



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: 21 November 2025

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

Showroom Centre (Pty) Ltd and Others v Ronald Kagan (573/2024) [2025] ZASCA 175 (21 November 2025)

Today, the Supreme Court of Appeal (SCA) handed down judgment in which it granted the application for reconsideration in terms of s 17(2)(f) of the Superior Courts Act 10 of 2013 and dismissed the application for leave to appeal.

The application for leave to appeal (which was refused by two justices of this Court) related to two orders of the Gauteng Division of the High Court (the high court). The first order dismissed the applicants' claim for the costs of an application to stay an action instituted against them. The second order dismissed their application to uplift the bar to them continuing with the action, after they had become ipso facto barred because they elected not to file their plea at that stage.

The applicants are Showroom Centre (Pty) Ltd, Siyathembana Project Management and Development (Pty) Ltd, and Mr Stephen Zagey. They are the first, second, and third defendants respectively in the action. The respondent, Mr Ronald Kagan, is the plaintiff in the action. The parties are referred to, as they are designated in the action before the high court.

The dispute arose from the plaintiff's R1 million advance to the defendants, of which only R220 000 was repaid. The plaintiff had pursued several related proceedings since 2019, each of which he later withdrew, tendering the associated costs namely the exception costs, amendment costs, first action costs, strike-out costs, liquidation application costs, and urgent application costs. Two of these were taxed on 4 May 2021 and 6 September 2021, partial payments were made after attempts at execution. On 17 November 2021, the plaintiff instituted the present action. The defendants' affidavit indicates the plaintiff alleges a 2016 loan to the second defendant, accepted by the first defendant, with repayments made between 7 February 2019 and 16 January 2020. He advanced alternative claims against the second and third defendants.

The defendants filed a notice to defend on 1 December 2021 but failed to file a plea by 27 January 2022. They were placed under bar on 22 April 2022. The day before, they launched a stay application, seeking

a stay until all outstanding costs were paid and an order uplifting the bar. Within weeks, three additional bills were taxed and paid, and the plaintiff paid the outstanding amounts on the first two taxed bills. Less than a month later, the defendants withdrew the stay relief and asked the plaintiff to agree to uplift the bar and extend the deadlines for pleadings. On 24 May 2022, the plaintiff refused, insisting that the defendants remained under bar. The defendants therefore proceeded with the remaining relief sought. The sixth bill of costs was later taxed and paid while awaiting a hearing date.

The application raised three issues for determination by this Court, they were whether a grave failure of justice would result or the administration of justice may be brought into disrepute if the order of the two justices is not reconsidered; whether leave to appeal should have been granted to appeal the high court's order which dismissed the applicants' claim for the costs of the application to stay; and whether leave to appeal should have been granted in respect of the high court's refusal to uplift the bar.

The application for leave to appeal against the orders of the high court, was decided in the absence of a replying affidavit from the defendants. The replying affidavit was, at that stage, not yet due – a fact not drawn to the justices' attention. Deciding the application for leave to appeal in the absence of the replying affidavit may result in a grave failure of justice or the administration of justice brought into disrepute, where the replying affidavit could have resulted in the application for leave to appeal being granted. Accordingly, the refusal of leave to appeal falls to be reconsidered.

The issue for determination was whether, now that all the affidavits relating to the application for leave to appeal to this Court have been placed before it, leave to appeal against the orders of the high court should be granted.

The SCA held that it is not in dispute that the plaintiff advanced R1 million to the first or second defendant, represented by the third defendant. The plaintiff received a 5% shareholding in the first defendant, as he was entitled to in terms of their agreement. He also received various repayments in respect of capital and interest from the first defendant as partial repayment of the amount advanced. The plaintiff seeks to recover the balance owing from the defendants jointly, alternatively separately, or in the alternative, on a number of bases. The defendants were required to disclose their bona fide defence.

The SCA found that the high court cannot be faulted for concluding that the defendants had failed to make out a case for lifting the bar and an extension of time to file a plea. The defendants remained barred from taking any further steps in opposition to the plaintiff's claim, as formulated. The SCA concluded further that the defendants had not established grounds for such leave to be granted, as they do not have reasonable prospects of success. Nor is there any other compelling reason why leave to appeal should be granted.

In the result, the application for reconsideration was granted and the application for leave to appeal dismissed with costs.

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