

REPUBLIC OF NAMIBIA



IN THE HIGH COURT OF NAMIBIA, MAIN DIVISION
JUDGMENT

Case Title: First National Bank of Namibia Limited Applicant vs Clif Mbinozondunge Kazombiaze Respondent	Case No: HC-MD-CIV-ACT-CON- 2023/01030 Division of Court: High Court (Main Division)
Heard before: Honourable Lady Justice Claasen	Date of hearing: 28 June 2023 Delivered on: 14 July 2023
Neutral citation: <i>First National Bank Of Namibia Limited v Kazombiaze</i> (HC-MD-CIV-ACT-CON-2023/01030) [2023] NAHCMD 401 (14 July 2023)	
The order: 1. The application for summary judgment is granted. 2. Payment in the amount of N\$52 425.64. 3. Interest thereon at the prime rate of 15.30 percent per annum as from 3 January 2023 until date of final payment.	

4. Cost of suit on attorney own client scale.

5. The matter is finalised and removed from the roll.

Reasons for order:

[1] This is an application for summary judgment for the payment of N\$52 425.64 outstanding on a written loan agreement that was concluded between the parties. The plaintiff avers that the defendant has committed breach of contract as he failed to pay the amounts due and has defended the matter merely to delay the case.

[2] Having launched the application, the defendant was afforded an opportunity to file an opposing affidavit, but failed to do so. On the hearing date of the interlocutory application the court granted leave for the defendant to present his defence orally, as contemplated in rule 60(5)(b)(ii).¹

[3] The defendant testified that he is responsible for the debt and that the reason why he has not made payments thereon is because he is unemployed and earns a meagre income through a small business that he started.

[4] Summary judgment is based on a trite argument that there are no triable issues of fact and the motion is initiated by a plaintiff that contends that all the necessary factual issues are settled and need not be tried. There is no doubt in my mind that the claim resorts under the types of claims on which summary judgment can be granted. Having considered the evidence by the defendant, he raised no triable defense as regards his liability on the debt and has essentially admitted to being responsible for the debt. As such the court is satisfied that the plaintiff has made out a case for the relief it prayed for.

¹ Rules of the High Court of Namibia: High Court Act, 1990.

[5] In the result it is ordered:

1. The application for summary judgment is granted.
2. Payment in the amount of N\$52 425.64.
3. Interest thereon at the prime rate of 15.30% per annum as from 3 January 2023 until date of final payment.
4. Cost of suit on attorney own client scale.
5. The matter is considered finalised and it is removed from the roll

Judge's signature	Note to the parties:
Counsel:	
Applicant	Respondent
K Angula AngulCo Inc. Windhoek	Clif Mbinozondunge Kazombaize In Person