Editorial note: Certain information has been redacted from this judgment in compliance with the law.



## THE HIGH COURT OF SOUTH AFRICA FREE STATE PROVINCIAL DIVISION

Reportable: yes/no

Circulate to other Judges: yes/no Circulate to Magistrates: yes/no

Case Number 4962/2019

In the matter between:

LITSOANE GERMINA LITSOANE Applicant

and

ROAD ACCIDENT FUND 1st Respondent

**DLABANTU AND ASSOCIATES INCORPORATED** 2<sup>nd</sup> Respondent

In re:

LITSOANE GERMINA LITSOANE Plaintiff

and

ROAD ACCIDENT FUND Defendant

**CORAM:** BERRY, AJ

**HEARD ON:** 23 March 2023

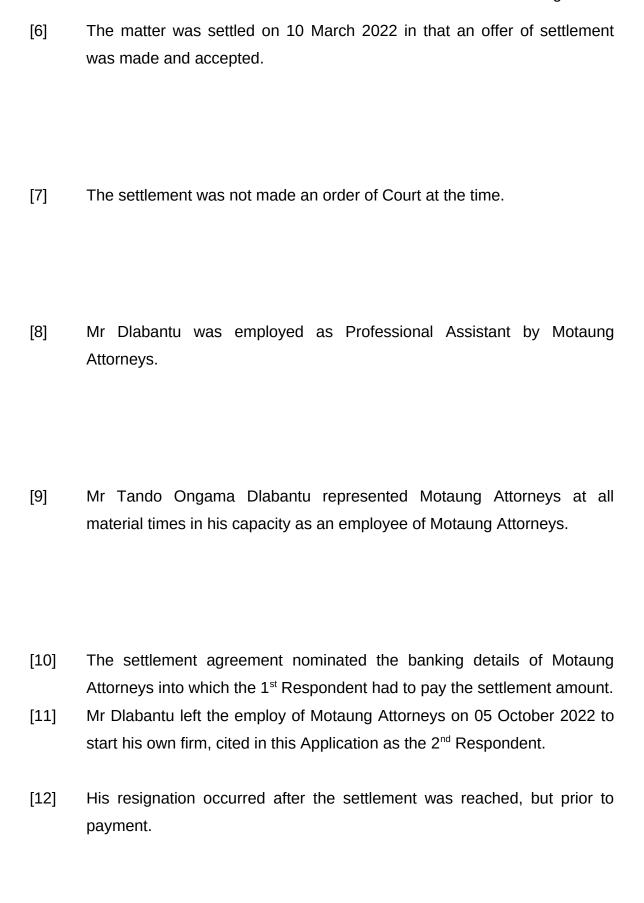
JUDGEMENT BY: BERRY, AJ

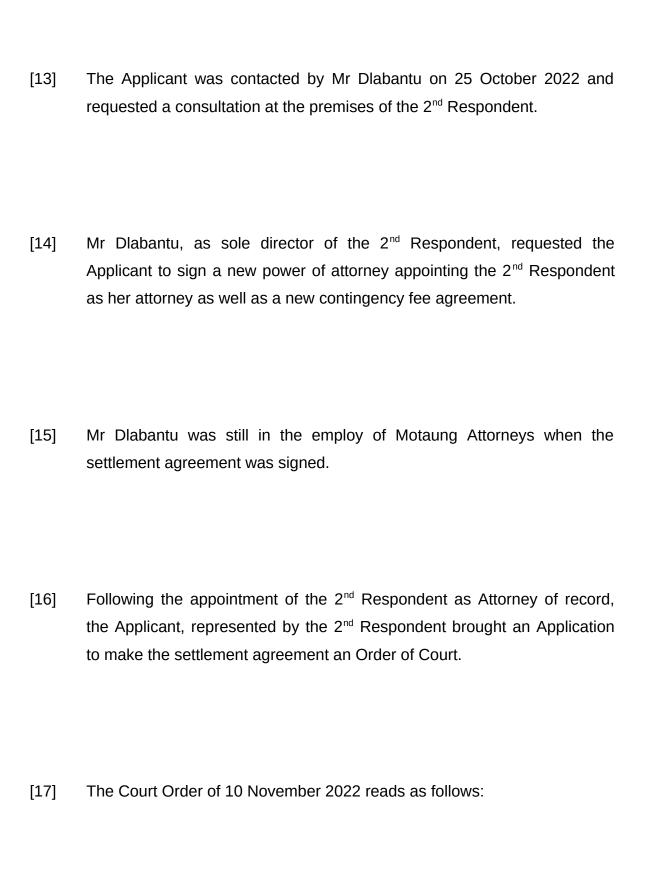
## **JUDGMENT**

- [1] This is an Application to vary a Court Order granted on 10 November 2022 in terms of Rule 42(1)(b).
- [2] The Court Order made a settlement Agreement between the Applicant and the 1<sup>st</sup> Respondent and Order of Court.

[3] The Application to make the settlement agreement was only served on the 1<sup>st</sup> Respondent and proceeded unopposed.

- [4] The Applicant was involved in a vehicle accident and lodged a claim against the 1<sup>st</sup> Respondent.
- [5] She appointed Motaung Attorneys to represent her.

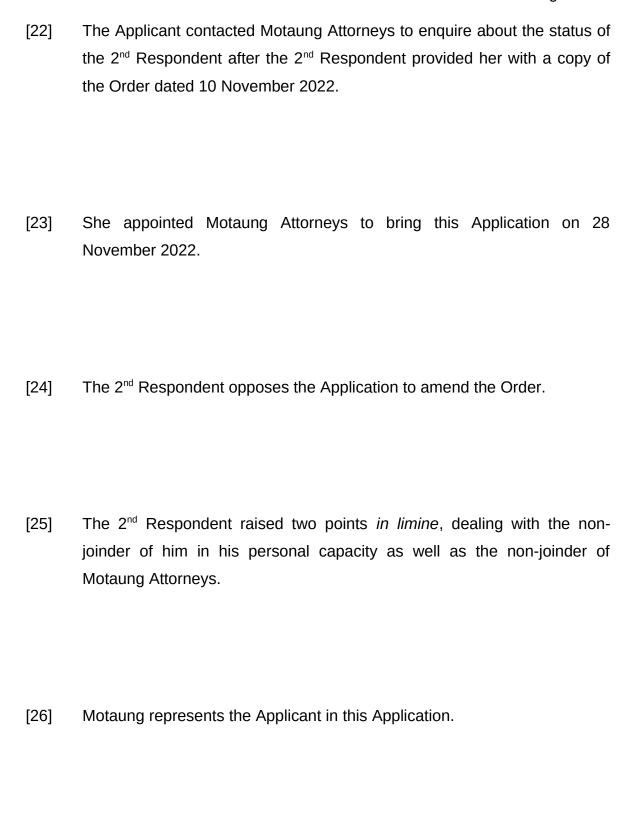


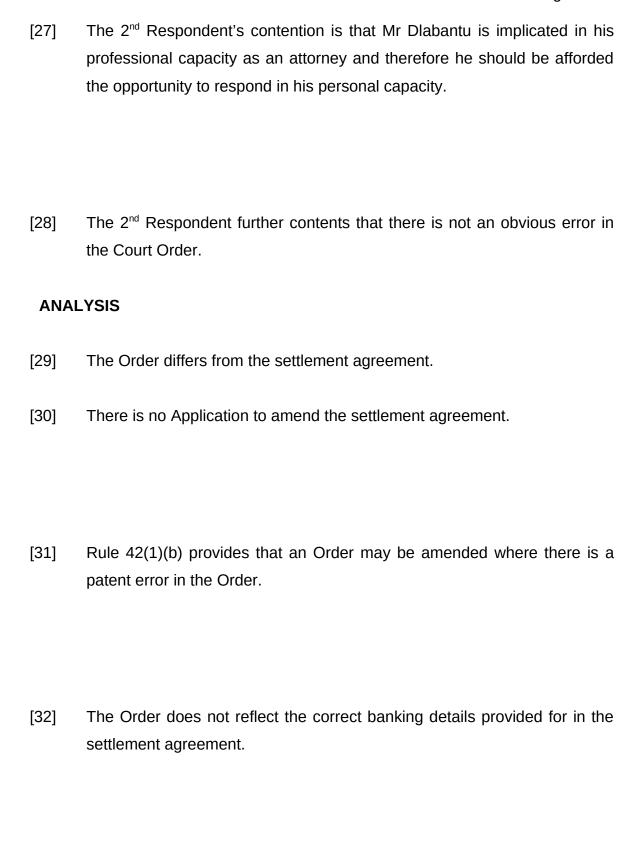


made an Order of Court." [18] The settlement agreement attached to the Application to make it an Order of Court, referred to as ANNEXURE "FA1" stipulated the banking details of Motaung Attorneys as the bank into which payment had to be made. Order 2.6 of the 10 November 2022 Court Order however nominate the [19] banking details of the 2<sup>nd</sup> Respondent into which payment must be made. This banking detail differs from the banking detail captured in the [20] settlement agreement. [21] It is this anomaly the Applicant wishes to rectify as she is liable for the contingency fees and expenses owed to Motaung Attorneys, which facilitated the settlement and finalisation of the matter before Mr Dlabantu left the employ of Motaung Attorneys.

The settlement recorded in the offer, Annexure "FA1" to the Founding Affidavit is

"1





[33]	The in limine arguments are in my opinion no more than red herrings as it
	does not affect the fact that the Court Order reflects the incorrect banking
	details.

[34] I deliberately limit this judgment to the question whether the Order reflects the correct banking details contained in the settlement agreement and whether this error is a patent error as provided for in Rule 42(1)(b).

[35] I find that there is an obvious error in the Court Order of 10 November 2022 in that it does not reflect the correct banking details provided in the settlement agreement.

## **ORDER**

- [36] The following Order is made.
  - 1. Order 2.6 of the Order granted on 10 November 2022, Case Number 4962/2019 is amended to read as follows:

FIRST NATIONAL BANK

2.6 The 1<sup>st</sup> Respondent is ordered to pay the sum plus interest into the following account:
MOTAUNG ATTORNEYS TRUST

ACCOUNT NUMBER:[...]

**BRANCH NAME: PRELLER** 

BRANCH CODE: 230139

REF NUMBER: LIT22/0001

E-MAIL PROOF: <a href="mailto:lejone@motaungattorneys.co.za">lejone@motaungattorneys.co.za</a>

2. The 2<sup>nd</sup> Respondent is ordered to pay the costs of this Application.

AP BERRY, AJ

## **APPEARANCES:**

For the Applicant: Motaung Attorneys

**BLOEMFONTEIN** 

For the Defendant: Adv. T Mpahlwa

Instructed by: DLABANTU AND ASSOCIATES INC

**BLOEMFONTEIN**