

IN THE HIGH COURT OF SWAZILAND

CIV. CASE NO. 852/98

In the matter between

ALLEN MANGO

PLAINTIFF

And

MOTSA INVESTMENTS (PTY) LTD

DEFENDANT

Coram

S.B. MAPHALALA - J

For Plaintiff

MR. MAGAGULA

For Defendant

MR. MAHLALELA

RULING ON COSTS

(22/12/98)

Maphalala J:

The matter came before me on the 24th July 1998 where the court was informed by Mr. Mahlalela that his client has made payment to the plaintiff in accordance with the plaintiff's claim. The only question, which remained for consideration by the court, was that of costs. I must point out that the dispute of costs revolves around correspondence between the attorneys of the parties. Both attorneys promised to furnish the court with these letters for the court to make an informed conclusion in this matter. The court had to persistently remind one of the parties through its clerk to furnish the pertinent letters thus the delay in handing down this ruling.

To revert back to the issue germane to this dispute Mr. Mahlalela was of the view that his client had made full and final settlement of the claim and thus each party is to pay his own costs. On the other hand Mr. Magagula submitted that the plaintiff is entitled to its costs, as there was no condition set when the payment was settled. The defendant cannot be allowed to avoid costs by coming to court on the eleventh hour with payment that was received by plaintiff's attorneys on the previous day the matter was to be heard being the 24th July 1998.

2

I have deliberated on the matter and my view is that defendant pays the costs claimed by the plaintiff. I agree in toto with Mr. Magagula in his submissions.

S.B. MAPHALALA

JUDGE