

SOUTH AFRICA / JUDGMENT

Cassim NO and Another v Quickstep 684 (Pty) Limited (89103/2019) [2021] ZAGPPHC 625 (16 September 2021) [2021] ZAGPPHC 625

COURT

North Gauteng High Court, Pretoria

BEFORE

Haupt

CASE / FILE NUMBER

89103/2019

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IN

THE HIGH COURT OF SOUTH AFRICA

GAUTENG

DIVISION HELD AT PRETORIA

CASE

NO: 89103/2019

DATE:

2021.06.28

NOT

REPORTABLE

NOT

OF INTEREST TO OTHER JUDGES

REVISED

In

the matter between

Z

CASSIM N.O. AND ANOTHER

and

QUICKSTEP

684 (PTY) LIMITED

JUDGMENT**EXTEMPORE**

HAUPT, AJ: In the leave to appeal of Cassim nomine officio and another versus Quickstep 684 (Pty) Limited, case number 89103/2019 I give the following extempore judgment:

The application for leave pertains to an opposed motion application for the liquidation of Quickstep 684 (Pty) Limited under case number 89103/2019.

I do not intend dealing with the factual matrix and the chronology of the litigation that ensued prior and after the sequestration of Jacqueline Howard who during 2007 obtained shares in Quickstep from the founder and the then director of both Quickstep and Leboa Investments 22 (Pty) Limited.

Both applications for liquidations against Quickstep and Leboa, Leboa being under case number 89101/2019, were issued on the same day by the applicants and argued together before me. I further do not intend summarising the grounds for leave to appeal served on 7 January 2021, as it the notice for leave to appeal sets out the same arguments, in essence, as already considered by me in the judgment granted on 18 December 2020.

The application for leave to appeal is sought in terms of the provisions of section 17(1)(a)(i) of the Superior Courts Act. The applicant contends that the appeal would have a reasonable prospect of success and there is compelling reason why the appeal should be heard by a full Court, alternatively the Supreme Court of Appeal.

The threshold for the granting of leave to appeal has been raised. The authorities regarding the use of the word "would" in the new act is indicative of the measure of certainty that another Court will differ from the Court whose judgment is sought to be appealed against and this does not need any further discussion.

In determining whether there is a reasonable prospect of success that another Court would grant a different order I considered the

judgment

of 18 December 2020, the order granted, the liquidation application, the heads of argument filed by both Mr Raubenheimer, on behalf of the applicants, and Mr van Rooyen during July 2020 and the subsequent heads that were filed by both counsel who appeared before me this morning, as well as the grounds set out in the notice for leave to appeal.

Mr van Rooyen this morning indicated that the respondents are raising a point in limine. I am not agreement with the point in limine raised by Mr van Rooyen on behalf of the respondents that the order is not appealable as it is not final in its effect. In my view the order is clear in this regard, particularly at prayer 2 and 3 thereof, and the lack of locus standi is the end of the matter for the applicants.

However, nothing turns, in my view, at this stage on the point in limine as I am not persuaded with a measure of certainty that another Court will differ from the judgment dated 18 December 2020. Consequently I am not persuaded that the appeal will have a reasonable prospect of success. In the result the following order is made:

ORDER

The leave to appeal is refused with costs.

HAUPT, AJ

JUDGE OF THE HIGH COURT

DATE: 16/9/2021

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