IN THE HIGH COURT OF ESWATINI

CASE NO: 2458/2024

HELD IN MBABANE

IN THE MATTER BETWEEN

STANDARD BANK ESWATINI LTD –	
VEHICLE AND ASSET FINANCE	**APPLICANT**
AND	
E.M. LOGGERS (PTY) LTD	**1ST RESPONDENT**
CENTRAL MOTOR REGISTRY	**2ND RESPONDENT**
NATIONAL COMMISSIONER OF POLICE	**3RD RESPONDENT**
ATTORNEY GENERAL	**4TH RESPONDENT**

NEUTRAL CITATION:	***STANDARD BANK ESWATINI LTD VEHICLE AND ASSET FINANCE VS E.M LOGGERS (PTY) LTD & 3 OTHERS (2458/2024) [2025] SZHC – 15 [18/02/2025]***
CORAM:	**BW MAGAGULA J**
HEARD:	**09/12/2024**
DELIVERED:	**18/02/2025**

Summary: *Civil Law – Exparte Application to attach and seize vehicles from 1st Respondent sold under a credit sale agreement by the Applicant – The 1st Respondent raised points of law that the Applicant has failed to*

disclose fully all material facts which were within the knowledge of its office – that the founding affidavit contains hearsay evidence – Now compliance with Section 100 of The Consumer Credit Act No.7/2016 – Now compliance with Rule 18 (b) of The High Court Rules – Application not being urgent.

Held: *Points of law dismissed – Matter decided on the merits, Rule nis confirmed with costs.*

JUDGMENT

BW MAGAGULA J

[1] The Applicant a registered bank in Eswatini has approached this Court utilizing *Ex parte* proceedings. The bank sought and was granted a *Rule Nisi* to seize and attach certain vehicles from the 1st Respondent. There are other parties who have been cited including the Central Motor Registry and the National Commissioner of Police. On the reading the application, one gets to the conclusion that the 1st and 2nd Respondent do not have any substantial interest on the relief sought, save for the fact that they are relevant for purposes of enforcing the orders sought.

[2] The matter first appeared before the Court on the 25th October 2024 on the urgent roll. After hearing counsel for Applicant and considering that the

matter was by its nature unopposed, the Court granted the *Rule Nisi* returnable on the 7th November 2024.

[3] On the return date, Mr T. Mavuso appeared for 1st Respondent and filed a notice of intention to oppose the confirmation of the *Rule Nisi*. This necessitated that the matter be postponed to the 19th November to allow the 1st Respondent to file the requisite papers in opposition.

[4] In its answering affidavit, the 1st Respondent has raised preliminary points of law as follows;

4.1I am advised and verily believe that the Applicant has breached the fundamental rule of full disclosure in ex parte applications in that:

4.2 The Applicant has not informed the above Honourable Court that the loan which the 1st Respondent took with them was secured by way of two mortgage bonds over two properties which are owned by the 1st Respondent's Directors. One property is at Malkerns, being POTION 49 (A PORTION OF POERTION 19) of Farm 65 which is mortgaged in favour of the Applicant in the sum of E600,000.00 (six hundred thousand Emalangeni). The Mortgage Bond Number is 1024/2010.

4.3 The other property is at Ezulwini, being Lot No. 5 MOUNTAIN VIEW TOWNSHIP, EZULWINI held by the 1st Respondent under Deed of Transfer No. 341/1999 and mortgaged in favour of the

Applicant in the sum of E2, 100 000.00 (two comma one million Emalangeni) in terms of Mortgage Bond No. 134/2019. The value of this property is above four million Emalangeni.

4.4Contrariwise, instead of disclosing such facts which are material to the ex parte debt enforcement application against the 1st Respondent, the Applicant deliberately lied to the Honourable Court by stating as follows:

"22.5 The 1st Respondent is currently not engaged in any economic activity. The said motor vehicles are the only assets that are in the possession of the first Respondent as it has no money or other movables known to Applicant. In the premises, Applicant cannot be afforded substantial redress at a hearing in due course."

4.5The Applicant has lied before the above Honourable Court that the 1st Respondent has no other assets, yet Applicant has mortgage bonds in its favour.

4.6The Applicant has lied before the above Honourable Court that "the 1st Respondent is currently not engaged in any economic activity", yet in the same affidavit the Applicant states that the goods are being used by the 1st Respondent and are deteriorating. The above Honourable Court may take judicial notice of the fact that these motor vehicles are commercial equipment used in the forestry industry. The Applicant is the 1st Respondent's banker and receives various sums of money on behalf of the 1st

Respondent. The Applicant is in possession of the Applicant's bank statements which it could submit to support its assertions.

4.7 The Applicant has not disclosed that 1st Respondent and Applicant were currently in talks over a possible review of the loan facilities. It was agreed that the repayment period to enable the 1st Respondent to catch up on its arrears.

4.8 The Applicant has not disclosed to the above Honourable Court that, as part of the recovery plan, the 1st Respondent's Directors also agreed to sell, and are already in the process of selling their farm to raise funds, being REMAINING EXTENT OF PORTION 1 OF FARM 153 MANZINI DISTRICT MEASURING 278,3976 HECTARES held under Deed of Transfer No. 490/2005.

4.9 All the above facts, which are known to the Applicant, contradict the Applicant's version that the 1st Respondent has no assets against which recourse may be had should Applicant be heard in due course.

AD HEARSAY EVIDENCE

[5] *As justification for invoking the urgency gear, and also for proceeding on an ex parte basis against the 1st Respondent, the Applicant states in paragraph 22.5 as follows:*

"22.5 Applicant has been informed by a certain Sabelo Dlamini and verily believes that 1st Respondent intends to dispose of the said motor vehicles. Applicant is fearful that if the first Respondent is given notice of these proceedings it will dispose off the said motor vehicles and thus make attachment difficult."

[6] *Despite that 1st Respondent has no knowledge of the said Sabelo Dlamini, the Applicant ought to have attached a confirmatory affidavit by him. As the application stands, it is founded on hearsay evidence and the same ought to be dismissed.*

[7] *The above depositions by the Applicant are not only hearsay, but are also not true. The 1st Respondent is not disposing off the assets in question. The 1st Respondent is contracted with Montigny Investments for logging and haulage. If 1st Respondent were to dispose off the assets, that would result in a breach of contract with Montigny as the 1st Respondent would have no equipment to use in cutting and loading the timber logs.*

AD NON-COMPLIANCE WITH SECTION 100 OF THE CONSUMER CREDIT ACT NO.7/2016

[8] *I am advised and verily believe that the Applicant has jumped the gun in instituting legal proceedings against the 1st Respondent without first complying with the provisions of section 100 of the Consumer Credit Act. Section 100 of the Act provides as follows:*

"Required procedures before debt enforcement

100(1) If the consumer is in default under a credit agreement, the credit provider-

a. Shall deliver to the consumer a notice in writing, drawing the attention of the consumer to the default and propose, in the case of inability to pay, that the consumer refer the credit agreement to a debt counselor with the intent that the parties develop and agree on a plan to bring the payments under the agreement up to date or, in the case of any other dispute under the agreement, refer the matter to the ombudsman;

b. With the intent that the parties resolve the dispute; and

c. Subject to section 101(2), may not commence any legal proceedings to enforce the agreement-

i. Before first providing notice to the consumer as contemplated in subsection 1(a), or in section 93, as the case may be and meeting any further requirements set out in section 88; or

ii. If it has come to the attention of the credit provider that the notice contemplated in subsection 1(a) did not come to the attention of the consumer.

[9] *I humbly submit that the Applicant did not send any notice to the 1st Respondent as contemplated in the Act. Applicant has only pleaded the letter*

attached as Annexure "G" of the founding affidavit. This letter of demand is not what is contemplated in section 100 of the Consumer Credit Act. I am advised and verily believe that the institution of legal proceedings without compliance with section 100 (1) (a) is prohibited under section 100 (1) (c) of the Act.

Urgency

[10] The 1st Respondent argues that the application lacks urgency and should be dismissed for non-compliance with Rule 6(25)(b) of the High Court Rules, which requires that an applicant in urgent applications explicitly set out the reasons why they claim they cannot be afforded substantial redress at a hearing in due course.

[11] Urgency in motion proceedings is governed by Rule 6(25)(b), which states that:

In every affidavit filed in support of an urgent application, the applicant shall set forth explicitly the circumstances which it avers render the matter urgent and the reasons why it claims it could not be afforded substantial redress at a hearing in due course.

[12] The courts have consistently held that urgency is not determined by the mere say-so of an applicant but rather by objective facts demonstrating that immediate relief is necessary. In **Luna Meubel Vervaardigers (Edms) Bpk**

v Makin and Another (t/a Makin's Furniture Manufacturers) 1977 (4) SA 135 (W), the court outlined two primary considerations in urgency:

1. Whether the applicant would suffer irreparable harm if the matter is not heard urgently.

2. Whether the urgency is self-created, meaning that the applicant unduly delayed in bringing the application.

[13] The courts have further held that commercial urgency can, in appropriate cases, justify an urgent application, particularly where an applicant stands to suffer substantial financial prejudice that cannot be remedied later. See **East Rock Trading 7 (Pty) Ltd v Eagle Valley Granite (Pty) Ltd and Others 2012 JDR 1830 (GSJ),** where it was stated that:

The mere existence of an apprehension of irreparable harm does not automatically render a matter urgent there must be an objectively justifiable reason why the applicant should not wait for the normal course.

[14] In the present case, the Applicant seeks an order for the immediate attachment of the vehicles, arguing that:

The 1st Respondent has breached the credit agreements and is in arrears by a substantial amount.

[15] The vehicles in question, which form the subject matter of the agreements, are depreciating assets, and their continued use by the 1st Respondent while in default poses a financial risk to the Applicant.

[16] The 1st Respondent has not disputed being in arrears but merely challenges the procedural aspects of the application. If the Applicant were to wait for normal proceedings, it might never recover the vehicles or the outstanding amounts, particularly if the vehicles are sold, damaged, or lost.

[17] Considering these factors, the Applicant has demonstrated urgency based on financial prejudice and potential irreparable harm. Courts have recognized that urgency may arise where the continued possession of an asset by a defaulting party threatens the rights of the lawful owner. See **Standard Bank of SA Ltd v Essop 1997 (4) SA 569 (D)**, where the court held that a creditor's interest in preserving the value of secured assets may justify urgency.

[18] The 1st Respondent has not provided any compelling argument that the urgency is self-created or that the Applicant has acted unreasonably in bringing the application on an urgent basis. The circumstances justify an urgent hearing, and the point *in limine* on urgency is dismissed.

[19] The 1st Respondent argues that the Applicant failed to comply with Section 100(1) of the Consumer Credit Act, which requires a credit provider to issue a written notice of default before initiating legal proceedings. The 1st Respondent further contends that the letter attached as Annexure does not fulfill the statutory requirements of a Section 100 notice.

[20] Section 100 of the Consumer Credit Act is designed to protect consumers by ensuring that they are given an opportunity to remedy defaults before enforcement proceedings commence. However, the provision does not apply universally to all credits agreements. The applicability of Section 100 depends on the nature of the credit agreement and the status of the debtor.

[21] The Applicant correctly argues that Section 100 primarily applies to natural persons and that it only applies to companies that fall within a certain threshold[1]. The burden of proof to establish that the 1st Respondent qualifies for such protection rests on the 1st Respondent, who has not provided any evidence that it falls within the statutory threshold. It is common cause that the 1st Respondent is a company, as it has been cited as such. E.M loggers (Pty) Ltd. The Minister determined the threshold referred to in Section 3 (2) (a) (i) of The Act in 2012, through gazette legal notice No. 119 of 2012 to be E1, 000,000.00 (**E1Million**). The 1st Respondent has therefore not demonstrated that its assets or turnover does not equals or exceeds the E1Million.

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[1] Section 3 of the Act reads – in Application.
3 (i) This Act applies to a credit agreement between parties dealing at arm length and made in or having affect in the Kingdom of Eswatini.
(2) This Act shall not apply to a credit agreement in terms of which (a) the consumer is -
(i) a company or body corporate whose asset or turnover value equals or exceeds the threshold determined by the Minister in terms of Section 11.
(ii).....
(iii).....

[22] The 1st Respondent is a corporate entity, not a natural person. The Consumer Credit Act contains specific provisions distinguishing between individual consumers and companies, with certain protections only extending to smaller enterprises that meet defined criteria.

[23] The 1st Respondent has made a bare allegation of non-compliance with Section 100 but has failed to demonstrate that it qualifies as a protected entity under the Act.

[24] Without evidence that the 1st Respondent falls within the required threshold, Section 100 does not apply to this credit agreement.

[25] The 1st Respondent's argument is fatally flawed. Section 100 does not automatically apply to all credit agreements with companies, and the 1st Respondent has failed to show that it falls within the scope of the provision. In the absence of such proof, the statutory notice requirement under Section 100 is not applicable to the Applicant's claim. In this regard reference is made to **Seventh G.S Investments (Pty) Ltd and two others vs Standard Bank Eswatini Limited** Supreme Court decision 74/2003.

[26] Accordingly, this point is dismissed.

AD NON-COMPLIANCE WITH RULE 18 (6) OF THE HIGH COURT RULES

[27] The other legal point taken by the 1st Respondent has been articulated as follows;

I am advised and verily believe that the interim orders obtained by the Applicant were founded upon a fatally defective application in that the same does not comply with Rule 18(6) of the High Court rules. Rule 18(6) provides as follows:

> ***(6) A party who in his pleading relies upon a contract shall state whether the contract is written or oral and when, where and by whom it was concluded, and if the contract is written a true copy thereof or of the part relied on in the pleading shall be annexed to the pleading.***

The Applicant has not stated who represented the two companies in the conclusion of the various agreements. This is a mandatory requirement where a party relies on a contract.

I am advised and verily believe that failure to comply with the provisions of Rule 18 when drafting pleadings renders that pleading an irregular step and the same is liable to be set aside in terms of Rule 30. I humbly apply that the Applicant's founding affidavit be set aside as an irregular pleading in so far as it does not comply with Rule 18(6).

I am advised that the present application is only an ex parte application as opposed to it being an urgent application. The Applicant has only prayed

that the above Honourable Court should dispense with its rules and he the application ex parte. There is no prayer at all for the urgent enrollment of the application.

In the absence of any prayer for urgency, I am advised that this application ought to be on the normal motion court roll as opposed to it being under urgent applications.

I am further advised and verily believe that, in the absence of any prayer on urgency, the application was irregularly set down in contravention of Rule 6(4) of the Rules of Court which provides as follows:

> *(4) Every application brought ex parte by way of petition or notice of motion shall, save in matters of urgency, be filed with the Registrar and set down not later than midday on the court day preceding the day on which the application is to be heard.*

In this case, the application was set down on the 25th October 2024 and heard on the same day yet it is not an urgent application.

In the alternative, should the application be classified as one of urgency, I humbly submit that there is no urgency at all. The Applicant has not informed the above Honourable Court as to when it became aware that the 1st Respondent is in the process of selling the motor vehicles. The 1st Respondent ought to have been pleaded by the Applicant.

I submit that the 1st Respondent fell into arrears in 2023 due to market shrinkages which resulted in the 1st Respondent being given very few tons to harvest. The Applicant did nothing about the default. Around May 2024, operations were back to normal and the 1st Respondent engaged in talks with the Applicant on reviewing the repayment and also selling a farm to raise money to cover the arrears. The Applicant cannot then suddenly engage urgency mode without explaining to the Honourable Court the circumstances which render the matter urgent.

The Applicant has not stated why a hearing in due course will not afford it substantial redress. In terms of clause 9.4 of the contract, even if the goods were to be lost, destroyed, alienated etc., the 1st Respondent would still be liable to pay to the Applicant the value of the goods. The Applicant, therefore, has a remedy in that it may sue the 1st Respondent for the value of the goods.

[28] In response to the legal points the Applicant in a nutshell has stated the following;

> *The immovable property portion 49 of Farm 65 is registered under E.M and Sons Construction (Pty) Ltd and same is bonded for an amount of E1.5Million for the purchase of a caterpillar Tractor. E.M and Sons (Pty) Ltd is not a party to the litigation before this Honourable Court.*
>
> *The immovable property Lot No. 8 Mountain View Township is bonded for a business revolving loan outstanding in the sum of E721, 968.00 and is also bonded for an overdraft facility which has an outstanding balance of E1, 356,977.00.*

The said immovable properties aforementioned are there to cater for the Debts of the Applicant which are sounding in money and remain outstanding.

Therefore the mention of the said immovable properties in the present application is irrelevant and not material.

It is denied that the Applicant mislead this Honourable Court on the contrary it is the 1st Respondent who is misleading this Honourable Court by making wild allegations that the said immovable property is worth above E4Million. It is submitted that the said immovable property will fetch far less at a sale in execution. The value of the motor vehicles the Applicant seeks to vindicate from the 1st Respondent are worth far more than the above mentioned immovable property.

The Applicant also avers that it has been advised that in urgent Applications, hear say is permitted.

[29] **Herbstein and Van Winsen's, The Civil Practice of The Supreme Court of South Africa, 4th Edition, Juta & Company, 1997 at page 367:**

"Although, generally, an Applicant is entitled to embody in his supporting affidavits only allegations relevant to the establishment of his right, when he is bringing an exparte application in which relief is claimed against another party he must make full disclosure of all the material facts that might affect the granting or otherwise of an order exparte. The utmost good faith must be observed by litigants making exparte applications in placing material facts before the Court, so

much so that if an order has been made upon an exparte application and it appears that material facts have been kept back, whether willfully and mala fide or negligently, which might have influenced the decision of the Court whether to make an order or not, the Court has a discretion to set the order aside with costs on the ground of non-disclusure."

[30] The Court will proceed to determine whether the Applicant has breached the fundamental rule of full disclosure in its ex parte Application. It is necessary that in the process of unpacking that quagmire, sight should not be lost as to what would constitute full disclosure and what are the material facts pertaining to the case before Court. In my view, what would constitute material facts that would warrant full disclosure will depend on the nature of the relief sought which the Court must consider in the context of the requirements or essential averments necessary for the relief sought by the Applicant albeit in the absence of the 1st Respondent.

[31] In the matter at hand, the Applicant seeks an order that the Deputy Sheriff must attach and seize three (3) vehicles, being a 2021 model white Isuzu single cab, a 2021 Dozer and a 2020 skogger loader. All these assets were financed by the Applicant to the 1st Respondent through a credit sale agreement. At least that part is common cause and is not in dispute. It is also not in dispute that the 1st Respondent has breached the credit sale agreement and is currently in arrears. What is relevant for now, for purposes of deciding the first point of law is what would constitute relevant facts and what suffices as full disclosure.

[32] A relief for the attachment of a vehicle under a written instalment sale agreement can only be granted where the terms of the written agreement as pleaded, gives the credit provider a right to cancel the lease agreement upon breach[2].

[33] It is also worthy of note that in the matter before Court, the agreement has a default clause.[3] It is also not in dispute that the Applicant is the owner of the vehicles by virtue of having financed the purchase price of the vehicles and in terms of the agreement, ownership of same vests with the Applicant until the goods are fully paid. Reference in this regard is made to clause 8.7 of annexure A, C, and D.

[34] This then begs the question what material facts should the Applicant have disclosed in the founding affidavit, in the *ex parte* application to support the relief sought under the circumstances. Are properties pledged by the 1st Respondent as further security for the loan material to the order of seizure and possession sought in the Notice of Application? The Court is of the view that they are not.

[35] This Court is of the considered view, that full disclosure should be relevant to the material facts. In the matter at hand, material facts should be the facts that support the averment that the 1st Respondent has breached the agreement.

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[2] See ABSA Bank vs Havenga and Similar Cases 2010 (5) SA 533 (GNP) and ABSA Bank vs De Villiers & Another 2009 (5) SA 4 (c)

[3] See clause of the agreements In annexure "A" and "C"

Such should also traverse on what the material terms in the credit sale agreement are and how the 1st Respondent has breached them.

[36] The relevant and material facts appear to be the following;

36.1 On the following dates, respectively, 16th December 2021, 14th June 2021 and 24th November 2020, the Applicant and the 1st Respondent concluded written credit agreements for the sale of the said motor vehicles to the 1st Respondent. The sale of the said motor vehicles was subject to a suspensive condition that ownership of the said motor vehicles would not pass to the 1st Respondent unless and until the balance outstanding thereto was fully paid.

36.2 Further terms and conditions of the said credit sale agreements was that the purchase price for the said motor vehicles was to be paid by way of monthly instalments.

36.3 The Isuzu motor vehicle was sold to the 1st Respondent for the purchase price of E452, 400.99. The 1st Respondent was to pay a monthly installment of E7, 540.00.

36.4 The Kobelco SK-135 SR Less was sold to 1st Respondent for the amount of E2, 914893.04 and 1st Respondent was to pay a monthly instalment of E48, 234.67.

36.5 The Matriarch Skogger Loader was sold to the 1st Respondent for the amount of E3, 552,258.36. 1st Respondent was to pay a monthly instalment of E59, 200.00.

[37] Clause 2.3 of the said credit sale agreement provides that "***All amounts that are due and payable in terms of this agreement, shall be paid on or before the payment date, without any deduction, demand and setoff.***" As of the 30th September 2024 the 1st Respondent was in breach of clause 2.3 as follows:

37.1 For the Isuzu motor vehicle the arrears were the amount of E9, 015.11.

37.2 For the blue Kobelco SK 135SSR Less Dozer blade, the arrears were the amount of E202, 590.03.

37.3 And for the orange Matriarch Skogger Loader, the arrears were the amount of E293, 709.41.

[38] Clause 8.7 of the said credit sale agreements provides that ownership of the said motor vehicles shall at all times remain with Applicant until fully paid. In the matter of **Standard Bank South Africa Ltd v Mohlaba Panel Beating and Spray Painting and Kgatabita Eric Manipa. High Court of South Africa – Limpompo Division – Case No. 4692/2019.** It was held that *"Three requirements must be met for the Rei vindicatio to be successfully invoked. In order to succeed with this real right remedy and Applicant needs to allege and prove";*

(i) That he or she is the owner of the thing.

(ii) That the thing was in the possession of the Respondent when proceedings were instituted.

(iii) **That the thing which is vindicated is still in existence and clearly identifiable.**

See: Chetty v Naidoo 1974 (3) SA 13(A) at page 15

Clint Baily v Sabelo Gamedze and two others – Eswatini High Court Civil Case No.320/21 at paragraph 21

Standard Bank Swaziland Limited t/a Vehicle and Assets Finance v Graham N.W. Duke and Another – Eswatini High Court Civil Case No. 139/2001 at paragraph 14 to 15.

[39] The fundamental issue raised is whether the Applicant failed to make full and frank disclosure in its *ex parte* application, thereby breaching the duty of utmost good faith. The legal principle in **Herbstein & Van Winsen** emphasizes that an Applicant seeking relief without notice to the Respondent must disclose all material facts that may influence the Courts discretion. Failure to do so, whether intentional or negligent, gives the Court the discretion to set aside the order with costs.

[40] In this matter, the material facts that needed disclosure should be assessed in the context of the credit sale agreements and the relief sought. The Applicant seeks an order for the attachment of vehicles financed through credit agreements due to the Respondent's default. The relevant legal question is whether the Applicant adequately disclosed:

i. The existence and terms of the credit sale agreements.

ii. The specific default by the Respondent, including outstanding arrears.

iii. The Applicant's ownership rights under the agreements.

iv. The legal basis for repossession, including any contractual and statutory remedies available.

[41] A close consideration of the Applicant's founding affidavit shows that the Applicant pleaded the terms of the agreements, the amount of the outstanding arrears, and the ownership clause, which reserves ownership with the Applicant until full payment. Furthermore, the requirements for *rei vindicatio,* as discussed in **Chetty v Naidoo and other authorities**[4], were properly addressed by the Applicant. The only remaining question is whether there were any additional material facts, such as properties pledged as further security that should have been disclosed. However, these may not be directly relevant to the order sought if the security was not part of the relief in the *ex parte* application.

[42] Thus, the key issue is whether the non-disclosure, if any, was material enough to justify setting aside the order. If the omitted facts did not affect the prima facie entitlement of the Applicant to the relief, the Court may still uphold the order despite minor omissions.

[4] 1974 (3) SA 13 (A) at page 15

Distinguishing the Legal Authorities Relied Upon by the 1st Respondent to the Particular Facts at the Matter At Hand

[43] The 1st Respondent is likely to rely on authorities that emphasize the strict duty of disclosure in ex parte applications and the Court's discretion to set aside orders granted in the absence of full disclosure. However, the applicability of such authorities must be assessed in light of the facts of this case.

[44] **Herbstein & Van Winsen**[5]: This authority establishes that failure to disclose material facts may lead to an order being set aside. However, the key test is whether the omitted facts would have influenced the Court's discretion in granting the order. If the undisclosed facts pertain to non-essential matters that do not affect the Applicant's right to relief, this principle may not apply to invalidate the order.

[45] Case Law on *Rei Vindicatio*: The authorities such as **Chetty v Naidoo**[6] **and Standard Bank South Africa Ltd v Mohlaba Panel Beating**[7] establish that an owner is entitled to recover possession of their property from a party unlawfully in possession. The 1st Respondent seems to argue that these cases require the Applicant to prove an absolute entitlement to repossession, which can be affected by additional security or counterclaims. However, in this case, the agreement is clear that ownership will remain with the bank until the goods

[5] Supra
[6] Supra
[7] Supra

are paid in full. The default has been established, making *rei vindicatio* applicable unless there are valid defenses.

[46] The 1st Respondent also seems to argue that any pledged security changes the nature of the remedy available to the Applicant. However, unless the security arrangement explicitly affects the Applicant's right to immediate repossession under the credit sale agreements, such an argument would not be sufficient to defeat the claim.

[47] Thus, while the authorities relied upon by the 1st Respondent emphasize full disclosure and the consequences of non-disclosure, they must be distinguished based on whether the allegedly undisclosed facts were truly material to the relief sought.

[48] The determination of this matter hinges on whether the Applicant failed to disclose material facts and whether such non-disclosure, if any, justifies setting aside the order.

48.1 The Applicant has sufficiently demonstrated that it remains the owner of the vehicles and that the 1st Respondent is in breach of the credit sale agreements. The amounts owed and the specific clauses breached were disclosed.

48.2 The fact that additional security may have been pledged does not automatically negate the Applicant's entitlement to repossession, especially if such security does not alter the ownership structure established in the agreements. The key question is whether such

security was material to the relief sought in the *ex parte* application.

148.3 If the omitted facts were not directly relevant to the entitlement of the Applicant to the relief sought, the Court retains discretion to uphold the order. However, if the non-disclosure materially affected the Court's ability to make an informed decision, then setting aside the order would be justified.

[49] Ultimately, the Respondent's objections must demonstrate that the omitted facts would have altered the outcome of the *ex parte* application. If they do not meet this threshold, the order should stand.

[50] The 1st Respondent has failed to demonstrate that any alleged non-disclosure was material to the Court's determination. In particular, the assertion that additional security pledged by the 1st Respondent should have been disclosed is misplaced. The relief sought was repossession of the vehicles, and the ownership of these vehicles was never transferred to the 1st Respondent. Any pledged security, if it existed, would be a separate legal issue not affecting the right to repossession.

[51] Accordingly, the point on non-disclosure is misconceived and is hereby dismissed.

[52] The claim before this Court pertains specifically to repossession of the vehicles due to default under the credit sale agreements. Additional security, even if it exists, does not alter the ownership of the vehicles or prevent repossession when the Respondent is in breach.

[53] If the 1st Respondent believes that additional security arrangements create an alternative legal remedy, such a defense should have been raised in proper opposition proceedings, not as a ground to set aside an order granted on clear contractual grounds.

[54] As such, again this point is misconceived and dismissed.

Compliance with Rule 18(6) of the High Court Rules

[55] Rule 18(6) of the High Court Rules provides that:

> A party who in his pleading relies upon a contract shall state whether the contract is written or oral and when, where, and by whom it was concluded, and if the contract is written a true copy thereof or of the part relied on in the pleading shall be annexed to the pleading.

[56] The 1st Respondent argues that the Applicant has failed to comply with this rule because it did not specify who represented each party in the conclusion of the credit agreements relied upon, rendering the application defective.

[57] The purpose of Rule 18(6) is to ensure that a party relying on a contract fully sets out its terms and material details so that the opposing party is not prejudiced by an unclear or incomplete pleading. However, strict compliance with this rule should be assessed in the context of whether the opposing party has suffered any real prejudice due to the alleged non-compliance. Courts have emphasized that non-compliance with procedural rules does not necessarily vitiate proceedings unless prejudice is demonstrated.

[58] In **Group Five Building Ltd v Government of the Republic of South Africa (Minister of Public Works) 1993 (2) SA 593 (A)**, the court held that non-compliance with Rule 18(6) is not necessarily fatal to a claim if the contract in question is sufficiently identified in the pleadings and the opposing party is not misled. Similarly, in **Ganes v Telecom Namibia Ltd 2004 (3) SA 615 (SCA)**, the court held that the rules of pleading should be applied practically and not in a manner that unduly obstructs the course of justice.

[59] In the present case, the Applicant has annexed copies of the credit sale agreements to its founding papers. This satisfies the requirement that a written contract must be attached when relied upon in proceedings. While the 1st Respondent argues that the Applicant failed to specify who represented the contracting parties, the Respondent has not shown how this omission causes any material prejudice. The existence and terms of the contract are common cause, and the Respondent has not disputed entering into these agreements.

[60] The argument that the Applicant's founding affidavit should be set aside due to non-compliance with Rule 18(6) is without merit. The Applicant has substantially complied with the rule by annexing the contracts, and no prejudice has been demonstrated. Accordingly, this point of law is dismissed.

Hearsay Evidence

[61] The 1st Respondent contends that certain portions of the Applicant's affidavit contain hearsay evidence and should be disregarded.

[62] Hearsay evidence is generally inadmissible unless it falls within an exception recognized by law. In terms of Section 3 of the Civil Evidence Act, 1988, hearsay may be admitted if:

1. The person upon whose credibility the probative value of the evidence depends is called to testify.
2. The evidence falls within an exception to the hearsay rule.
3. The court, in the interests of justice, exercises its discretion to admit it.

[63] The courts have recognized that in motion proceedings, affidavits serve as both pleadings and evidence. In **Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd 1984 (3) SA 623 (A)**, the court held that hearsay should be evaluated within the context of affidavits and should not be strictly excluded if the opposing party has the opportunity to challenge it.

[64] In **Swissborough Diamond Mines (Pty) Ltd v Government of the Republic of South Africa 1999 (2) SA 279 (T),** the court held that evidence must be placed before the court by a person who can competently depose to it. However, hearsay does not necessarily render an application fatally defective unless it is central to the relief sought and is not supported by any admissible evidence.

[65] In the present case, the Applicant's affidavits are primarily based on facts within its direct knowledge, particularly the credit agreements and the Respondent's default. The financial records and breach of contract are based on documentary evidence rather than mere assertions. If there are any hearsay portions, they do not form the sole or primary basis for the relief sought.

[66] The 1st Respondent has not demonstrated that any hearsay evidence in the Applicant's affidavits is material to the application or that it causes any prejudice. Any minor hearsay statements do not affect the substantive issues before the court. Consequently, the hearsay objection is dismissed.

[67] The 1st Respondent has raised objections that are legally untenable and have caused unnecessary litigation, resulting in wasted costs. The principles governing costs dictate that a party that raises unmeritorious objections should bear the costs of such proceedings.

[68] Having considered the arguments raised by the 1st Respondent, the Court finds that none of the points raised warrant the setting aside of the Rule Nisi. The objections are legally misconceived and fail to establish a basis for the relief sought by the 1st Respondent.

Analysis of the 1st Respondent's Answer on the Merits

Challenge to the Deponent's Authority

[69] The 1st Respondent challenges the deponent's authority to depose to the founding affidavit, arguing that the deponent lacks the requisite authority to institute these proceedings on behalf of the Applicant.

[70] The general legal position is that a deponent to an affidavit need not be authorized by the company to depose to the affidavit itself but must be authorized to institute the proceedings. In **Ganes v Telecom Namibia Ltd 2004 (3) SA 615 (SCA)**, the Supreme Court of Appeal clarified that:

> A deponent to an affidavit in motion proceedings need not be authorized by the party concerned to depose to the affidavit. The affidavit is merely evidence in support of the application. The person who institutes the proceedings, being the applicant, must be authorized to do so.

[71] Similarly, in Unlawful Occupiers, **School Site v City of Johannesburg 2005 (4) SA 199 (SCA)**, the court held that where an applicant is a company, it need only demonstrate that the proceedings have been authorized by a

resolution of the board, not that the deponent has personal authority to depose to the affidavit.

[72] In this case, the 1st Respondent does not dispute that the Applicant, as a corporate entity, has instituted the proceedings. The challenge is to the deponent's authority to depose to the affidavit, which is misplaced, as affidavits merely serve as evidentiary material. Furthermore, the Applicant has attached a confirmatory resolution authorizing the institution of these proceedings, which suffices.

[73] The point raised by the 1st Respondent is legally misconceived and is dismissed.

[74] The 1st Respondent argues that the Applicant has failed to explain how the arrears amount of E9, 015.11 was calculated, particularly failing to indicate how many months arrears this sum represents.

[75] It is trite law that a party seeking to enforce a debt must provide sufficient details on the quantum of the claim. In **Firstrand Bank Ltd v Carl Beck Estates (Pty) Ltd and Another 2009 (3) SA 384 (T)**, the court held that a creditor must provide a clear breakdown of the amount claimed, particularly in cases involving installment payments.

[76] However, it is equally well established that if a party disputes a claimed amount, it must do so with specificity. In **Wightman t/a JW Construction v Headfour (Pty) Ltd and Another 2008 (3) SA 371 (SCA)**, the court stated:

> A litigant who seeks to raise a real, genuine, or bona fide dispute of fact must do more than make a bare denial or put up an unsubstantiated challenge.

[77] The 1st Respondent does not dispute being in arrears but merely queries the calculation. The 1st Respondent has not provided any alternative figure or records contradicting the Applicant's claim.

[78] The Applicant has, in its founding papers, set out the contractual installment obligations and attached supporting documentation indicating the payment defaults.

[79] Given that the 1st Respondent does not dispute defaulting, a mere challenge to the calculation without presenting a counter-calculation does not constitute a genuine dispute of fact.

[80] The Applicant's failure to specify the precise period covered by the arrears does not amount to a material defect in the application. The burden shifts to the 1st Respondent to demonstrate that the arrears claimed are incorrect, which he has failed to do. The objection is therefore dismissed.

[81] The 1st Respondent concedes that its account is not up to date but argues that it has been making partial payments. It further attributes its failure to meet its obligations to market shrinkages in 2023 but does not provide details.

[82] A debtor's obligation to make full and timely payments under a credit agreement is strict and cannot be unilaterally altered based on external market conditions. In **Nedbank Ltd v Madzena 2011 JDR 1184 (GNP)**, the court held that:

A party to a contract cannot escape its obligations on the basis of financial hardship unless there is a specific contractual or statutory provision allowing for such relief.

[83] Similarly, in **ABSA Bank Ltd v De Villiers and Another 2009 (5) SA 40 (C)**, it was held that commercial or financial difficulties do not excuse a debtor from contractual performance.

[84] In the matter at hand, the credit agreements do not contain any provision allowing for market conditions to serve as a defense to non-payment.

[85] The 1st Respondent has not demonstrated that the alleged market shrinkages constitute force majeure or supervening impossibility of performance.

[86] The admission of default, even with partial payments, is sufficient to justify the Applicant's relief under the *rei vindicatio* doctrine. There is no merit in this argument.

Whether the Applicant Acquired Ownership of the Vehicles?

[87] The 1st Respondent disputes the Applicant's ownership, arguing that the Applicant merely financed the vehicles and never acquired them. The contention is that the Applicant, as a bank, does not purchase vehicles but only provides financing.

[88] The nature of ownership in an installment sale agreement is well established in our law. Under such agreements, ownership does not transfer to the purchaser until the full purchase price has been paid. The financier retains ownership until the last installment is settled.

[89] In **Standard Bank of South Africa Ltd v Trust Bank of Africa Ltd and Another 1977 (3) SA 512 (W)**, the court explained that:

> Where goods are sold under an installment sale agreement containing a reservation of ownership clause, ownership remains vested in the seller (or its cessionary) until the purchaser has paid the full amount due.

[90] This principle was reaffirmed in **ABSA Bank Ltd v Go On Supermarket (Pty) Ltd and Others 2010 JDR 1478 (GNP)**, where the court held that a

bank financing a purchase through an installment sale agreement retains ownership until the debt is fully discharged.

[91] In this case, the Applicant has pleaded that the agreements explicitly provide that ownership remains vested in the Applicant until full payment is made. The 1st Respondent has not produced any contrary contractual terms refuting this. Instead, it makes a general assertion that the Applicant is a bank and, therefore, does not acquire vehicles. This argument ignores the commercial reality of installment sale agreements, which allow banks to retain ownership as a form of security until the debtor fully settles the account.

[92] The Applicant has demonstrated ownership by virtue of the reservation of ownership clause in the credit agreements. The 1st Respondent's argument is legally unfounded and is dismissed.

Whether the Applicant Delivered the Vehicles to the 1st Respondent

[93] The 1st Respondent further argues that the Applicant never delivered the vehicles to it, suggesting that the Applicant cannot claim ownership or possession if it was not responsible for delivery.

[94] The issue of delivery is irrelevant to the question of ownership under an installment sale agreement. Ownership does not depend on physical delivery but rather on the terms of the contract. Courts have repeatedly held that financing institutions in installment sale agreements do not need to take physical possession of the good's ownership is determined by contractual terms, not delivery.

[95] In **Standard Bank of South Africa Ltd v Carl Beck Estates (Pty) Ltd 2009 (3) SA 384 (T)**, the court stated that:

Where a bank finances the purchase of a vehicle under an installment sale agreement with a reservation of ownership clause, it need not physically take delivery. Ownership is retained until the debtor has fully discharged its obligations.

Further, in **Firstrand Bank Ltd t/a Wesbank v Govender 2019 (6) SA 151 (KZD)**, the court dismissed a similar argument, holding that:

Ownership of the vehicle rests with the bank not because of possession, but because of the explicit reservation of ownership under the agreement.

[96] Here, the 1st Respondent does not deny that the vehicles were delivered to it. Rather, it argues that the Applicant was not the party responsible for delivery. However, that is legally immaterial the installment sale agreements explicitly retain ownership in the Applicant, which suffices to defeat this argument.

[97] The 1st Respondent's argument is legally irrelevant, as ownership is not dependent on who physically delivered the vehicles but on the terms of the contract. This defence is also flawed and is dismissed.

Whether Registration of the Vehicles in the 1st Respondent's Name Negates the Applicant's Ownership

[98] The 1st Respondent argues that because the vehicles are registered in its name, this proves that the Applicant never intended to acquire ownership. This argument misunderstands the legal distinction between ownership and registration.

[99] Vehicle registration is an administrative requirement for road use, while ownership is a substantive legal right determined by contract. Courts have consistently held that registration in a party's name does not confer ownership if the contract clearly stipulates otherwise.

[100] In **Mercantile Bank Ltd v Enjane Transport Services (Pty) Ltd 1997 (1) SA 650 (W)**, the court held:

> The mere fact that a vehicle is registered in a particular name does not establish ownership. Ownership is determined by the agreement between the parties, and where an installment sale agreement includes a reservation of ownership clause, the financier retains ownership irrespective of whose name appears on the registration certificate.

[101] This principle was reaffirmed in **Standard Bank of South Africa Ltd v Trust Bank of Africa Ltd and Another 1977 (3) SA 512 (W)**, where the court found that:

> The registered title of a vehicle is not conclusive proof of ownership. The issue of ownership must be resolved with reference to the terms of the agreement.

[102] In this case, the agreements explicitly state in Clause 8.7 that:

> We will at all times remain the owner of the goods, until the full amount owing has been settled.

[103] Since ownership is contractually reserved in favor of the Applicant, the mere fact that the vehicles are registered in the 1st Respondent's name does not affect the Applicant's legal ownership. The 1st Respondent's argument is legally unfounded.

[104] The vehicles registration in the 1st Respondent's name does not negate the Applicant's ownership because ownership is contractually reserved until full payment is made. The point is dismissed.

Misplaced Reliance on Clause 6.2 Instead of Clause 16

[105] The 1st Respondent argues that Clause 6.2 does not impose any obligation on it and, therefore, cannot be breached. However, this argument is misplaced because the Applicant never relied on Clause 6.2 in its founding affidavit. Instead, the Applicant cited Clause 16, which is a general clause dealing with issues such as waivers, costs, and the integration of the agreement.

[106] More importantly, the default and cancellation provisions are found in Clause 10 and Clause 11, not in Clause 16. Specifically:

Clause 10.1.1 states that failure to pay any amount on or before the due date constitutes a breach.

Clause 11.1.1 provides that the Applicant may elect to terminate the agreement upon written notice.

Clause 11.1.1.1 allows the Applicant to take possession of the goods either by entering the 1st Respondent's premises or through legal action.

Clause 11.1.1.3 states that the Applicant is entitled to retain all monies paid and claim compensation for losses and legal costs.

[107] Thus, the 1st Respondent's reliance on Clause 6.2 is not only misplaced but also irrelevant to the actual contractual basis for cancellation and repossession.

[108] The 1st Respondent's argument regarding Clause 6.2 is factually and legally irrelevant. The Applicant's right to terminate and repossess the vehicles is clearly provided for in Clauses 10 and 11. The argument is dismissed.

Misreference to Clause 10.7 Instead of Clause 8.7

[109] The 1st Respondent takes issue with the fact that the Applicant, in paragraph 9 of its founding affidavit, referred to clause 10.7 as the provision stating that ownership of the vehicles shall vest and remain with the Applicant until the outstanding balance is fully paid. However, upon scrutiny of Annexure (the credit sale agreement), there is no clause 10.7. The correct clause that contains this provision is clause 8.7.

[110] It is trite law that courts are not bound by mere misstatements or errors in pleadings or affidavits if, upon a holistic reading of the document, the intended reference is clear. The Supreme Court of Appeal of South Africa, in **Sasfin (Pty) Ltd v Beukes 1989 (1) SA 1 (A)**, emphasized that a court must not place undue reliance on minor errors or misstatements where the broader context makes the party's position clear.

[111] In this case, while the Applicant erroneously cited clause 10.7, the substance of the argument remains unaffected because the agreement indeed contains a clause that supports its assertion clause 8.7. This provision explicitly states that the Applicant remains the owner of the vehicles until full payment of the

outstanding balance. The misreference is therefore an inconsequential clerical error that does not affect the legal position of the Applicant.

[112] Furthermore, courts have consistently held that a party should not be allowed to rely on technical defects to defeat an otherwise valid claim when there is no real prejudice suffered **(Trans-Drakensberg Bank Ltd v Combined Engineering (Pty) Ltd 1967 (3) SA 632 (D)**. The 1st Respondent has not demonstrated any material prejudice resulting from this error.

[113] The 1st Respondent's argument is without merit. The misreference to clause 10.7 instead of clause 8.7 is an immaterial error that does not affect the validity of the Applicant's claim. The Applicant's legal entitlement to ownership and repossession remains intact, as explicitly provided for in clause 8.7 of the agreement. This point of contention is therefore dismissed.

1st Respondent's Alleged Payments and Market Shrinkages

[114] The 1st Respondent acknowledges that its account is in arrears but contends that it has been making payments and is still paying. It attributes its failure to remain up to date to market shrinkages in 2023 and states that since May 2024, it has been making efforts to bring the account current. However, it has not attached any proof of payments to substantiate this assertion.

[115] A party that alleges partial performance in response to a claim for arrears bears the evidentiary burden to provide proof of such payments. In **Standard Bank of SA Ltd v Hand 2023 (2) SA 450 (GJ)**, the court held that a debtor who asserts that they have made payments must produce supporting documents, such as bank statements, receipts, or payment confirmations. A mere allegation of payment, without proof, is insufficient to displace a creditor's claim.

[116] Additionally, the explanation of market shrinkages in 2023 lacks specificity. The Respondent does not define what this means, nor does it explain how such market conditions legally excused its obligation to pay in terms of the agreement. Courts have generally been reluctant to accept economic hardship as a valid defense in commercial agreements unless there is an explicit force majeure clause covering such circumstances. In **Nedbank Ltd v Nortje 2016 JOL 35376 (GP),** the court held that financial difficulties, even if genuine, do not constitute a defense against a clear contractual obligation to pay.

[117] Further, while the 1st Respondent asserts that since May 2024 it has been making efforts to bring the account up to date, it has not provided any evidence of actual payments made. This omission is critical because a party seeking to rebut a claim for arrears must not only allege payments but prove that those payments reduced the outstanding balance.

[118] The 1st Respondent's claim that it has been making payments and is still paying is unsubstantiated due to the lack of supporting evidence. Its reliance on market shrinkages as an explanation for non-payment is legally untenable, as economic hardship does not excuse contractual performance unless expressly stipulated in the agreement. Accordingly, this defense is rejected.

Discharge of the Rule Nisi

[119] The 1st Respondent further prays that the *Rule Nisi* issued on 25 October 2024 be discharged insofar as it prejudices the 1st Respondent, citing that it is in the business of harvesting timber and is contracted to Montigny Investments at Bhunya.

[120] A Rule Nisi is issued on a provisional basis, pending a return date where the affected party may show cause why it should not be made final. The test for whether a *Rule Nisi* should be discharged depends on whether the Respondent has demonstrated a prima facie case that it would suffer irreparable harm if the interim relief were confirmed. See **National Director of Public Prosecutions v Zuma 2009 (2) SA 277 (SCA),** where the court held that an interim order must be discharged if the applicant fails to show a clear right to the relief sought.

[121] In this case, the 1st Respondent has not disputed the arrears owed nor proven any payments made to reduce the outstanding balance. The mere existence of a timber harvesting contract does not override the Applicant's contractual

rights. The credit agreements, specifically clauses 8.7, 10.1.1, and 11.1.1, entitle the Applicant to recover the financed vehicles if the Respondent defaults. The Respondent has not argued that the enforcement of these contractual provisions is unlawful or that the contract contains any clauses suspending its obligations due to business operations.

[122] Additionally, the Court in **First National Bank v Ngcobo & Others 2014 JOL 31563 (KZP)** held that a party resisting the confirmation of a *Rule Nisi* must provide concrete evidence of prejudice beyond mere inconvenience. Here, the 1st Respondent has not demonstrated irreparable harm but only general operational inconvenience. It remains open to the Respondent to settle the arrears and reclaim possession of the vehicles.

[123] The 1st Respondent has not established sufficient grounds for the discharge of the *Rule Nisi*. The fact that it is contracted to Montigny Investments does not legally excuse non-payment, nor does it override the Applicant's contractual rights to enforce the agreement. Consequently, the application to discharge the *Rule Nisi* is dismissed.

Conclusion and Order

[124] Having carefully considered the arguments raised by the 1st Respondent on both the preliminary points and the merits, it is evident that none of the

objections advanced can successfully defeat the Applicant's claim. The contractual provisions governing the parties' relationship are clear: the Applicant retains ownership of the financed vehicles until full settlement of the outstanding amounts. The 1st Respondent has admitted that its accounts are not up to date, yet it fails to provide any substantive challenge to the Applicant's contractual rights. Instead, it raises misconceived legal points and vague defenses, none of which displace the Applicant's entitlement to the relief sought.

[125] The 1st Respondent's attempt to argue that the Applicant has not demonstrated how the arrears figures were calculated is unconvincing. The Applicant has provided Annexure D, a system-generated banking record reflecting arrears as of 30 September 2024. The 1st Respondent does not dispute the authenticity of this document but rather resorts to non-committal responses such as the contents are vague. The failure to engage meaningfully with the Applicant's evidence is telling an indication that the 1st Respondent does not seriously contest its indebtedness but merely seeks to delay the inevitable outcome.

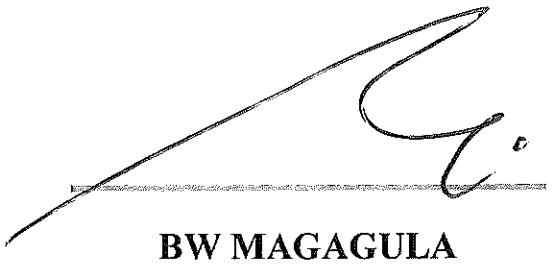
[126] Equally unpersuasive is the 1st Respondent's argument that the vehicles should only be placed under judicial attachment rather than repossessed. The ex parte relief obtained by the Applicant was both necessary and appropriate given the nature of the agreement and the risks involved. The Applicant was contractually entitled to seek recovery of its property, and its actions align with established principles in credit law. The notion that the vehicles should remain in the 1st Respondent's possession despite clear default is legally untenable.

[127] However, before concluding, this Court must express its strong disapproval of the manner in which the Applicant has presented its case, particularly its lack of precision in citing the relevant contractual provisions. In its founding affidavit, the Applicant erroneously referred to clause 10.7 when no such clause exists in Annexure C. It is now evident that the correct clause is 8.7. Such careless drafting is inexcusable, particularly in urgent applications where courts must often rely on the Applicant's representations without the benefit of full adversarial scrutiny. A litigant who approaches the court for urgent relief bears the duty to ensure that its case is presented with utmost accuracy and clarity. Sloppiness in referencing key contractual terms risks undermining the credibility of an otherwise meritorious case. The Applicant's legal representatives are therefore urged to exercise greater diligence in future proceedings.

[128] In the result, the following order is made:

1. The *Rule Nisi* issued by this Court on 25 October 2024 is hereby confirmed.

2. The 1st Respondent shall pay the costs of this application on the scale as between attorney and client, such costs to include the costs occasioned by the opposition to this application.



BW MAGAGULA

JUDGE OF THE HIGH COURT OF ESWATINI

For the Applicant: N. Hlophe (T.L. Dlamini & Associates)

For the 1st Respondent: T. Mavuso (Motsa Mavuso Attorneys)