



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

EX-TEMPORAE JUDGMENT

Case no: I 223/2013

In the matter between:

NICOLAS JOHANNES GREEFF t/a N GREEFF ELECTRICAL **PLAINTIFF**

and

TONA TRADE HOLDINGS CC **DEFENDANT**

Neutral citation: *Greeff v Tona Trade Holdings CC (I 223/2013)* [2014] NAHCMD
12 (22 January 2014)

Coram: PARKER AJ

Heard: 20 January 2014

Delivered: 20 January 2014

Flynote: Contract – Contract of sale of goods and services – Plaintiff claims an amount of N\$128 069,35 being the defendant's indebtedness to the plaintiff for goods sold and services rendered to the defendant by the plaintiff – Defendant failed to participate in judicial case management processes and failed to appear for the trial in person or by counsel – Court invoked rule 40(1) of the rules of court and granted judgment for the plaintiff for the debt or liquidated demand.

Summary: Contract – Contract of sale of goods and services – Plaintiff claimed N\$128 069,35 for goods sold and delivered and services rendered to the defendant at defendant's special instance and request – The defendant failed to participate in judicial case management processes and did not appear for the trial in person or by

counsel and no explanation was given for the non-participation and non-appearance for trial – Court accordingly invoked rule 40(1) of the rules of court and granted judgment with costs for the plaintiff.

ORDER

- (a) Judgment is granted for the plaintiff in the amount of N\$128 069,35, plus interest on this amount, at the rate of 20 per cent per annum, calculated from 21 February 2013 to the date of full and final payment.
- (b) The defendant is to pay the plaintiff's costs of suit.

JUDGMENT

PARKER AJ:

[1] In this matter the plaintiff is represented by Mr Viljoen, and there is no appearance for the defendant either in person or by counsel. The defendant was represented by counsel but the counsel did not participate in the judicial case management processes that preceded the trial; and the legal practitioners have not filed any notice of withdrawal as counsel of record, as required by the rules of court. Besides, no explanation has been given for the non-participation in the judicial case management processes and non-appearance for the trial.

[2] As is the practice of the court, the court instructed the court orderly to call out the name of the defendant three times in the corridors of the court up to the main door of the court. The orderly reported that there was no response.

[3] For these reasons, I proceeded in terms of rule 40(1) of the rules of court, and the claim being for a debt or liquidated demand, I made the following order:

- (a) Judgment is granted for the plaintiff in the amount of N\$128 069,35, plus interest on this amount, at the rate of 20 per cent per annum, calculated from 21 February 2013 to the date of full and final payment.

- (b) The defendant is to pay the plaintiff's costs of suit.

C Parker
Acting Judge

APPEARANCES

PLAINTIFF : B J Viljoen
 Of Viljoen & Associates, Windhoek

DEFENDANT: No appearance