

# Ignorance No Defence: The Case of O.M.L v S.S.L

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## INTRODUCTION

Agreements in divorce proceedings are not just a formality, they are binding contracts that must be upheld by the parties. In the case of *O.M.L v S.S.L (10528/2022) [2025] ZAGPPHC 712 (16 July 2025)*, the court confirmed the enforceability of a settlement agreement entered into by the parties, even though the ex-husband claimed to have not understood what he was signing.

## BACKGROUND

Mrs. O and Mr. S (*redacted*) were married in community of property and, after the marriage broke down irretrievably, Mrs. O issued a summons for divorce on Mr. S.

In her particulars of claim, she claimed that the parties had reached an agreement with regards to the issues of divorce, and had attached a settlement agreement thereto signed by herself and two witnesses.

Mr. S subsequently signed the settlement agreement and had it witnessed by two people on 25 March 2022, thereafter couriering it back to Mrs. O.

Additionally, at a meeting with Mrs. O and her legal representative on 11 April 2022, Mr. S once again signed the settlement agreement, although it was unclear why the parties signed the same agreement twice.

Three months later, Mr. S had an apparent change of heart and filed a notice of intention to defend the divorce action, denying having entered into a settlement agreement and alleged that he believed he was merely signing an acknowledgement of receipt of the divorce proceedings.

## DISPUTE

The court determined that the main cause of the dispute was clause 6.1.2 of the settlement agreement, that related to the forfeiture of Mr. S's interest in the parties' immovable property. It was recorded that Mr. S did not oppose the divorce proceedings, but rather

wanted to avoid the patrimonial consequences of the settlement agreement.

Mr. S testified that he did not understand what he signed, as he was not trained or educated in the law. Mrs. O's counsel made reference to the fact that Mr. S was a consulting engineer, and therefore was not ignorant or uneducated, and by signing the settlement agreement twice in the presence of witnesses, should be aware of the consequences thereof.

Additionally, Mr. S testified that he was emotionally affected by the divorce proceedings and was uninformed when signing the settlement agreement.

## DISCUSSION

When a court is granting a decree of divorce, section 7 of the Divorce Act 20 of 1979 specifically allows a court to grant an order regarding the division of assets or payment of maintenance, to be made in accordance with a written agreement between the parties.

The fact that Mr. S signed the settlement agreement twice, as well as having it witnessed and couriered back to Mrs. O, cast doubt onto Mr. S's testimony that he was under the impression he was merely signing an acknowledgement of receipt.

It was found that the settlement agreement was unambiguous and in clear terms, and Mr. S, as an educated man, ought to have known the contents thereof.

It was also found that there was no evidence of fraud, misrepresentation, undue duress or pressure exerted on him to sign present.

## ORDER

The court ordered that the decree of divorce is granted, and that the settlement agreement between the parties is incorporated.

The principles of *caveat subscriptor*, a person who signs a contract is bound by its terms unless induced by fraud or mistake, and *pacta sunt servanda*, agreements must be kept, were applied and upheld by the court.

## CONCLUSION

This case reinforces the notion that parties must understand the importance and content of documents before signing them, as they may be bound by the consequences thereof.



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