Short Notes on:

**THE IMPACT OF RES JUDICATA IN LITIGATION PROCEEDINGS**

*Introduction*

The litigation procedure has often been found to be a strenuous one, more so when an individual attempts to clear his/her name or is being charged with the same crime or is a defendant in a matter with the same issue. Most individuals will then ask themselves whether it is possible to be charged/implicated in a matter that has the exact same legal implications as a previous one they were involved in? The answer in this instance is NO.

The doctrine of Res Judicata assists individuals in instances mentioned above, both in a civil and criminal context.

*What is Res Judicata?*

Res Judicata is defined in the case of *Bertram v Wood*¹ as

“The meaning of the rule is that the authority of res judicata includes a presumption that the judgment upon any claim submitted to a competent court is correct and this presumption being juris et de jure, excludes every proof to the contrary. The presumption is founded upon public policy which requires that litigation should not be endless and upon the requirements of good faith which, as said by Gaius, does not permit of the same thing being demanded more than once. On

---

¹ 1839 10 SC 177 at 180
the other hand, a presumption of this nature, unless carefully circumscribed, is capable of producing great hardship and even positive injustice to individuals. It is in order to prevent such injustice that the Roman law laid down the exact conditions giving rise to the exceptio rei judicatae.”

Therefore, in order to use this doctrine, certain requirements need to be adhered to first. The requirements of this doctrine are, in short, the following:

1. An earlier judgement has been taken;
2. The judgment taken was final in nature;
3. The judgment involved the same parties;
4. The cause of action in both cases is the same;
5. The relief sought is the same.

Case Law

The Labour Court matter of Mashego v Cellier NO and Others\(^2\) highlighted the requirements for the doctrine of Res Judicata. In this matter, the applicant was dismissed for allegedly having committed misconduct.

The matter began with conciliation but was unresolved and then went further to arbitration. The Commissioner in this instance proceeded to strike the matter off the roll due to a lack of jurisdiction. However, when the applicant brought the matter up again with the assistance of an attorney, the Commissioner held that he had made a decision and therefore the relief sought by the applicant amounted to res judicata.

In the Labour Court, presiding Judge Steenkamp, held that res judicata provides that the matter in question, which is being struck off the roll, did not amount to res judicata as no final decision was

\(^2\) (2016) 37 ILJ 994 (LC)
made. Furthermore, the presiding Judge pointed out that no decisions were made about the merits of the dispute which would have amounted furthermore in the decision being a final one. Thus, the finality of the decision made, is a necessary requirement to prove this doctrine as well as the fact that said decision needs to relate to the merits of the case and not only superficial disputes.

**Conclusion**

Contact a professional attorney at SchoemanLaw Inc. to guide you through the relevant litigation procedures, and assist you understanding the consequences of being a party to the same case matter you have already been a part thereof.