

Again, it emerges that the plaintiff has previously filed an action in the matter against the company Modern Kitchens and Cupboards (Pty) Ltd, which points to a common understanding that the cheque was a company cheque - see Dickinson v South African General Electric Co. (Pty) Ltd (3) at p 629 at H per Jansen J. A. and see Plascon Evans Points (Tvl) Ltd v Ming and Another (4) at p 386 at F per Melamet J.

The facts of the present case are not as strongly in favour of the defendant as those of the Steelmets (2) and the Plascon (4) cases. Nonetheless, it seems to me that on the probabilities he might succeed in a defence of rectification on the basis of error.

Provisional sentence is a drastic remedy. I consider it is safer to allow the matter to go to trial. Provisional sentence is accordingly refused. Costs shall be those in the main cause.

Delivered at Maseru This 16th Day of December, 1991.

B. P. CULLINAN
CHIEF JUSTICE