

SOUTH AFRICA / JUDGMENT

Cloete N.O v Ramphele (25067/2020)

[2021] ZAGPPHC 509 (28 July 2021)

[2021] ZAGPPHC 509**COURT**

North Gauteng High Court, Pretoria

BEFORE

Van Zyl

CASE / FILE NUMBER

25067/2020

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record**SAFLII****Note: Certain**

personal/private details of parties or witnesses have been redacted from this document in compliance with the law and SAFLII

Policy**IN****THE HIGH COURT OF SOUTH AFRICA****GAUTENG****DIVISION, PRETORIA****(1)****REPORTABLE:**

YES/NO

(2) OF INTEREST TO

OTHER JUDGES

YES/NO

(3) REVISED:

28 July 2021

CASE NUMBER: 25067/2020

In the matter between :

CLOETE

MURRAY N.O.

Applicant

and

RAMPHELE, TSHEPISO DAVID

Respondent

([...])

JUDGMENT

Heard on:

28 July 2021

Judgment handed down: This judgment is handed down electronically by circulation to the parties or their legal representatives by email and by uploading it to the electronic file of this matter on Caselines. The date for hand-down is deemed to be 28 July 2021.

VAN ZYL AJ

1. For the sake of convenience, I refer to the parties as cited in the main application.
2. The Respondent, Mr Ramphele, has applied for leave to appeal against my judgment and order of 14 June 2021 in terms of which I placed Mr Ramphele's estate under provisional sequestration, returnable on 2 August 2021.
3. Section 150(1) of the Insolvency Act (Act 24 of 1936)[1] provides that a person aggrieved by a final order of sequestration or by an order setting aside an order of provisional sequestration, may appeal against the order. The orders mentioned are the only two orders that are appealable in terms of the Act.[2]
4. Section 150 of the Insolvency Act does not permit an appeal against a provisional order of sequestration.[3] It follows that a decision granting a provisional order of sequestration is not appealable.[4]
5. In the premises the application for leave to appeal cannot succeed.
6. In paragraph 10 of the application of the notice of application for leave to appeal, Mr Ramphele saw it fit to accuse the applicant, Mr Murray, of litigating in a dishonest fashion. The allegations do not constitute a ground for appeal, are irrelevant and inappropriate. Counsel for Mr Murray requested that I dismiss the application on a punitive scale given these allegations. However, since no prior notice had been given to Mr Ramphele that a punitive cost order would be sought, I am declining to make such an order.

ORDER:

In the premises I make the following order:

1. The application for leave to appeal is dismissed with costs.
2. The Respondent is ordered to pay the costs of the application for leave to appeal.

DIRK R. VAN ZYL

ACTING JUDGE OF THE HIGH COURT

GAUTENG DIVISION, PRETORIA

Appearances: For the Respondent: Adv P. W. Makhambeni Adv Shai Instructed by: Ramphele Attorneys

For the Applicant: Adv Lourens

Instructed by:

Roestoff Attorneys

[1] Section 150(1) provides as follows in relevant part: “150. Appeal

(1) Any person aggrieved by a final order of sequestration or by an order setting aside an order of provisional sequestration may, subject to the provisions of section 20(4) and

(5) of the Supreme Court, 1959 (Act No 59 of 1959), appeal against such order. [...]

(5) There shall be no appeal against any Order made by the court in terms of this Act, except as provided in this section” (Section 20 of the Supreme Court Act of 1959 has been replaced by section 17 of the Superior Courts Act (Act 10 of 2013). This, however, does not alter the situation in any material way.)

[1] Section 150(1) provides as follows in relevant part:

“150. Appeal

(1) Any person aggrieved by a final order of sequestration or by an order setting aside an order of provisional sequestration may, subject to the provisions of section 20(4) and

(5) of the Supreme Court, 1959 (Act No 59 of 1959), appeal against such order. [...]

(5) There shall be no appeal against any Order made by the court in terms of this Act, except as provided in this section”

(Section 20 of the Supreme Court Act of 1959 has been replaced by section 17 of the Superior Courts Act (Act 10 of 2013). This, however, does not alter the situation in any material way.)

[2] The Law of South Africa (LAWSA), Insolvency (Volume 11 – Second Edition), Jurisdiction, Appeals and Review, paragraph 371.

[3] Lawclaims (Pty) Ltd v Rea Shipping Co SA: Schiffskommerz Aussenhandelsbetrieb der VVB Schiffbau intervening 1979 (4) SA 745 (N).

[4] LAWSA supra paragraph 371; Moch v Nedtravel (Pty) Limited trading as American Express Travel Service 1996 (3) SA 1 (A) at 7.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZAGPPHC/2021/509.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/cloete-no-v-ramphele-unknown-topic-agpphc-2021>

Prepared on 12 October 2026 · Esheria