

SOUTH AFRICA / JUDGMENT

Botha and Another v Coetzee and Others (4847/2023) [2025] ZAGPPHC 380 (13 April 2025) [2025] ZAGPPHC 380

COURT

North Gauteng High Court, Pretoria

BEFORE

Matsemela

CASE / FILE NUMBER

4847/2023

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IN THE HIGH COURT OF

SOUTH AFRICA

GAUTENG DIVISION,

PRETORIA

CASE

NO: 4847/2023

(1)

REPORTABLE: NO

(2)

OF INTEREST TO OTHER JUDGES: NO

(3)

REVISED: YES

In the matter between: DEON MARIUS BOTHA
NO
FIRST APPLICANT
RETHA STOCHOFF
NO
SECOND APPLICANT
(In their capacities
as the duly appointed
Provisional joint
liquidators (K2015314311)
(In liquidation)
And
ZELMA ESME
COETZEE
FIRST RESPONDENT
ALL OCCUPIERS OF ERF
1[...]
SECOND RESPONDENT
L[...]
CITY OF EKURHULENI
METROPOLITAN
THIRD RESPONDENT

JUDGEMENT

MATSEMELA AJ

INTRODUCTION

1. This is an application for the eviction of the First and Second Respondents in terms of the provisions of Prevention of Illegal Eviction from Unlawful Occupation of Land Act 19 of 1998 (“PIE Act”)

BACKGROUND

2. The First Respondent resides at number 1[...] G[...] Road, L[...], B[...] (The Property), being the property which forms the subject matter of the current Application. It is also interesting to note that the First Respondent is an unrehabilitated insolvent and a widow. The Property was initially co-owned by the First Respondent and her late husband Simon Christoffel Coetzee (The Deceased).
3. In the Answering Affidavit the First Respondent alleges that the Property was sold on public auction and was bought by a company known as K2015314311 (Pty) Ltd (The Company). The sole shareholder of the Company is herself and its main asset was the Property.

4. On 16 May 2022, the First and Second Applicants were appointed as the joint provisional liquidators of the Company. The Company was insolvent and was finally liquidated on 22 June 2022. An application was brought to this Court seeking that the joint ownership of the Property be dissolved. The application was granted, and the Property was duly sold.
5. The Deceased was an attorney of this Court. He was struck off the roll due to his involvement in a pyramid scheme conducted by a company known as Friendly Loans International (Pty) Ltd. The Deceased used his trust account as a vehicle through which funds of the public were misappropriated.
6. Members of the public invested substantial amounts of monies in Friendly Loans International, for the purposes of securing the delivery of fuel which would then be sold by Friendly Loans International to their client.
7. Under this impression, the investors assumed that the monies were paid into the Deceased's trust account, but the monies were in fact paid into Friendly Loan International's account which was controlled at all times, by the Deceased.
8. After the liquidation of Friendly Loans, an enquiry was held in terms of Section 417 and 418 of the Companies Act of 1973, investigating the affairs of Friendly Loans International. It was during this enquiry that it was established that the Deceased contravened his mandate with the investors and in fact personally owed to Friendly Loans International, a substantial amount of money.
9. Litigation ensued soon thereafter against the Deceased to recover the monies that he had paid to himself. This inter alia included an application that was launched to declare the Deceased personally liable for the debt of the investors in terms of Section 424 of the Companies Act of 1973. The aforementioned Application was successful to the effect that the estate of the late Coetzee was ultimately sequestrated.
10. Following an investigation into the Deceased's affairs, it was established that he was the sole shareholder and beneficiary of a number of property-owning companies being Charmart (Pty) Ltd, Marenzahof (Pty) Ltd, Iris Mia (Pty) Ltd and Marsteph (Pty) Ltd.
11. The abovementioned companies all owned valuable properties and furthermore was indebted to Absa Bank for substantial amounts. These companies were placed in business rescue after the sequestration of the late Coetzee but were later all liquidated
12. The properties belonging to the abovementioned four companies were residential units leased out, which yielded substantial rental each month.
13. A forensic investigation followed shortly after liquidation into the income and expenditure of the aforementioned companies. It was then when it was discovered that the First Respondent misappropriated rental monies by opening an account, in her own name, no less rerouting the monies to her personal bank account for her own benefit.

14. The First Respondent funded her lifestyle and that of the Deceased by paying their private expenses and their children's living costs, with the rental monies that were earned by the liquidated companies.
15. The liquidators of the four companies then instituted action proceedings against the First Respondent for the recovery of the rental monies. The First Respondent was sued and was declared to be personally liable for the debt of the companies since she misappropriated the rental income. She mismanaged the companies by failing to, inter alia submit tax returns.
16. The First Respondent's defence was struck by this Court for failure to comply with the Uniform Rules of Court. Judgment was then ultimately granted against the First Respondent, whereafter she was resultantly sequestered.
17. The First Respondent refused to co-operate with the appointed trustees of her insolvent estate. This resulted in that the creditors of her insolvent estate, yet again, to resort to an enquiry to establish what she had done with the monies she misappropriated.
18. It was ultimately established that the First Respondent herself, owned fixed property, known as portion 3 of the farm Onverwacht 72, and farm Weltevreden 19, both farms which are situated in the Welkom district in the Free State Province.
19. Both these farms were sold by the First Respondent during the period when litigation was ongoing between herself and the liquidators of the aforementioned four Companies.
20. From the preliminary investigation and at the enquiry, it was discovered that these farms were sold for an amount of R4 million. The Conveyancing attorneys received instruction from the First Respondent to transfer the balance of the proceeds of this sale in the amount of R 3 530 532-47 (three million five hundred and thirty thousand five hundred and thirty-two rand and forty-seven cents) to Discovery invest.
21. During the period of the transfer of the above amount to Discovery invest, it was also ultimately discovered that the First Respondent was advised by a financial advisor to register a family trust, known as the Zelma Esme Coetzee Family Trust. The liquidators approached Discovery Invest and requested it to provide them with details as to the client on whose behalf these funds were paid to them.
22. Following the aforementioned enquiry a subpoena was issued by the Master of this Court, securing the attendance of Messrs Discovery Invest at the enquiry. Thereupon, Discovery Invest provided documentary proof confirming that the proceeds of the sale of the farms were indeed transferred into a Discovery Invest Savings Account, held in the name of none other than the Zelma Esme Coetzee Family Trust.
23. The aforementioned trust invested a lump sum of R3 500 000-00 (Three Million Five Hundred Thousand Rands) with Discovery.

24. The trust was registered with the Master of the High Court in Johannesburg with domicilium address, being the address of the Property from which the Applicants now seek the eviction of the First Respondent and all those occupying through or under her. Furthermore, the beneficiaries of the Family Trust are the First Respondent and her children with the late Coetzee.
25. The First Respondent was at the time of the transfer of the proceeds (to Discovery) factually insolvent and she could not pay any of her debts to the liquidators of the four companies. As such the provisions of Section 26 of the Insolvency Act, 24 of 1935 found application.
26. The proceeds obtained by the First Respondent from the farms that were sold, were utilised to purchase the Property through the aforementioned insolvent Company, of which the First Respondent was the sole shareholder.

Legal Arguments

27. In the Founding Affidavit the Applicants argue that the First Respondent, and all those occupying the Property under her, are unlawful occupiers as they occupy premises without their consent, and without any other right in law to occupy the Property.
28. Counsel for the Applicants argued further that it is just and equitable that the First and Second Respondents be evicted from the Property since the property in question forms part of the insolvent estate of the liquidated company. The liquidators have a real right to the property, as envisaged by the PIE Act, and have the duty to deal with the property in the best interest of the various creditors of the insolvent estates.

LOCUS STANDI

29. Section 4 (1) of the PIE provides as follows:
 4. (1) Notwithstanding anything to the contrary contained in any law or the common law, the provisions of this section apply to proceedings by an owner or person in charge of land for the eviction of an unlawful occupier.
30. Perusing the Opposing Affidavit, it is patently clear that the First Respondent does take an issue with the fact that the Applicants, by virtue of their appointment as liquidators and whether they, have the requisite locus standi to seek her eviction. The First Respondent does not advance anything that ought to dissuade this Court from granting the Applicants the relief that they seek.
31. An executor of an estate, or a trustee, liquidator or curator bonis of a personal entity owning immovable property from which it is sought to evict an unlawful occupier, has locus standi to bring an application in terms of Section 4 (1) or 5 (1) of the PIE Act. In *Yarram Trading CC t/a Tijuana Spur v Absa Bank Ltd* 2007 (2) SA 570 (SCA) at 577 D-H it was said that executors, trustees, liquidators and curators have locus standi in terms of the PIE Act proceedings by virtue of them being "persons in charge of land."

32. In *Chetty v Naidoo* 1974 (3) SA 13 (A) at 20A –E; *Belmont House v Gore* N.N.O.2011 (6) SA 173 (WCC), the liquidators of a company successfully brought eviction proceedings. A trustee or liquidator is therefore on the same footing a normal owner regarding the common law principle that the owner may claim his property wherever found from whoever holding it.
33. The Company was liquidated by this Court which found that it was used as a vehicle through which money was dissipated.
34. The Applicants, in their capacities as the duly appointed joint provisional liquidators of K2015314311 (PTY) Ltd the liquidated Company, (which is the registered owner of the Property) have now stepped into the shoes of the owners of the Property and they now seek to evict the First and Second Respondents.
35. As proof of their representative capacities, the Applicants attached as Annexure “FA2” their Certificate of Appointments in their Founding Affidavit. The Applicants have been authorised by the Master of the High Court insofar as it might be necessary, to prosecute this Application for Eviction.
36. It is interesting to note that it was not denied that most of the litigious matters came before this Court on an opposed basis, inter alia matters opposed by the First Respondent herself. This Court found in each and every matter in favour of the creditors and the liquidated entities, and not the First Respondent. Now to come and question the locus standi of the Applicants at this stage cannot be justified.
37. It then follows that the Property which vests within the insolvent estate of the liquidated company, now for all intents and purposes have become the property of the Applicants. The Applicants are the custodians of the Property, in that they are duty bound to deal with the Property as a result of their obligation toward the creditors of the Company, inter alia the insolvent estate of the First Respondent and in turn, the creditors of her and her late husband’s insolvent estates.

ANSWERING AFFIDAVIT

38. Regarding the personal circumstances in the Answering Affidavit of the First Respondent the following are worth mentioning and are common cause:
 - 38.1. The First Respondents’ husband Simon Coetzee passed on during the course of 2022.
 - 37.2. The First Respondent is still occupying the subject property and is refusing to vacate same.
 - 38.3. The First Respondent has 4 (four) sons all of whom are trustees of the Zelma Esme Coetzee Family Trust, which offsprings are all adult working males, able to earn an income which could also assist with the future accommodation of the First Respondent.
39. The First Respondent is litigating in person. The Affidavit is couched in a story-like manner. From the first paragraph of the

Affidavit, this Court has noted that the first Respondent appreciates the nature, and resultant relief sought, of the current Application

for Eviction. The First Respondent states that she, and her late husband, have been occupying the Property for 31 years. This seems to be the high-watermark of her opposition.

40. She is still occupying the Property, and that she is 'still taking care' of her major son, who is currently 45 years old. According to the First Respondent, her son has very little to no prospects of employment". She however, does not append any medical proof, nor a report from an industrial psychologist to underscore this sweeping statement.
41. The First Respondent believes that the only reason for her eviction is that "I have lost ownership thereof (with reference to the subject immovable property) in that I was sequestered under master's reference T[...]". Therefore, if her personal circumstances are as mentioned above she cannot lose the Property.
42. Paragraph 17 of the Replying Affidavit states very clearly that it is also common cause that the Company became the owner of the Property after the joint ownership of the First Respondent and the late Simon Coetzee was declared insolvent. This led to the liquidation and sequestration, and all other litigious processes, between the parties. Therefore, there is nothing about "family's total financial destruction". I hold the view that the Coetzee's, as I shall call them are the authors of their own demise.
43. In paragraph 4 of this Affidavit, she alleges that "two other families" share the residence. What is however glaringly absent, are Confirmatory Affidavits deposed to by the alleged other occupants of this property.
44. In paragraph 5 the First Respondent makes a pertinent allegation that the current Application for her eviction forms part of "a pattern of my and my family's total financial destruction". The background above set out the facts which led to the liquidation and sequestration, and all other litigious processes between the parties. Therefore, I cannot see how these litigations between the parties being "a pattern of the Respondents' family's' total financial destruction".
45. Paragraph 7 of the First Respondent confirms that the liquidated the Company, (K2015314311 (Pty) Ltd), indeed acquired the Property on auction and that the Property is one of its "main assets"
46. She furthermore confirms in paragraph 8 of the Affidavit that subsequent to the sequestration of her estate, her "main asset" was her shareholding in the aforementioned liquidated company.
47. In paragraph 12 she denies that herself, and the Second Respondents are illegal occupiers of the Property, as they have occupied same for 31 years. This does not pass muster. This could not be cogent or meritorious reasons as to why she and the other occupiers should not be considered an illegal occupier for purposes of the provisions of the Pie Act.

48. She argues that the current Application for Eviction is “fatally flawed” as she believes that the Applicants have “omitted to inform the court of the full facts of the matter”. She does not elaborate on this sweeping statement, nor does she refer this Court, either in fact, or in law, to “full facts” that ought to persuade this Court to dismiss this Application.
49. The First Respondent seeks the following order:
- (a) That this Court declares these proceedings ultra vires;
 - (b) Review the Applicants’ claim in view of the Applicants’ perjury in replication of her affidavit;
 - (c) The Application be dismissed with costs on a de propiis basis;
 - (d) The Applicants be ordered to reimburse all utility bills and maintenance expenses incurred since the liquidation of K 2015314311;
 - (e) The Application for eviction be dismissed and the property be sold with lifelong occupants and Applicants be held liable for all utility bills as well as costs incurred in defending this matter on a punitive basis.
50. It is noted that the First Respondent has not instituted a counter application and no basis is set out for the relief that she seeks in the above paragraphs. The reliefs are incompetent, and without merit. The First Respondent simply does not make any allegations to sustain the reliefs sought in her Prayers.
51. The First Respondent proffered to this Court in her Affidavit, to grant her the reliefs that she seeks. However, she and her four children, participated in the collusive disposition in that they are all members and beneficiaries of the Trust that was registered as a shareholder of liquidated Company.
52. With regards to the reliefs that the First Respondent seeks in this affidavit, I hold the view that no basis is set out for any of the requests, all the more not for reimbursements of maintaining the property, municipal rates and taxes, or any other expense that the First Respondent now attempts to reclaim from the Applicants.

REPLYING AFFIDAVIT

53. The Applicants’ Replying affidavit was served on the First Respondent upon Mr Martin Coetzee, her son, on 3 January 2024. The deponent to this Affidavit states that the First Respondents Answering Affidavit was never served upon the Applicants’ attorney of record. The Answering Affidavit only came to the deponent’s attention when the Court file was organised and prepared for final enrolment on the previous date for hearing.
54. The Applicants applied for condonation for the late filing of the Replying Affidavit, at the hearing of the matter which was granted.

55. In paragraph 12 of this Affidavit, the deponent thereto, in detail sets out the dealings with the First Respondent's son, Martin Jacobus Petrus Coetzee, during the insolvency enquiry. During that inquiry, it was not revealed as to why the young Coetzee is unemployed. The First Respondent is neither a qualified medical practitioner, nor has she presented "inability to work". His own Confirmatory Affidavit is also tellingly absent from the Answering Affidavit.
56. Instead of dealing with the allegations contained in the Founding Affidavit head-on, the First Respondent rather elects to launch a scathing personal attack upon the Applicant's attorney of record, Mr Pieter Hendrick Strydom. She inter alia, accused Mr

Strydom of applying bullying tactics and intimidating her.

57. In dealing with the allegations made by the First Respondent against attorney Strydom, positive averment is made that attorney Strydom has not been appointed as liquidator for the insolvent Company, and that he was merely mandated by the Applicants, given his extensive background to the matter, and in order to save costs, that briefing him would bring about.
58. The personal attack launched by the First Respondent against Mr Strydom it is pertinently stated in paragraph 17.11 of this Affidavit. It is not the Applicants' attorney, being Mr Strydom that litigated against the First Respondent. It was in fact the creditors and the representatives of the liquidated companies and sequestrated estates that pursued litigations against the First Respondent. To bring such an attack against Mr Strydom cannot be justified and is unwarranted.

PIE ACT

59. The Applicants brought an application for the eviction of the First and Second Respondents in terms of the provisions of the PIE Act. The basis of the Applicants' claim for the eviction is that the Respondents are unlawful occupiers of the Property which is situated in Boksburg.
60. Counsel for the Applicants argued that no lawful causes exist for the continued occupation by the Respondents on the Property. As a result of their continued unlawful occupation, the Applicants are hindered in proceeding with their duties regarding the administration of the insolvent estate.
61. PIE Act prescribes a two- fold enquiry. The court first determines whether the person in respect of whom the eviction order is sought, is an unlawful occupier. This is a procedural requirement regarding notification of the person or persons sought to be evicted on the date of the hearing, over and above the requirements of service as determined by the Rules of the applicable Court's. It does not involve a decision on the merits. In the present case the Applicants properly complied with provisions of Section 4(2) of the PIE Act.

62. If that is the case then, the court, secondly decides if it is just and equitable to grant an eviction order. This stage involves the merits and is dealt with on the date of the hearing of the actual application for eviction. See *Theart & Another v Minnaar N. O.; Senekal v Winskor 174(Pty) Ltd* 2010

(3) SA 327 (SCA).

63. Section 1 of PIE Act defines “unlawful occupier” as: -

“A person who occupies land without the express or tacit consent of the owner or person in charge, or without any other right in law to occupy such land, excluding a person who is an occupier in terms of the extension of security of tenure act, 1997, and excluding a person whose informal right to land, but for the provisions of this act, would be protected by the provisions of the interim protection of Informal Lands Rights Act 1996 (Act 31 of 1996).”

I will start by discussing the land, consent, the Extension of Security of Tenure Act and thereafter Section 4 of the PIE.

Land

64. Section 1 of the PIE defines “land” to include a portion of land which is occupied by persons that occupy it unlawfully, although the occupation was previously lawful. Section 2 further stipulates that PIE applies in respect of land throughout the Republic of South Africa, unless ESTA applies. Thus, PIE Act applies to municipal, private and state-owned land. The definition of “land” in PIE should be interpreted to include any building or structure on the land in question.

Consent

65. The definition of consent was dealt with extensively in the case of *Residents of Jo Slovo Community Western Cape v Thubelisha Homes & Others* 2010 (3) SA454 (CC) which the court described as voluntary agreement. The Court at para 56 referred with approval to the same interpretation given to the term “consent” in Extension of Security of Tenure Act (ESTA) by the land claims Court in *Landbou Navorsingraad v Klaasssen* 2005

(3) SA 410 (LCC) 2003 (1) SA 113 (SCA).

66. The Court went on to say in paragraph 57:

“There is no reason why consent in the PIE Act should have another meaning. It means voluntary agreement. If consent means voluntary agreement, then tacit consent means a tacit voluntary agreement. The meaning of tacit consent is therefore inextricably bound up with what is meant by a tacit agreement.”

67. Perusing the Founding, Answering and Replying Affidavits it is evident that the First and Second Respondents did not previously have the current owners consent whether express or tacit to occupy the Property nor does such consent currently exist.

68. The First Respondent submitted that she and her children have been living in the Property for more than 31 years and therefore cannot be evicted.
69. The First and Second Respondents' occupation might initially have been lawful, same is no longer the case subsequent to the winding-up of their entity in whose name the Property is registered. See: *Ndlovu v Ngcobo; Bekker and Borch v Jika* (240/2001,136/2002 [2002] ZASCA 87. The First and Second Respondents are therefore unlawful occupiers.
70. Therefore, the basic principles underlined by, and inclusion of the common law, relate to a large extent to the interpretation of the definition of "unlawful occupier" that include occupiers who occupied lawfully but whose occupation become unlawful.
71. I hold the view that the First and the Second Respondents fall squarely within the definition of "unlawful occupier" as set out in Section 1 of PIE. The First Respondent, and those occupying under her, are persons who occupy land without the express or tacit consent.

Extension of Security of Tenure Act.

72. One of the defences raised by the Respondents is the provision of the Extension of Security of Tenure Act 62 of 1999 ESTA. ESTA provides for the protection of an occupier that has, as of 4 February 1997, or thereafter, had consent or another right in law to occupy the land in question in contrast to unlawful occupiers which fall under PIE.
73. The criteria for the applicability of ESTA are as follows:-
- 73.1 The land must be rural and not part of township;
- 73.2 The person occupying must be doing so with express or tacit consent or another right in law to do so; and
- 73.3 The occupier must have an income of less than R5 000-00 (Five Thousand Rand per month. If the above criteria are present, a person occupying land is protected by ESTA and may only be evicted in terms of ESTA.
- 73.4. Furthermore, the relevant property must also be rural and not agricultural land, and that the absence of any other criteria for the applicability of ESTA result therein that the provisions of PIE will apply to the First and Second Respondents' unlawful occupation.
74. The First Respondents' reliance on ESTA is misplaced for the following

reasons:

- 74.1 ESTA is applicable only to non-urban land, or land in an urban area that has been designated for agricultural use.

This Court has however noted that the subject immovable property is situated in Libradene Boksborg, being a residential urban suburb, and as such, the said land is neither non-urban land, nor land designated for agriculture use.

74.2 The First Respondent also does not make the averment that she has an income of less than R5000-00 (Five Thousand Rand) per month.

75. The First and Second Respondents do not qualify as “occupiers” for purposes of ESTA. Their continued occupation is neither by consent, nor as a result of any other right in law. The immovable property forming the subject matter of the current application, is urban property which then falls within the scope and ambit of the provisions of the PIE Act.

Section 4

76. In terms of Section 4

- (8) an eviction order is made subject to the raising by the unlawful occupier of a valid defence. It has been held that these provisions place an onus on the unlawful occupier to adduce

sufficient facts to enable the court to exercise its discretion regarding the question of whether an order should be just and equitable. The SCA states it as follows in *Ndlovu v Ngcobo; Bekker & Bosch v Jika* supra paragraph 19

“Another material consideration is that of the evidential onus provided the procedural requirements have been met, the owner is entitled to approach the court on a basis of ownership and the respondents unlawful occupation, unless the occupier opposes and disclose

circumstances relevant to the eviction order, the owner, in principle, will be entitled to an order for eviction. Relevant circumstances are nearly without fail facts within the exclusive knowledge of the occupier and it cannot be expected of an owner to negative in advance facts known to him and not in issue between the parties.”....

77. What is just and equitable must include the circumstances of both sides, the unlawful occupier and the owner. Even a bona fide claim by an occupier regarding ownership of the property may be a relevant circumstance a court should take into account only when considering an eviction.

78. In terms of Section 4

- (6) and (7) various circumstances are relevant in the determination by the court of whether it is just and equitable to grant an eviction order. These circumstances include the rights and needs of the elderly, children, disabled persons and households headed by a woman, as well as the availability of land for relocation. None of these circumstances are applicable here.

79. It was held in *Johannesburg Housing Corporation (Pty) Ltd v Unlawful Occupiers of Newtown Urban Village* 2013 (1) SA 583 (GSJ) at paragraph 51:

“that in the determination as to whether it would be ‘just and equitable’ to grant an eviction order, the test has to be, in theory, an objective one”.

80. I hold the view that the First and Second Respondents have no any other right in the Property other than convenience, and it being a comfortable place for them to continue residing.
81. Therefore, having regard to the prevailing circumstances as more fully alluded to in the Founding and Replying Affidavits, the First and Second Respondents are indeed illegal occupiers, and that same is not meaningfully disputed by the First Respondent. They simply have no right to occupy the property, and despite the First Respondent's best protestations to the contrary, the arguments advanced by her in the Answering Affidavit are sadly without merit.
82. PIE is regulatory and does not divest an owner of his property. Instead, it provides a basis upon which the judiciary can and must regulate the exercise the owner's proprietary right to possession against unlawful occupier, in a manner that, as far as is practically achievable remains consistent with the bill of rights and the constitution.
83. The purpose of the PIE Act is to regulate the eviction of unlawful occupiers from land in a fair manner, while recognizing the right of land owners to apply to a Court for an eviction order in appropriate circumstances. In the present Application the Applicants did not summarily seek the expulsion of someone from their home, and they are prosecuting the application for eviction strictly in line with the prevailing legislation applicable to evictions.
84. I hold the view that sufficient grounds exist for this Court to declare that the First and Second Respondents are unlawful occupiers,

in accordance with the provisions of the PIE Act. The First and Second Respondents have presented absolutely no facts in support of their attempt to convince this Court that their continued occupation of the property is warranted, and that a period of (sixty) days be afforded to them to vacate the property, that same is just, equitable and reasonable under the prevailing circumstances.

Conclusion

85. The Company with its sole director, being the First Respondent and its members being the family of the First Respondent was nothing more than an artificial vessel used by the First and Second Respondents to conceal assets. This led to numerous creditors of the First and the Second Respondents' insolvent estate being defrauded. This seems to be yet another cog in the elaborate scheme to hide the proceeds of the sale of the farms and to secure the property for the benefit of the First Respondent, only.
86. The First and Second Applicants being the liquidators of the Company, now have to sell the Property and repay the proceeds to estate of the First Respondent, who in turn has to repay a dividend to the insolvent companies from where the proceeds originated to be paid ultimately to the Friendly Loan Investors.

87. The Applicants cannot be forced to accommodate the First and Second Respondents who are unlawful occupiers, to the detriment of the general body of creditors of the insolvent estate. This Court, ought to indefinitely defer the Applicants' right to vacant occupation of the property, for purposes of administering the insolvent estate.
88. The First and Second Respondents' continued occupation of the property is currently jeopardising the property to be realised for value, to the detriment of the insolvent company's general body of creditors.
89. The continued occupation of the Property by the First and Second Respondents hampers the administration and finalisation of the insolvent state of the corporate entity, once again to the prejudice of the creditors of the insolvent estate.
90. Having said that I hold the view that neither the First Respondent, nor the Second Respondent, are persons occupying the land with a right in law to do so. So, it is just equitable for this Court to make the following order:

Order

- (a) The First and Second Respondents are hereby evicted from 1[...] G[...] Road, L[...], Boksburg.
- (b) The Sheriff of this Court is authorised to execute the order for eviction.

MOLEFE MATSEMELA

Acting Judge of the North Gauteng High Court

This judgement is handed down by electronically circulating among the parties via emails and loading it on case lines. The date of the hand down is deemed to be 13 April 2025

Heard :

21 January 2025

Delivered:

13 April 2025

For the Applicants Adv Z Schoeman

Instructed by Strydom & Bredenkamp Inc

For the Respondents In Person

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