

IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG DIVISION, PRETORIA)

CASE NO: 12231/14

DATE: 2017/07/20

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In the matter between

RAMMUTLANA BOELIE SEKGALA

and

NEDBANK LIMITED

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE: YES / NO.	
(2) OF INTEREST TO OTHER JUDGES: YES / NO.	
(3) REVISED.	NO
DATE	16/11/2017
SIGNATURE	pp [Signature] LEDWABA DJP

APPLICANT



RESPONDENT

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J U D G M E N T  
[LEAVE TO APPEAL]

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MAKGOBA (AJ): The Court has read the papers. The matter has long been outstanding so the Court is aware of the arguments by both parties on the application for leave to appeal.

Save to emphasise that Mr Sekgala is not represented and he makes certain errors and it is understandable he is not counsel or an advocate. For instance he brings an application for recusal just like what is said in his closing remarks, he is not aware that you

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cannot bring such an application when the Court is hearing an application for leave to appeal. He also made certain mistakes about fully or half judged, I do not what he is trying to say, but the Court will not consider that he is not a trained advocate.

The Courts hear rescission of judgments every day and judges set aside, or seen judgments of their colleagues. It happens every day by all the judges, junior and senior judges. So his argument is very much flawed but understandably he is not an advocate.

10           He also refers biased by the Court. That is not a matter to be raised during leave to appeal safe to say that it can be one of the grounds that as I have already said he makes a mistake of asking me to recuse myself. All what he was supposed to do Mr Sekgala was to concentrate on why I should grant him leave to appeal. I think he rather addressed the Court as if the matter is heard for the first time and he put the cart before the horse. Throughout his address he was holding the stick on the wrong side. However it is understandable he is not represented.

20           I am not going to deal about the merits of the case. I have given my judgment. Again he makes a mistake to say that the Court is bound with what is in the affidavits. Yes, it is so but the Court must also take into account the address by the parties over and above the affidavits before Court. The Court is not limited to affidavits and ignore what counsel submitted to it. He has no counsel, he is representing himself. So what he told me when he addressed me I

have to take into account over and above his affidavit. So he missed the point completely. But, however, he is not represented.

I just want to repeat and quote my judgment paragraph 18, it reads:

“Unlike the applicants in *Topon and others v Elsie Group Management Services Ltd* supra the applicant in this matter before me, in my view, wilfully and deliberately failed to appear in  
10 Court on 14 December 2015.”

And I proceed to say what I think about it up to the end of the judgment.

Now the Court must look at the following when hearing such an application for leave to appeal. There are a number of decisions that I can refer to but I will not save to refer to one matter *Melane v Santam Insurance Co Ltd* 1962 (4) SA 531 (AD). It is an old decision. It is a decision which consist of about three pages. This decision involved condonation as well as what the Court should take into account in hearing an application for leave to appeal. The  
20 bottom line is that the Court must put on another cap and ask itself are there reasonable prospects of success by the person seeking leave to appeal and if they are so remote as to be unappreciable the Court should refuse such an application.

Mr Sekgala has addressed the Court as I have already alluded to, unfortunately he never told this Court why I should say

there are reasonable prospects of success save to argue against the judgment. But he never pointed out pertinently that here I stand a chance of succeeding. Even if it is a slight chance he must convince the Court, but here there is a slight chance that appeal succeed. All what he concentrated on is the biasness and the half Judge, full Judge and that is not helpful.

Under the circumstances from what I have read submitted by Mr Sekgala and from what he addressed me there is nothing whatsoever which convinces me that he has a reasonable prospect  
10 of succeeding on appeal. The application for leave to appeal is dismissed with costs.

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