

JAMES MUNDOMA  
versus  
LOMANGUNDI POLES (PVT) LTD

HIGH COURT OF ZIMBABWE  
MATANDA-MOYO J  
HARARE, 14 and 27 November 2013

### **Opposed Matter**

*W. Nyakudanga*, for the applicant  
*V. Mazhetete*, for the respondent

MATANDA-MOYO J: This is an application to compel the respondent to provide further particulars. The respondent issued summons against the applicant on 4 September 2013 for payment of \$37 688-40 being balance outstanding on the purchase of timber. The contract of sale was said to have been signed by the parties on 16 December 2010. The respondent also claimed damages in the sum of \$183 782-02 for the complete destruction of the timber plantation by a veld fire which was allegedly exacerbated by the dry timber cut and left lying in the plantation by the applicant. The respondent also claimed interest and costs. On 26 September 2012 the applicant requested further particulars which the respondent refused to avail. The respondent argued that such further particulars were not essential for purposes of filing a plea. The applicant then filed the present application.

The court has to decide whether indeed the further particulars requested are necessary for the applicant to meaningfully file a plea to the claim. In the case of *Bronte Hotel (Pvt) Ltd v Low* 1974(2) SA 353(R) the court held that the test used by the courts in determining whether or not to compel the furnishing of particulars is whether or not such particulars are necessary for the party so requesting to plead. If the answer is in the positive then the application ought to be granted. Applying the same test in the present case I am not satisfied that the applicant has shown that he cannot meaningfully answer to the claim raised without the requested further particulars

The plaintiff's declaration clearly shows what the amounts claimed from the applicant represent. The declaration fully sets out the particulars of the claim. See also *Talan v Griffiths*

1950(3) SA 899(0) where the court held that sometimes a litigant should proceed to plead and postpone his request for particulars to a stage he is entitled to ask for such particulars for the purpose of trial. It is the court's view that the request for further particulars is only meant to derail proceedings.

Accordingly the application fails and is dismissed with costs.

*J. Mambara & Partners*, plaintiff's legal practitioners  
*T.K. Hove & Partners*, defendant's legal practitioners