

IN THE HIGH COURT OF SOUTH AFRICAGAUTENG DIVISION, JOHANNESBURGCASE NO: 045507/2023DATE: 2026-07-28

DELETE WHICHEVER IS NOT APPLICABLE
 (1) REPORTABLE: NO
 (2) OF INTEREST TO OTHER JUDGES : NO
 (3) REVISED



SIGNATURE

Date: 28 July 2026

In the matter between

10 GLEN WELDHAGEN

Excipient

and

DALE WELDHAGEN

Respondent

J U D G M E N T E X T E M P O R E

WILSON, J: The parties in this matter were once married to each other. Their marriage was dissolved in the Magistrates' Court and the division of marital estate was dealt with in terms of a settlement agreement endorsed there. Under that settlement agreement a property in Kempton Park which is co-owned by the parties was maintained as Ms. Weldhagen's primary residence. The arrangement set out in the settlement agreement is that expenses in relation to the property would be paid by a third party, a company which the Weldhagens co-own.

That company, Elite Visas (Pty) Ltd was in the business of organising visas for individuals who wished to travel out of South Africa to other destinations. It ran into difficulty as a result of the Covid-19 lockdown. The company could not operate for an extended period, and was not in a position to fund the expenses arising from the Kempton Park property. Accordingly, the respondent, Ms Weldhagen, took it upon herself to put the company in a position to meet those expenses.

10 In her particulars of claim, Ms. Weldhagen says that she funded expenses to the tune of just over R937 000. She now seeks to reclaim that amount from the excipient, Mr Weldhagen. Her claim to do so is outlined in her particulars of claim dated 5 May 2023.

Mr Weldhagen now excepts to the particulars of claim. He says that they do not disclose a cause of action for the payment of the amount Ms Weldhagen demands.

20 The broad outline of the arrangement between the parties may well on some or other basis yield an obligation on Mr Weldhagen to pay Ms Weldhagen something - perhaps even the full amount claimed in the particulars. The problem with particulars of claim is that they do not set out how that obligation arises. The particulars and the facts pleaded in them give rise to the possibility of three different actions.

The first is that there was a partnership in respect of the property that survived the dissolution of the marriage, and that it is on the dissolution of that partnership that Mr Weldhagen acquires an obligation to pay the sum Ms Weldhagen claims. The second possibility is that the claim is for the dissolution of the parties' co-ownership of the property, and that it is as a consequence of that dissolution the amount is owed. And the third possibility, also presaged in the particulars of claim, is that Mr Weldhagen is
10 unjustifiably enriched in the amount Ms. Weldhagen claims.

I am unable to discern on the face of the particulars which claim or combination of claims is being pursued. No partnership agreement has been pleaded - nor is any obligation under that agreement to make the payments Ms. Weldhagen claims. In relation to any action to dissolve the co-ownership arrangement, the basis on which Mr Weldhagen is liable for the amount claimed is likewise not pleaded. Finally, in the event that the suggestion is that Mr Weldhagen has been unduly enriched by Ms. Weldhagen's
20 payments, the enrichment action, even in its general form, has not been pleaded.

For all those reasons a cause of action for the amount claimed in prayer 5 of the particulars has not been made out. The exception is well-taken. The appropriate relief is to uphold the exception in respect of prayer 5 of the

particulars, and afford the plaintiff one month in which to revise her particulars of claim.

I now turn to the question of costs. Mr Lennox, who appeared for Ms. Weldhagen, asked that costs be costs in the trial. If this were a particularly closely argued exception concerning a subtle defect in the particulars, I would agree. But this is not that kind of exception. The exception taken was to a glaring absence in the particulars. Instead of conceding such an absence and revising her particulars
10 accordingly, Ms. Weldhagen chose to push the matter to a hearing.

Accordingly, costs must follow the result. It does not matter that the relief originally sought was the setting aside of the particulars completely. As Mr Kloek who appeared for the excipient accepted, that relief was never competent, and would have been deflected by a revision of the particulars and their service on the excipient.

Given the simplicity of this case, I do not accept that costs on scale B should follow. This is a case in which
20 costs on scale A are more than enough.

For all those reasons, I shall make an order upholding the excipient's exception, directing the costs of the exception be paid on the party and party scale A, and granting the plaintiff leave to file amended particulars of claim within one month from today. A draft on these terms is

signed, dated and marked "X". I hand it down.

A handwritten signature in black ink, appearing to be 'J. Wilson', is written over a solid black rectangular redaction box.

WILSON, J
JUDGE OF THE HIGH COURT
28 July 2026

