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Civ. Case No. 2126/95

In the matter between:

SWAZILAND BREWERS LTD Plaintiff

and

BARRY STEPHEN REED Defendant

CORAM: S.W. Sapire A.J.

FOR PLAINTIFF Adv. Wise

FOR DEFENDANT Adv. Du Toit

Order

(20/11/95)

In terms of Rule 32(5)c the defendant is given leave to defend upon the following terms as to the time and mode of trial.

- (a) Paragraph 3(b) of defendant's affidavit in terms of Rule (32)5 shall stand as the defendant's plea, and the parties will proceed to trial on the issues raised therein viz.
- i) Whether the defendant was or was not one of the constituent partners of the partnership which conducted business under the style of "Liquor World" during the relevant period including the months of May, June and July 1955.
- ii) The amount of the aggregate purchase price of all beer sold and delivered to Liquor World during the said period.

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- iii) The extent to which any of the said purchase price was paid and the amount of the balance owing after such payment.
- iv) Whether the partnership was dissolved in July 1995 as alleged by the plaintiff, with the result that the defendant is personally liable to the plaintiff for the payment of the unpaid balance of the purchase price of beer sold and delivered by the plaintiff to Liquor World during the months of May, June and July 1995.
- (b) The parties shall forthwith make full discovery as provided for in the rules and file and deliver their respective discovery affidavits by not later than 29/11/95.
- (c) The parties may request further particulars of each other and the defendant's request for further particulars shall be treated as a request for such particulars for the purposes of trial. This direction is not to be read as indicating whether the plaintiff is obliged or not to furnish the particulars requested in response to anyone or more or all of the questions raised in such request for particulars.
- (d) The plaintiff shall be entitled to enrol the trial for hearing on a date as soon as possible after the

30/11/995 to be fixed and allocated by the Registrar in consultation with the parties. Five days notice of trial shall be given.

The costs of this application for summary judgment are reserved for the trial court.

GIVEN UNDER MY HAND AND SEAL AT MBABANE THIS 20TH DAY OF NOVEMBER 1995.

J.P. ANNANDALE

REGISTRAR OF THE HIGH COURT