

# Webram Four (Pty) Ltd v Transformation Capital Group (Pty) Ltd and Others

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## INTRODUCTION

The case of *Webram Four (Pty) Ltd v Transformation Capital Group (Pty) Ltd and Others* addresses three procedural challenges that are encountered frequently in debt collection matters. Namely, the effective service of summons as well as the consequences of statutory demands under the old Companies Act. The defendants raised technical special pleas aimed at defeating the claim without engaging the merits.

## THE COURT'S FINDINGS

The Plaintiff, Webram Four, instituted proceedings in the Western Cape High Court against Transformation Capital Group, the principal debtor and two individuals who had signed as surety and co-principal debtors. Proceedings were instituted for monies owing under a lease agreement and suretyships concluded in November 2019.

During the course of the proceedings, the defendants raised three special pleas prior to addressing the merits. The first special plea that was raised by the second defendant was that the Sheriff had attempted multiple times to serve the summons and ultimately left it with the security guard at the entrance to defendant's gated estate after telephonic confirmation of residency. The second defendant argued that he never received the summons and thus the security guards were not authorised to accept documents on his behalf. They also presented the argument that prescription had not been interrupted due to ineffective service.

The Court held that a sheriff's return is *prima facie* proof of effective service. Moreover, service at one's *domicilium citandi et executandi* is valid, even if the debtor never receives it. The courts have confirmed that leaving documents with security guards at residential estates constitutes valid service and thus prescription was indeed properly interrupted. Therefore, the service was concluded to be valid and the plea was dismissed.

The defendants argued further that a section 345<sup>1</sup> demand gave them 21 days to pay, similar to a National Credit Act<sup>2</sup> section 129 moratorium. The Court held that a section 345 letter serves only winding-up purposes and it does not bar ordinary debt litigation. A creditor may simultaneously issue an immediate demand for payment along with a section 345 demand to ground insolvency proceedings if unpaid. Thus, the issuing of the summons within the 21-day period was not premature and therefore the second special plea was dismissed.

## CONCLUSION

The judgment in *Webram* strengthens creditor remedies by clarifying that the service of process on a security guard at a debtor's chosen *domicilium* is valid and indeed interrupts prescription. Additionally, a section 345 demand does not suspend ordinary debt litigation but operates solely in the context of winding-up proceedings. By dismissing the defendants' technical objections, the court reinforced certainty and efficiency in debt enforcement.

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<sup>1</sup>Of the Companies Act 61 of 1973

<sup>2</sup>The National Credit Act 34 of 2005



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