

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

CASE Number: 2023/023364

- (1) REPORTABLE: NO  
(2) OF INTEREST TO OTHER JUDGES: NO  
(3) REVISED: NO

16 May 2025

In the matters between:-

**MABONI PROJECTS (PTY) LTD**

Plaintiff

and

**MOTHEO CONSTRUCTION GROUP**

1<sup>st</sup> Defendant/Excipient

**KOERT MENZIWA CEILING AND PARTITION**

**(PTY) LTD**

2<sup>nd</sup> Defendant

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**JUDGMENT**

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**JACOBS AJ**


[1] This is exception taken by the first defendant to the plaintiff's particulars of claim on the basis that it is vague and embarrassing. The grounds of objection are catalogued in the notice of exception and include reference to various rules of court which the plaintiff did not comply with which results in the alleged exceptability of its particulars of claim.

[2] Initially the plaintiff challenged the first defendant's exception with a notice and application in terms of rule 30 but that process was not persisted with. The matter was heard in open court and there was no appearance on 13 or 14 May 2025 on behalf of the plaintiff.

[3] All the complaints catalogued by the first defendant in its notice of exception dated 10 July 2023 are valid. In my view, the pleading, if allowed to stand, shall make it impossible for a trial court to recognise the claim irrespective of the facts as they might emerge at the trial. It is one of the purposes of a pleading to distil the dispute by way of pleading and the plaintiff's particulars of claim falls foul of this requirement.<sup>1</sup>

[4] Under the circumstances I grant the following order:

1. The exception is upheld with costs and the particulars of claim is struck out.
2. The plaintiff is afforded 30 days of the date of this order to, if so advised, deliver an amended particulars of claim.
3. The costs awarded in 1 above shall include the costs of counsel on scale B.

  
H F JACOBS  
ACTING JUDGE OF THE HIGH COURT  
GAUTENG DIVISION, PRETORIA

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<sup>1</sup> See Tembani v President of the RSA 2023 (1) SA 432 (SCA) at [16]

For the excipient: Adv S Mchunu

Instructed by: Cox Yeats Attorneys Incorporated  
C/O Couzyn Hertzog & Horak

For the respondent: No appearance

Heard on: 12 May 2025

Date of Judgment: 16 May 2025