

'JUDGMENT CONFIRMS CONSUMER RIGHTS'

Victory for exploited debtors

Aziz Hartley

IN A LANDMARK ruling, Cape High Court Judge Siraj Desai struck a blow for poor people exploited by micro-lenders.

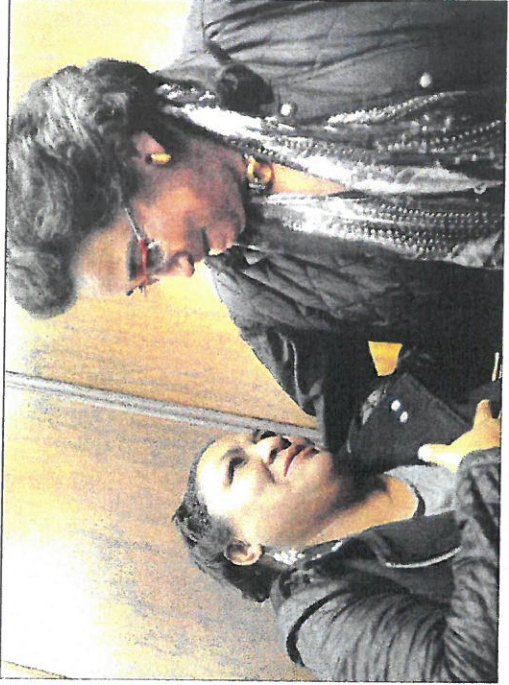
Hailed as a victory for those forced to use loans to survive, the judge declared embolments at attachment orders (EAO) against a group of Stellenbosch workers illegal and unlawful.

Some had almost had their salaries deducted, some were charged up to 60 percent interest and some of the loans were in contravention of the National Credit Act, Desai said.

The Stellenbosch University Legal Aid Clinic took up the case for a group of low-income earners in and around Stellenbosch. They included a cleaner, a cashier and a kitchen worker.

Law firm Webber Wentzel assisted the clinic while debt collector Flemix & Associated Incorporated Attorneys defended.

Flemix acted for several lenders and has tens of thousands of debtors on its books.



PLEASED: Stellenbosch University Legal Aid Clinic director Kruger van der Walt and Justice Department regional head Hishaam Mohamed outside court.

JUDGE SIRAJ DESAI

The EAO's of the Stellenbosch workers were obtained in magisterial districts as far away as Kimberley and Winberg, which Desai said was illegal.

Worksman's Attorneys lawyer Louis du Preez, who represented Flemix, conceded that the EAOs be set aside, but

Desai's judgment went further: "That, however, is not the end of this matter. This application relates to 12 EAOs and all were irregular; if not unlawfully obtained."

He was not at liberty to inquire into thousands of other EAO's, he could not "in good conscience" ignore the plight of those debtors, Desai said.

of how the debt collecting agents secured the consents and the fact that all the EAOs in this matter were unlawfully obtained in the wrong jurisdiction. It is safe to assume that thousands, if not tens of thousands from Ms Jordaan's 150 000 cases involving ordinary working people in debt,

are having significant portions of their salaries or wages deducted based on unlawfully obtained EAOs."

He was not at liberty to inquire into thousands of other EAO's, he could not "in good conscience" ignore the plight of those debtors, Desai said.

JUSTICE SERVED: Stellenbosch mother Lisinda Bailey and businesswoman Wendy Appelbaum after Judge Siraj Desai's judgment yesterday. Pictures: BRENTON GEACH

