOM**

First defendant

**ANN BLOM**

Second defendant

This Order is made an Order of Court by the Judge whose name is reflected herein, duly stamped by the Registrar of the Court and is submitted electronically to the Parties / their legal representatives by email. This Order is further uploaded to the electronic file of this matter on Caselines/CourtOnline by the Judge's secretary. The date of this order is deemed to be 10

## J U D G M E N T

---

### **CORAM: LIEBENBERG AJ:**

[1] On the morning of 4 July 2023 Charlie, an English bulldog, managed to slip through a gate. What happened next forms the dispute between the parties.

#### *The plaintiff's case*

[2] The plaintiff was walking her two dogs, Max, a Scottish terrier, and Marge, a mixed breed Yorkshire terrier. Both the dogs were on leads. She noticed Charlie running at her from the left. She described Charlie as running at pace with his ears back. On reaching the plaintiff, Charlie stopped, looked up at her and then ran straight through her legs knocking her off balance. The plaintiff fell to the ground on all fours. Charlie then started fighting with Max. The plaintiff grabbed onto Charlie's hind legs trying to pull him off of Max but she lost grip and fell backwards on her buttocks. The dogs were fighting and the plaintiff could not get up other than by rolling onto her hands and knees. According to the plaintiff, the second defendant was just standing there looking on.

[3] After the ruckus, Ms Miriam Gabela arrived at the scene, picked up Max and took him to the plaintiff's home. The plaintiff followed later. At home, she lay down on the couch and noticed that Max had saliva over his neck and chest. Because she was in pain, she could not check on Max herself and telephoned a friend, Ms Christina Lamb to do so.

- [4] Ms Gabela arrived at the scene to find the plaintiff on the ground. She tried to assist by picking up Max and taking the dog to the plaintiff's home. She did not see the interaction nor when, how or why the plaintiff fell. She also did not see any physical contact between the dogs.
- [5] Ms Lamb testified that she checked on Max and found lots of saliva on his neck. He was tender to the touch in the neck and squealed a bit but did not require the attention of a veterinarian.

*The defendants' case*

- [6] The second defendant went to unlock the gate for her domestic assistant, Ms Rachel Ndemande to enter when Charlie slipped out and ran towards the plaintiff. The second defendant immediately ran after Charlie, caught up with him and held him down between her legs allowing the plaintiff and her dogs to pass. She noticed that Max, who was wriggling to get to Charlie, wriggled loose from the plaintiff's grip on the leash when she lost her balance and fell. The second defendant was adamant that there was no contact between the dogs nor any contact between the plaintiff and Charlie. Ms Ndemande picked up Max, who was pulling at his lead. The second defendant saw the plaintiff lying on the grass verge when Ms Gabela came out to assist her up. Ms Ndemande handed Max over to Ms Gabela who left with the plaintiff and the two dogs for the plaintiff's home.
- [7] Ms Ndemande testified that when Charlie slipped out of the gate, the second defendant ran after him and caught him before he reached the plaintiff and her two dogs. Especially Max was pulling at his lead, wanting to reach Charlie. He pulled so powerfully that he pulled free from the plaintiff's hand and ran towards

Charlie. At the same time, the plaintiff fell and hit the ground with her back. Ms Ndemande picked up Max and held him. She noticed no injuries or saliva on Max. The plaintiff stood up on her own and took Max from Ms Ndemande. Ms Gabela joined the gathering and took one of the dogs from the plaintiff. According to Ms Ndemande the plaintiff fell when she lost strength pulling back on Max's lead. She was adamant that Charlie did not run through the plaintiff's legs and the dogs did not fight. She also denied that the plaintiff grabbed onto Charlie's hind legs.

### *Analysis*

- [8] Confronted with two mutually destructive versions, a court must make findings on (a) the credibility of the various factual witnesses, (b) their reliability, and (c) the probabilities.<sup>1</sup>
- [9] All the witnesses testified in a forthcoming and candid manner. Each was credible without displaying any blatant bias. Under cross-examination each of the witnesses stood their ground in a reliable manner.
- [10] The plaintiff's testimony was unemotional and to the point. She was able to recall events with clarity of mind and resolute about what transpired. Her version remain consistent throughout and was corroborated by a contemporaneous report she made to the home owners' association. However, insurance claims forms she completed, the letter of demand and pleadings do not mention her falling twice.
- [11] Ms Gabela did not provide corroboration for the plaintiff's version of events as

---

<sup>1</sup> *Stellenbosch Farmers' Winery Group Ltd and Another v Martell Et Cie and Others* 2003 (1) SA 11 (SCA).

she did not witness the incident and arrived on the scene later. Ms Gabela could not throw any light on what caused the plaintiff to fall. Her evidence was of little value in establishing what transpired.

[12] Ms Lamb's evidence was centred around her checking on Max's possible injuries at the plaintiff's request. Her evidence had no bearing on the incident and how or why the plaintiff fell.

[13] The second defendant was steadfast that she caught up with Charlie before he reached either the plaintiff or her dogs, and that there was no contact between Charlie and the plaintiff or between the dogs. According to the second defendant Max was wriggling on his leash which caused the plaintiff to lose balance and fall. Under rigorous cross-examination the second defendant stood firm on her version that there was no contact between Charlie and the plaintiff or between the dogs, and that the plaintiff's fall was caused by her losing her balance when Max wriggled loose from his leash. The second defendant was somewhat defensive but overall testified in a satisfactory manner.

[14] Ms Ndemande corroborated the second defendant's version of events and specifically that there was no contact between the dogs or between Charlie and the plaintiff. Ms Ndemande, who no longer works for the defendants was a reliable, unbiased and candid witness who testified in a non-emotional manner, answering all questions put to her forthright and to the point. According to Ms Ndemande the second plaintiff immediately rushed after Charlie when he slipped through the gate and she caught up with him before he reached the plaintiff. After the second defendant caught Charlie and held him down, both Max and Marge were trying to reach Charlie by pulling at their leashes. Especially Max was more

powerful and pulled until the plaintiff lost grip of the leash and fell. Ms Ndemande picked up Max and noticed no saliva or injuries on the dog. She denied that Charlie ran through the plaintiff's legs or that he reached Max and Marge and fought with either of them. Ms Ndemande struck as an honest witness who evidenced no bias in favour of her former employer.

[15] The proper test to be applied in this matter is whether, on a balance of probabilities, the essential features of the witnesses' testimony are true.<sup>2</sup> Applying this test, I am satisfied that it seems improbable that the plaintiff would enter into the fray of a dog fight and grab a hold of the aggressor dog's hind legs. Given her stance whilst holding on to the dogs hind legs, it also appears improbable that she fell backwards onto her buttocks when she lost grip. By contrast, the material features of the second defendant's version, corroborated by Ms Ndemande's testimony, ring true.

[16] In the circumstances, the plaintiff failed to acquit the onus resting on her and her claim must fail.

[17] It is ordered that:

1. The plaintiff's claim is dismissed with costs including counsel's fees on scale B.

---

<sup>2</sup> Santam Bpk v Biddulph 2004 (5) SA 586 (SCA) at 592B.



**SARITA LIEBENBERG**

**ACTING JUDGE OF THE HIGH COURT**

**GAUTENG DIVISION, JOHANNESBURG**

For the plaintiff:

Adv Grobler instructed by Adams and Adams

For the defendants:

Adv Venter instructed by Molefe Knight Attorneys

Heard on 18 and 19 May 2026

Judgment on 10 June 2026