

IN THE HIGH COURT OF SWAZILAND

CIVIL CASE NO. 199/00

In the matter between:

R. M. S. TIBIYO (PTY) LTD:

APPLICANT

AND

H.P. ENTERPRISES (PTY) LTD:

RESPONDENT

t/a HEATHER'S FASHIONS

CORAM:

MATSEBULA J

FOR THE PLAINTIFF:

MR. Z. JELE

FOR THE DEFENDANT:

NO APPEARANCE

RULING

This matter was brought to court under a notice of motion accompanied by a certificate of urgency which was filed on the 4th February 2000 for the following relief:

1. Ejectment forthwith of Respondent from Shop U40 situated at Bhunu Mall;
2. Respondent to be ordered to pay costs of this application (I will leave out the other prayers).

On the 3rd February 2000 Respondent filed a notice to oppose and did nothing further except having written a letter dated 1st February 2000 before entering the notice of intention to defend. I do not propose to

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deal with the contents of the letter. It would appear to me to be a delaying tactic if one reads the letter.

On the 8th February 2000 Respondent's attorneys filed an answering affidavit deposed to by Xiong Yhong Fan and entered a plea in abatement. In its plea it stated amongst other things that Applicant had instituted proceedings against a wrong party. On the 11th February 2000 the matter was set down and the attorneys for Respondent failed to appear and after hearing argument by Applicant's attorneys I granted the relief prayed for in terms of prayers 2.1 and 2.2 and indicated that a written judgment would follow. This is the written judgment and the relief I granted on that day is the ruling in the matter.

J.M. MATSEBULA

JUDGE