IN THE NORTH GAUTENG HIGH COURT, PRETORIA

(REPUBLIC OF SOUTH AFRICA)

(1) REPORTABLE: YES / NO

(2) OF INTEREST TO OTHER JUDGES: YES / NO

(3) REVISED

2012-06-08

DATE SIGNATURE

CASE NUMBER: 69967/09

DATE: 2012 June 12

TIYANI JUSTICE MABASA PLAINTIFF

and

MINISTER OF SAFETY AND SECURITY DEFENDANT

JUDGMENT

MABUSE J:

1. This is an action for payment of money. The plaintiff, an adult male student of 389 Visagie Street, Visagie Court, Pretoria, has sued out summons against the defendant for payment of various amounts of money. He claims R30,500,000.00 for unlawful and wrongful arrest of which R500,00.00 is for past hospital, medical and travelling costs; R100 000.00 for future hospital, medical and related costs and R20,000.00 for general damages. The plaintiff's action arises from an incident that took place at or around flat 35 of Gilrock Building in Durban on 22 April 2007 where and when, according to him, he was assaulted by some members of the South African Police Services who were there and then acting within their course and scope of employment with the defendant. The plaintiff contends that such members of the South African Police Services assaulted him, unlawfully arrested and detained him and finally wrongfully and administratively set the law in motion by laying a false charge of housebreaking and theft against him.

2. According to the pleadings, the above mentioned claims by the plaintiff were referred to in that order respectively as claims 1, 2 and 3. The plaintiff abandoned his third claim during the course of his trial and particularly during the course of his

testimony. The issue regarding costs in respect of the aforementioned abandoned claim was reserved for later judgment.

3. Right at the commencement of the trial, the parties agreed to separate the issue relating to quantum from the merits, to postpone it sine die and to proceed only with the matter on the merits only. The application to postpone the issue relating to quantum was resultantly granted.

4. Perhaps it is only apposite to give an exposition of how the plaintiff happened to be in the Gilrock building and in particular in flat 35 on that fateful day. The plaintiff had come to Durban to further his education at the Durban University of Technology ("DUT") where some of his friends and home boys were already attending. Although he had completed all the registration formalities at the said university on that particular day, he still had not secured a place where he would be staying in Durban while he was a student at the said University. For that particular day however he was not stranded for, although he had no accommodation, his friends and home boys already had their own accommodation at the Gilrock Hotel and would, for that reason, have been prepared, as they did on this date in question, to accommodate him . One such friend, one Abdulla Thulani Shabangu ("Shabangu") was a tenant of flat 56 of the same building and another friend of theirs,Titi Khoza ("Khoza"), was a tenant of flat 35, the flat where the plaintiff's cause of action arose.

5. During the day, Shabangu had sent Khoza to the caretaker, one Gerhard Enslin ("Enslin") to inform him about the presence of the plaintiff in that building and furthermore to secure permission for him to be in that building. When Khoza

returned from the caretaker, he came back with a slip, which was a piece of formal paper with, among others, the names of the guest, in this particular case, the plaintiff, on it. This document indicated clearly that the plaintiff had been granted permission by the caretaker to be in that building. The procedure that Shabangu had followed to secure permission for the plaintiff was the correct one. Though Shabangu was unable to produce this piece of paper at the trial, he testified that he saw the slip as he received it from Khoza and that he read it. Because he never thought that it would be required at a later stage he threw it away. It was not in dispute notwithstanding that such a document had been issued by the caretaker.

6. In the evening Shabangu and Khoza wanted to go out, but the plaintiff did not. He felt exhausted and decided that he needed to rest. He would have had to rest in flat 56 but because there was someone else in that flat, it was suggested by Shabangu that the plaintiff should go and rest in flat 35. After all these arrangements had been made the plaintiff's friends left and left the plaintiff behind in flat 35.

7. The unsuspecting plaintiff was sleeping in flat 35 of the said building when strange men entered the flat and, without having uttered any word, pounced on him, pulled and assaulted him. While pulling and pushing him to the motor vehicle that was waiting outside in the parking bays they hit all over the body with an unknown object. He was kicked, sprayed with a blinding spray, assaulted in the chest and hurled into the back of the police motor vehicle, but not before he was handcuffed.

8. As a consequence of the said assault, he sustained the following injuries:

80% of his right leg and his right thigh were injured. His right thigh was swollen up, he could not even walk on his own. These injuries were caused by the unknown object with which he was assaulted. Blood came from his nose. As a consequence of the spray he was blinded for more or less five minutes.

9. He was detained firstly at South Side Police Station and later at CR Swart Police Station cells. He made his first court appearance on 24 January 2007 where he was informed of his charges by the court. He was informed that he had been charged with housebreaking with intent to commit an offence unknown to the State and in addition thereto with resisting arrest. On 24 January 2007 the case against him was postponed to 6 February 2007 and he was ordered to be kept in custody at Durban Westville Correctional Services pending his following appearance and furthermore pending confirmation of his residential address.

10. While he was at the said Correctional Services he suffered, as a result of no one's fault, some bodily injuries which necessitated medical treatment at a local hospital. When he passed through a scanner at Durban Westville Correctional Services, for inexplicable reasons, he collapsed and lost consciousness. Later when he regained consciousness, he was on a wheelchair. The consequence of this incident was loss of taste, especially of salt. The charges against him were withdrawn on 25 January 2007 after the caretaker had furnished an affidavit in which he applied for the withdrawal of the charges against him on the basis that he had made a mistake on 23 July 2007 when he lodged a complaint against the plaintiff. According to his affidavit, he did not know that the plaintiff had permission to be in Gilrock Building.

He stated furthermore that he did not at the material time have any knowledge that the plaintiff was in the flat.

11. In resisting the plaintiff's claim, the defendant relied firstly on the evidence of one the caretaker; secondly on the evidence of a certain Sibusiso Chiliza ("Chiliza") and one Mandlenkosi Ezekiel Ntuli ("Ntuli") both members of the South African Police Services. According to the caretaker, a day before the incident he had seen two boys carrying crates of beers into Gilrock Building. Later he heard a lot of female voices inside flat 35. the noise continued right through the Sunday night. The following day around 22h00, he patrolled the building. Later while he was inside flat 36 where he was staying he heard a sound of a breaking glass. He walked out to investigate. He discovered that the burglar gate of flat 35 was open. He also noticed a lot of pieces of glass in the passage. He realised immediately that the door glass of flat 35 had been shattered and that the door itself was slightly ajar.

12. He pushed the door open and called out the tenant's names. He tried to switch on the lights in the flat but there was no electricity in that flat. Then he heard a male voice swearing at him in Isizulu or Sesotho. He could not understand it. It was a voice he could not recognize. He saw a figure of a male sitting on a bed. When he asked this male who he was and what he was doing in the flat, the male told him to "fuck off". The male continued and told him that he had a bush knife with him and threatened to stab him with it. He went out of the flat, took out his cell phone, called the police and waited for them at the door of his flat. The purpose of waiting there was to guard against the person in flat 35 escaping.

13. When the police arrived he told him that he had a suspect of housebreaking; that he did not know his name and that that suspect broke the door. He told the police furthermore that earlier he had seen the tenants of flat 35 going out; that the tenant had locked the burglar gate and had told him that he and his friend were going to a party. While he was waiting for the police he could hear some screams and someone banging objects inside flat 35.

14. The policemen, one short and thin and the other one well built arrived where he was waiting. The shorter one entered flat 35 and, as he did so, identified himself as a policeman to the man inside the flat. He asked the person who was in the flat who he was and what he was doing. All of a sudden he, the caretaker, saw the policeman retreating with the person who was in the flat holding him by his throat and pushing him towards the outside of the flat. Both the policemen and that person came out of the flat upon which he stepped back quickly.

15. That person pushed the policemen up to the parapet wall where there was light. He grabbed the short policeman while the other policeman grabbed the suspect. Immediately thereafter he sprayed the person with pepper spray in the face. After the other policeman had grabbed him, that suspect tried to wrestle the policeman's fire arm from its holster. The shorter policeman produced his handcuffs and wrapped them around the person's wrists. The person was dragged to the motor vehicle while he was resisting and kicking. When they arrived in the foyer and in order to prevent the suspect from breaking the door glass, they grabbed him by both his feet and carried him in that manner right up to the police motor vehicle.

16. The suspect was the plaintiff in this matter. The plaintiff did not have permission to sleep in flat 35. According to him, he was the only person who would have granted permission to any person who wanted to be in Gilrock building. The plaintiff had no such permission to be in that building. From the building the plaintiff was conveyed to the police station where he was delivered. When he was taken out of the police motor vehicle at the police station, the plaintiff was still kicking and screaming. He continued screaming and he could hear him scream while he was in the charge office even after he, the plaintiff, had been taken into the police station cells.

17. Later the plaintiff's friends returned. He told them that someone had broken into their flat. This he told to the tenant of flat 35. He had no idea who the tenants of flat 56 were nor did he know that there was a relationship between the tenants of the two flats. The tenants of flat 35 and 56 had told him that the plaintiff was their friend and that he had visited them for the weekend. This was the first time he knew why the plaintiff was in the flat. He asked for the plaintiff's mother's cell number and as soon as it was given to him called her and reported to her what had happened.

18. According to Chiliza on 22 January 2007 he was executing his official duties in the company of Ntuli and in the police motor vehicle when they received a complaint of housebreaking that had taken place on the third floor of Gilrock building in Durban. They drove there and on their arrival met the supervisor, actually the caretaker, who told them that he was the complainant. He then took them to a certain flat on the third floor of the building where they found it dark. The door was open. The complainant told him that the suspect was inside the flat.

19. Followed by Ntuli, he got into the flat and on entering the flat noticed the person move towards the window. As he did not know whether the person was going to flee, Ntuli quickly moved to the window side in order to prevent that person from escaping through the window. That person then turned and came towards him. That person grabbed him by his throat and pushed him outside into the corridor. He screamed and told Ntuli that the person was fighting. Ntuli came out of the flat rushing and tried and, without any success, to dislodge that person. It was only at this stage that the caretaker fished out a pepper spray and sprayed that person that the person released him.

20. They handcuffed him and, because he was unwilling to walk on his own to the motor vehicle, carried him by his feet and hands. Although he resisted when they tried to put him in the back of the police van, they managed ultimately. He denied that the person was assaulted. After he had been loaded in the back of the police van, the person made a lot of noise. He showed abnormal behaviour. As soon as they had arrived at the police station, the suspect got out of the back of the motor vehicle and walked on his own. Once they got into the police station took down the caretaker's statement while Ntuli himself wrote down his arrest statement. Later they conveyed the suspect to the CR Swart Police Station.

21. The suspect was arrested for housebreaking. A complaint had been laid. The suspect fought against them on their arrival. The caretaker had told them that he heard the sound of a break-in but did not see who broke in. When they arrested him, the suspect did not give them any chance to inform him that he was being arrested and to explain his rights to him.

22. According to Ntuli, he and Chiliza received, while they were performing their duties, a report that housebreaking was in the process of being committed at Gilrock building. They rushed to the said building in their motor vehicle, a police van, which was been driven at the time by Chiliza where on their arrival they were shown where the incident had taken place.

23. They were shown the flat by the complainant and told that the suspect was inside the said flat. When they arrived at the door the suspect fled but he stopped him. The suspect then turned and headed to the exit door in the direction of Chiliza. Suddenly he heard Chiliza scream for help. He rushed to him and found that the suspect had grabbed Chiliza by his shirt collars and was pushing him towards the outside wall. He tried unsuccessfully to pull the suspect away from Chiliza but with the assistance of the caretaker he managed. The caretaker sprayed the suspect with pepper spray. He was immediately subdued and handcuffed.

24. The battlefield between the parties is twofold. Firstly, the court is called upon to decide whether or not the plaintiff was assaulted by the employees of the defendant and secondly, whether the plaintiff's arrest was unlawful. In terms of the principles of our law, especially **Pillay vs Krishna and Another 1946 AD 946** the *onus* lies on the plaintiff to prove his case on the balance of probabilities. In **Gates v. Gates 1939 AD 150 at page 154**, the court set out the said principle as follows:

"Now in a civil case, the party on whom the burden of proof (in the sense of what Wigmore calls the risk of non-persuasion) lies, is required to satisfy the court that the balance of probabilities is in his favour."

25. It is clear that the police drove to the Gilrock building following a complaint that the caretaker had made by telephone to the police station. On their arrival at the said building, the police met the caretaker who confirmed that he was the one who had complained about burglary at that particular flat. I now turn to examining the evidence relating to the said report in order to establish its nature and furthermore to determine whether or not the police acted reasonably when, on the basis of the relevant report, they arrested the plaintiff.

26. On his own version the caretaker did not see the person who broke the door glass of flat 35 because at the time he heard the sound of breaking glass he was still in his flat. Even after he had walked out of his flat to investigate, he saw no one he could have suspected as the person who had broken the glass of the door. He could therefore not confidently point any accusing finger at the plaintiff as the person who had caused the damage to the door.

27. The police went to the scene only because they had received a report from the police station about the offence. It is clear that they had no chance to insist on being furnished with a written statement in which the complaint of housebreaking was contained. They had, with haste, driven to the building where the incident was reported to have taken place as Chiliza testified, or where housebreaking was in the process of taking place, as Ntuli himself testified. They did not act on the basis of the report that they received from the police station but acted so on the basis of the

verbal report that they had received from the caretaker on their arrival at the Gilrock building.

28. There is no consensus between the police witnesses as to the nature of the report they received from the caretaker. Right at the end of his evidence, Chiliza, referring to the caretaker as the supervisor, testified that the supervisor said that he heard a sound of breaking glass but did not see who broke it. In his evidence-in-chief, Ntuli did not testify about a report that the caretaker had made to them on their arrival but however did so under cross-examination. He was asked by Mr. Baloyi, counsel for the plaintiff, whether the caretaker did not, on their arrival, report to them that, when the door glass was broken he was inside his flat, whereupon he confirmed that they did receive such a report from the caretaker. Consequently it is common cause that the caretaker did not see the person who damaged the door glass of flat 35. Furthermore it is common cause that he told the two policemen that he did not see who broke the glass of the door to the said flat 35. The question now is was the police conduct in acting on the basis of the report that they received from the caretaker, when they arrived, reasonable?

29. The test employed in the determination of whether a policeman acted lawfully when he arrested a person is objective. The crucial question would be whether or not the circumstances that prevailed at the time or the report that he received about an offence was such that a reasonable man finding himself in the same position as the Chiliza and Ntuli, would form an opinion reasonably that the plaintiff had committed or caused damage to the door of flat 35. In **Duncan v The Minister of Law and Order 1986(2) S A 805 AD** at p. 814 C-E Van Heerden JA set out the test as follows:

"It was common cause that the question whether a peace officer reasonably suspects a person of having committed an offence within the ambit of s. 40(1)(b) of the Act is objectively justifiable. And it seems clear that the test is not whether a policeman has reason to suspect, but whether, on an objective approach, he in fact has reasonable grounds for his suspicion."

The policeman shall consider the situation, assess it and decide objectively whether it warrants an arrest. In order to do so the policeman must find that the suspect has committed an offence and this he must find in the report, in this particular case, of the caretaker. S. 40 of the Criminal Procedure Act 51 of 1977 ("the CPA") deals with the various circumstances under which a suspect may be arrested by a peace officer. The arrest of the plaintiff on 22 Janaury 2007 by Chiliza and Ntuli was affected in terms of the provisions of S. 40 of the CPA. The arrest was effected without a warrant. The said section authorises the peace officer to effect an arrest, in circumstances set out in S. 40 supra. It is the plaintiff's case that the employees of the defendant arrested him without a warrant of arrest and that the arrest itself was, on his evidence, unlawful. It was unlawful because it could not in law be justified on any ground.

30. The defendant's view with regard to the said arrest is that he admits the arrest and detention of the plaintiff on 22 January 2007 but contends that it was lawful by reason of the fact that a complaint had been laid against the plaintiff; the plaintiff was arrested by police officers who at the time, were acting within their scope of

duty; that he had been informed of his charges and that the correct procedures were followed in effecting his arrest and detention.

31. In dealing with the arrest effected in terms of S. 40(1)(b) of the CPA, the court had the following to say in **Mabona and Another vs Minister of Law and Order and Others 1988(2) SA 654 SELCD at p. 658 D-F:**

"The test of whether a suspicion is reasonably entertained within the meaning of S. 40(1)(b) is objective "S v Nel and Another 1980(4) SA 28 E at 33 H would a reasonable man in the second defendant's position and possessed of some information have considered that there were good and sufficient grounds for suspecting that the plaintiffs were guilty of conspiracy to commit robbery or possession of stolen property knowing it to have been stolen."

Considering the evidence of the caretaker there are no facts on the basis of which he drew an inference that it was the plaintiff who had caused the damage. The evidence of the caretaker does not exclude the reasonable possibility of someone breaking the door glass of flat 35 and fleeing from the scene. There is no basis on which the caretaker could have concluded that the person who broke the glass fled into flat 35 or did not flee into other directions from the scene. There is therefore no iota of reliable evidence as to why the plaintiff was pointed out as the suspect. It is clear from his evidence that the caretaker was adamant that even if he had not witnessed the damage to the door that it was the plaintiff who had broken the door. In my view the caretaker's inference was not based on any reasonable grounds.

32. Applying the principles set out in Mabona and Another v. Minister of Law and Order and Another supra to the facts of this case, the question that needs to be asked is whether a reasonable man, in the positions of Chiliza and Ntuli, and possessed of the information contained in the report by the caretaker that: (a) there was damage to the door glass of flat 35; (b) he only heard the door glass break while he was in flat 36; (c) that after hearing the sound of breaking glass he rushed out to investigate; (d) that he saw no one who caused the damage.

33. The above authority of Mabona sets out what the peace officer must do after receiving the complaint but before effecting an arrest in the following manner:

"The reasonable man would therefore analyse and assess the quality of the information at his disposal critically, and he will not accept it likely or without checking it where it can be checked. It is only after an examination of this kind that he will allow himself to entertain the suspicion that will justify an arrest."

34. What is clear from the evidence of the defendant's witnesses is that they acted as soon as they received a report from the caretaker. In my view they failed to act reasonably after they were told that the caretaker did not see who broke or caused the damage to the door. In **Gelliman v. Minister of Safety and Security 2008(1) SACR 446W at page 460 E**, the court stated that:

"The arresting officer plainly did not evaluate the very limited "evidence" at his disposal critically, had he done so, it would have been immediately apparent to him that this was a complaint made by a disgruntled employee (however

sympathetic a position may have seem to him) engaged in a "domestic" dispute with her employer."

The lesson that one learns from the above statement is that the arresting peace officer should first check the information given to him. It is his duty to assess the information given to him to establish whether such information would justify an arrest. He should not merely rely on the fact that a complaint has been made. Once he has assessed the information given to him the discretion whether or not to effect an arrest is his to exercise but not capriciously. In the said authority of Duncan v. Minister of Law and Order the court had the following to say:

"If the jurisdictional requirements are satisfied, the peace officer may invoke the power conferred by the subsection, i.e. he may arrest the suspect. In other words he, he then has the discretion as to whether or not to exercise that power (cf Holgarde-Mohammed v. Duke {1984} 1 All ER 1054(HL) at 1057. No doubt the discretion must be properly exercised. Grounds on which the exercise of the discretion can be questioned narrowly circumscribed."

The police officers who arrested the plaintiff failed to ask the caretaker why he pointed out the plaintiff as the person who had damaged the door, if he did not see who had done so.

35. In the end I find that there were no reasonable grounds of justification for the arrest of the plaintiff and that his arrest on 22 January 2007 by the defendant's employees could not be justified. I find that the said arrest was therefore unlawful.

36. The plaintiff's first claim against the defendant is that at the time of his arrest he was assaulted by the police and consequently he sustained certain bodily injuries. As a result of such injuries, he was taken to Addington Hospital, as it then was called, where he received medical treatment. He claims damages for the said assault. Although the plaintiff's summons mentioned a variety of objects with which he was assaulted, in his testimony, the plaintiff only told the court that, besides being kicked, he was assaulted with fists, pepper spray and unknown objects. It is now clear that it was not the police but the caretaker who used the pepper spray on him. The caretaker has not been cited in this action and his conduct therefore, whether unlawful or not, merits no further consideration.

37. It is not in dispute that when the plaintiff's friends left him there was nothing wrong with his health. He had not complained about his health. It is also clear that he only sustained his injuries during the period in which he was in the company of the police and the caretaker. According to his evidence, he was assaulted by the police. At least he gave evidence that established the provenance of his injuries and the circumstances under which he sustained them. On the other hand the caretaker testified that the plaintiff did not sustain any injuries until he got into the back of the police van. This he testified after he had told the court that the plaintiff sustained no injuries while he was being taken to the police van. At any rate the plaintiff could not have sustained the injuries while he was being taken to the police van because, according to the testimony of Chiliza, due to the fact that he was unwilling to walk on his own after he had been handcuffed, the plaintiff was carried from flat 35 to the

police motor vehicle parked outside the Gilrock building. He repeated this evidence even under cross examination. In carrying him, they held him by his feet and hands.

38. Chiliza denied that the plaintiff was assaulted with batons. Although Chiliza testified that the plaintiff was kicking around he however never testified nor did he suggest that it was the kicking that resulted in his injuries. The possibility that he might have incurred his injuries during the kicking that Chiliza testified about should therefore be excluded. Neither Chiliza nor the caretaker testified or suggested that the plaintiff sustained any injuries when he was put inside the police motor vehicle.

39. The evidence of the caretaker and Chiliza that the suspect was carried to the police motor vehicle and furthermore that he was not injured whilst he was being carried to the motor vehicle was corroborated by Ntuli. He went further and stated that the plaintiff was carried to the police motor vehicle by all three of them, him, Chiliza and the caretaker and that one carried the plaintiff by his legs, the second by his body and the third by his shoulders while his hands had been handcuffed and that they carried him in that manner into the van. According to him, it was still difficult to put him in the police van but notwithstanding the difficulties mainly due to the plaintiff's resistance, they managed to put him inside the police van by pushing him. He confirmed furthermore that when they pushed him into the police van the plaintiff was not injured.

40. Although Ntuli testified that on their way to the police station the plaintiff was kicking inside the police van he could not testify that the plaintiff sustained any injuries as a consequence of his kicking while he was in the back of the police van nor did he

suggest that he might have suffered any injuries under those circumstances. The evidence that the plaintiff did not sustain any injuries whilst he was in the back of the police van is borne out by the evidence of all the defendant's witnesses who testified that when the plaintiff walked from the police van at the police station he was walking on his own and without any troubles. The evidence of the defendant's witness has unequivocally excluded any reasonable possibility of the plaintiff having sustained any injuries between flat 35 of Gilrock Building and the first police station where he was taken to. Entry 2017 of the police Occurrence Book also reported that the suspect, Justice Mabasa "was free from injuries".

41. Despite all these denials and despite furthermore the records of the Police Occurrence Book, the plaintiff was limping, his leg was swollen up and he was taken to the hospital for medical treatment. He was diagnosed with the following injuries at Addington Hospital, tender forehead, swollen right foot, swollen right leg, he was also taken to Pretoria Academic Hospital, now Steve Biko Academic Hospital, where the same medical conditions were diagnosed.

42. Then if it is not in dispute that the plaintiff was treated at Addington Hospital for the injuries that he testified were inflicted by the police on him and while the police themselves exclude, in their evidence, every reasonable possibility of the plaintiff having sustained any injuries from flat 35 of Gilrock Building to the police station, then the only reasonable inference is that the plaintiff sustained these injuries under the circumstances testified by him. I therefore find that on the probabilities the plaintiff's version is more probable than the defendant's version. Accordingly I find

that on 22 January 2007 the defendant's employees, who were at all material times acting within their scope and employment with the defendant, assaulted the plaintiff.

43. I only have one word to say with regard to the evidence of the caretaker. His evidence is ludicrous and not reliable. He cannot be trusted with the truth. As to other two witnesses their version is highly improbable. There is evidence by both the plaintiff that when he was arrested he was not wearing any shoes and by the plaintiff's witness that they went to see the plaintiff at CR Swart Police Station the following day and that they found the plaintiff and that when they saw the plaintiff he was not wearing any shoes and T-shirt. This evidence, in my view, is damning because it lends credence to the plaintiff's evidence that he was arrested while he was sleeping. It also makes the defendant's witness' version highly improbable. Again it is highly improbable that the plaintiff, who at the stage was 17-18 years old and who was described by Ntuli as a slender boy and by Chiliza as a short and slender person could have fought against the police as they testified. Their version is therefore not probable. In my view, the plaintiff must succeed in his claim and accordingly I make the following order:

1. Judgment on the merits is granted in favour of the plaintiff against the defendant in respect of claims 1 and 2.
2. The issue regarding quantum is postponed sine die.
3. The defendant is ordered to pay the costs of the plaintiff's action.

P.M. MABUSE

JUDGE OF THE HIGH COURT

Appearances:

Plaintiff's Attorneys:	*Mashamba Inc:*
Plaintiff's Counsel:	*Adv. R Baloyi*
Defendant's Attorneys:	*State Atorney, Pretoria*
Defendant's Counsel:	*Adv. EM Mere*
Date Heard:	*10-14 October 2011*
Date of Judgment:	*2012 June 12*