

REPUBLIC OF NAMIBIA

HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK  
JUDGMENT

CASE NO: I 220/2013

IN THE HIGH COURT OF NAMIBIA

In the matter between:

STUCOS BUILDERS AND CEMENT SUPPLIERS CC  
ERNEST STUURMAN

FIRST PLAINTIFF  
SECOND PLAINTIFF

and

LUBBE'S AUTO CENTRE CC

DEFENDANT

**Neutral citation:** *Stucos Builders and Cement Suppliers CC v Lubbe's Auto Centre CC* (I 220-2013) [2013] NAHCMD 118 [30 April 2013]

**Coram:** UNENGU, AJ

**Heard:** 30 April 2013

**Delivered:** 30 April 2013

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**ORDER**

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Therefore, I make the following order:

1. The application for summary judgment is dismissed.
2. The respondent/defendant is granted leave to defend the main action.
3. Costs are costs in the main action.

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**RULING (EX TEMPORE)**

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UNENGU, AJ [1] The applicant/plaintiff, by way of notice, has applied for summary judgment in the amount of N\$284 256.15 for outstanding settlement fees, interest at a rate of 20% per annum a tempore morae and costs of the suit.

[2] The respondent/defendant is opposing the application and sets out the material facts and grounds of his defence in his affidavit and avers that these facts disclose a *bona fide* defence to the claim of the applicant and that he is not opposing the claim merely to delay the claim.

[3] Having read the documents filed of record and after considering written submissions, duly amplified by oral arguments by both counsel, I am of the view that the material facts, contained in the respondent/defendant's affidavit are reasonable full to persuade the court, if proven at the trial, to constitute a defence to the applicant/plaintiff's claim.

[4] Therefore, I make the following order:

1. The application for summary judgment is dismissed.
2. The respondent/defendant is granted leave to defend the main action.
3. Costs are costs in the main action.

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E P Unengu  
Acting Judge

**APPEARANCES**

PLAINTIFF: Mr M Kwala

Of Kwala and Company Incorporated: Windhoek

DEFENDANTS:

Mr TM Wylie

Instructed by Theunissen, Louw & Partners: Windhoek