REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: 2018/24520

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: YES

14 May 2026 [redacted]
DATE SIGNATURE

In the matter between:

FIRSTRAND BANK LIMITED T/A NISSAN FINANCE, A DIVISION OF WESBANK	Applicant/Plaintiff
and	
MULTIPOINT LOGISTICS CC	First Respondent/Defendant
NTLANTLA GEORGE GULE	Second Respondent/Defendant

JUDGMENT

CRUTCHFIELD J

[1] The applicant, Firstrand Bank Limited t/a Nissan Finance, a Division of Wesbank, brings a second application for summary judgment for the payment of the full outstanding balance under an instalment sale agreement ("the

agreement"), in the amount of R517 708.54, interest thereon and costs on the attorney and client scale.

[2] The respondents, Multipoint Logistics CC and Ntlantla George Gule, the first and second respondents respectively, oppose the application. The first respondent is the lessee in terms of the agreement and the second is the surety.

[3] The respondents opposes the summary judgment application on the basis that the applicant undertook a bifurcated process to reach this point and that the applicant was not entitled to bring this application pursuant to an amendment to the particulars of claim that the respondents allege was incompetent.

[4] Furthermore, the respondents allege that the applicant may not claim the full outstanding balance given that the initial particulars of claim claimed damages, and that the applicant should be held to its claim for damages in terms of those initial particulars of claim. This because the respondents allege that the applicant's amendment to the particulars of claim was irregular because an order for repossession of the vehicle had already been granted in terms of the first summary judgment proceedings, resulting in the action and the *lis* between the parties being complete.

[5] Furthermore, that the applicant's election to cancel the agreement and seek repossession of the vehicle resulted in the applicant being disentitled from claiming the full outstanding balance pursuant to the applicant's failure or inability to repossess the vehicle. The respondents allege that the applicant's claim is limited to the value of the vehicle that the applicant sought initially to repossess.

[6] In effect, the only issue is whether the applicant is entitled to return to this court in terms of the second summary judgment application, for an order for payment of the full outstanding balance under the agreement.

[7] The procedural history of this matter holds some relevance in the light of the respondents' objections.

[8] The applicant issued summons in which it claimed cancellation of the agreement, repossession of the vehicle that is the subject of the agreement, damages, (being the difference between the value of the vehicle upon repossession and the balance outstanding under the agreement due by the respondents), and costs on the scale as between attorney and client.

[9] The respondents defended the action. The applicant issued the first application for summary judgment for repossession of the vehicle. The respondents opposed the first summary judgment application. Notwithstanding, the court dealing with that first summary judgment application granted an order for delivery or repossession of the vehicle to or by the applicant.

[10] The applicant was unable to take delivery of the vehicle. The respondents allege that the applicant made no attempt to do so whilst the applicant alleges that the respondents withheld the vehicle. It is irrelevant why or how the applicant was unable or unwilling to take delivery of the vehicle. Subsequently, the applicant amended its particulars of claim substituting the claim for damages with a claim for payment of the outstanding balance under the agreement by the respondents.

[11] The respondents submitted that the amendment was invalid in that the respondents delivered a notice opposing the amendment pursuant to which the amendment failed. The applicant's amendment lapsed subsequent to the respondents' notice of objection.

[12] Thereafter, however, the applicant delivered a second notice of intention to amend. The respondents did not object to the second notice of intention to amend and effect was duly given to that second amendment by delivery of the amended pages to the applicant's particulars of claim.

[13] Furthermore, the respondents contended that the second amendment was incompetent because the *lis* between the applicant and the respondents was complete pursuant to the order for repossession of the vehicle granted by the court seized with the first summary judgment application.

[14] The respondents argued that the applicant could not amend the particulars of claim in respect of which judgment had already been granted in terms of the first summary judgment application. That order for summary judgment entitling the applicant to repossess the vehicle, however, served to finalise the first summary judgment application only. The order did not finalise the action proceedings in that the claims in the action for damages and costs of the action, remained extant. Those claims were not dealt with or finalised in terms of the summary judgment application.

[15] Accordingly, the judgment in the summary judgment application for repossession of the vehicle did not serve to finalise the *lis* raised in the action proceedings. The claim for damages remained alive. In those circumstances, it was open to the applicant to amend the claim for damages in the particulars of claim and to replace that claim with a claim for payment of the full outstanding balance under the agreement. The applicant duly did so.

[16] The Supreme Court of Appeal in *Edwards v Firstrand Bank Ltd t/a Wesbank*[1] was amenable to an amendment to the summons being effected subsequent to an order granted in summary judgment proceedings for certain of the relief claimed in the summons.

[17] Furthermore, a similar procedure whereby an amendment to the summons was effected subsequent to an order for repossession of a vehicle, was accepted by the court in *Nedbank v Nkosi*.[2] In the circumstances, the respondents' opposition to the second summary judgment application on this ground, must fail.

[18] The applicant, pursuant to amending the particulars of claim, issued the second application for summary judgment. The respondents argued that the applicant was not entitled to do so. There is no dispute that the claim by the applicant for the outstanding balance in the amount above-mentioned, is liquidated and the applicant delivered a certificate of balance for that amount.

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[1] *Edwards v Firstrand Bank Ltd t/a Wesbank* 2017 (1) SA 316 (SCA) at para 6.
[2] *Nedbank v Nkosi* [2018] ZAGPPHC 796 (26 October 2018).

[19] In effect, a party may seek judgment on one or more claims capable of sustaining summary judgment whilst the remaining claims proceed to trial by operation of law.[3]

[20] There is precedent in terms of *Nedbank v Nkosi* above, for an amendment in the circumstances before me, from damages to a claim for repayment of the full outstanding amount as the applicant claims before me. The respondents cannot claim that they are deprived of an opportunity for a reduction equivalent to the value of the vehicle given that the applicant has not been able to repossess the vehicle as it was entitled to do.[4]

[21] There is no opposition raised by the respondents in these proceedings to the amount outstanding under the agreement. Furthermore, there is no dispute that the amount claimed by the applicant is liquidated and capable of sustaining an application and order for summary judgment.

[22] In the circumstances, the respondents have not demonstrated a *bona fide* defence to this second application for summary judgment. The respondents have not raised a triable issue and the applicant is entitled to summary judgment as claimed.

[23] In the circumstances, I grant summary judgment in favour of the applicant against the first and second respondents jointly and severally, the one paying the other to be absolved, as follows:

1. Payment to the plaintiff in the amount of R517 708.54;

2. Interest on the aforementioned amount at the rate of 13.25% per annum with effect from 7 June 2024 to date of final payment;

3. Costs of suit on the scale as between attorney and client.

[3] *Spilhaus & Co Ltd v Coreejees* 1966 (1) SA 525 (C).
[4] *Marques v Unibank Ltd* 2001 (1) SA 145 (W) at 148C.

I hand down the judgment.

[redacted]

CRUTCHFIELD J

JUDGE OF THE HIGH COURT

JOHANNESBURG

For the Applicant:	Adv KM Boshomane instructed by Rossouws INC
For the Respondent:	Adv Mureriwa instructed by Gary Segal Attorneys
Date of the hearing:	12 May 2026
Date of the judgment:	14 May 2026