



## THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

**From:** The Registrar, Supreme Court of Appeal

**Date:** 19 April 2024

**Status:** Immediate

***The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal***

*Vorster v Clothing City (Pty Ltd) (159/2023) [2024] ZASCA 53 (19 April 2024)*

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Today, the Supreme Court of Appeal (SCA) upheld an appeal from the Eastern Cape Division of the High Court, Makhanda (the high court). The order of the high court was set aside and substituted with an order that: 'the appeal against the order of the regional court is upheld; the defendant's special plea is dismissed with costs; the plaintiff's action is referred to the regional court for the determination of quantum.'

The appellant, Ms Magdalena Josina Vorster (Ms Vorster), fell and injured herself while shopping in the business premises of the respondent, City Clothing (Pty) Ltd (City Clothing). Pursuant thereto, she claimed delictual damages against City Clothing out of the regional court. In her initial particulars of claim, the quantum of Ms Vorster's claim was R255 856.40. Before the trial commenced, the merits were settled on a 75/25 basis in her favour. The settlement agreement was made an order of court and the issue of quantum was postponed to a later date.

Before the hearing on quantum Ms Vorster effected an amendment to her particulars of claim, increasing the quantum of her claim from R255 856.40 to R531 225.02 less the 25% apportionment. Initially it did not raise monetary jurisdiction as an issue but later City Clothing filed a notice to amend its plea, solely to introduce a special plea that the amount of R531 225.02 exceeded the R400 000 monetary jurisdiction of the regional court.

The special plea proceeded in the regional court which upheld the special plea and found that it was a 'declinatory plea' with respect to jurisdiction. An appeal to the high court was dismissed with costs. The high court was of the view that Ms Vorster had taken it upon herself to apportion her claim, thus usurping the function of the court. It was only once the quantum of damages had been proven could the apportionment of 75/25% be applied, said the high court. It held that if a portion of an indivisible claim exceeded the monetary jurisdiction, then the whole claim was beyond the jurisdiction.

In the SCA, Ms Vorster argued that the high court erred in deciding the jurisdiction on the basis of the total damages as opposed to the damages actually claimed, namely R398 418.77. City Clothing on the other hand contended that Ms Vorster impermissibly usurped the role of the court by deducting the 25% prior to the court making a determination on the actual quantum. The SCA held that, the starting point in deciding jurisdiction is the pleadings and that jurisdiction is always determined with reference to the pleadings. The SCA further held that the test is the amount claimed and that in order to determine whether the claim or the matter in dispute fell within the jurisdiction of the magistrates' court (in terms of the relevant proclamation), the court has to simply look at the prayer.

The SCA held that from the prayer alone, it is clear that the value of the claim falls within the jurisdiction of the regional court, as the amount claimed is R398 481.77, falling within the jurisdiction of the magistrates' court. The SCA held further that s 37(2) of the Magistrate's court act was applicable. Therefore, the fact that the court may have to inquire into far larger sums, and into complicated accounts

worth far more, is irrelevant as long as the value of claim in dispute does not exceed the monetary jurisdiction of the magistrates' court or regional court.

As a result, the SCA upheld the appeal of the high court with costs.

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