

INTEREST ON JUDGEMENT DEBTS: DOES THE IN DUPLUM RULE APPLY?

Introduction

The *in duplum* rule is a common law principle which provides that interest on a debt will cease to run where the total amount of the arrear interest has accrued to an amount equal to the outstanding principal indebtedness. (See **LTA Construction Bpk v Administrateur, Transvaal**¹).

The overarching purpose of the rule is to protect debtors from being crushed by the never-ending accumulation of interest on an outstanding debt. Basically, it is a bottle cap on the limit of interest based on public policy considerations designed to protect borrowers from exploitation by lenders by prohibiting usurious interest.

The question then becomes does the principal only apply to normal debts or it also applies to judgement debts arising from court orders? In other words, when one obtains a court order which applies interest to a debt, does the interest continue to run until the debt is extinguished even if it exceeds the principal amount on the court order?

What does the law say?

A useful starting point is the definition of what a judgement debt is to contextualise the question probed. In **Zambezi Gas (Private) Limited v NR Barber (Private) Limited & The Sherrif of the High Court of Zimbabwe SC-03-20** the Supreme Court defined a judgement debt as follows:

“‘judgment debt’ means a decision of a court of law upon relief claimed in an action or application which, in the case of money, refers to the amount in respect of which execution can be levied by the judgment creditor.”

Following this definition, a judgement debt may be classified as an ordinary debt which is owed to the court. The definition provided by the highest court in the land harks back to the question of the application of *in duplum* rule that once faced GILLESPIE J (as he then was) in **Commercial Bank of Zimbabwe Ltd v M M Builders and Suppliers (Pvt) Ltd & Others 1996 (2) ZLR 420 (H)** where he stated that:

¹ LTA Construction Bpk v Administrateur, Transvaal [1991] ZASCA 147; 1992 (1) SA 473 (A) (LTA Construction) at 482A-B

“interest, whether it accrues as simple or compound interest, ceases to accumulate upon any amount of capital owing once the accrued interest equals the amount of the capital outstanding, whether the debt arises out of a financial loan or out of any contract whereby a capital sum is payable together with interest therein at a determined rate. Upon judgment being given, interest on the full amount of the judgment debt commences to run afresh but will once again cease to accrue when it reaches the amount of the judgment debt, being the capital sum and interest thereon for which cause action was instituted.”

This position was also endorsed by the South African Constitutional Court in ***Paulsen and Anor v Slip Knot Investments 777 (Pty) Ltd 2015 (3) SA 479 (CC)***.

Conclusion

The *in duplum* rule is still part of our law, it must apply pre-litigation, during litigation, and after judgment to limit the accumulation of interest to the sum equal to the capital debt without exception to any debtor or creditor².

Simply put: **The *in duplum* rule applies to Judgment debts.**

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² *Railing Enterprises (Pvt) Ltd v Luwo & Others* HB-16-21