

SOUTH AFRICA / JUDGMENT

Matsela v Moloto (35589/11) [2012] ZAGPJHC 252 (16 October 2012)

[2012] ZAGPJHC 252

COURT

South Gauteng High Court, Johannesburg

BEFORE

Willis

CASE / FILE NUMBER

35589/11

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IN THE HIGH COURT OF SOUTH AFRICA (SOUTH GAUTENG)

JOHANNESBURG

CASE NO: 35589/11

DATE: 2012-10-16

In the matter between

MATSELA, ZACHARIA & OTHERS Applicant and MOLOTO, MICHAEL & OTHERS Respondent

J U D G M E N T

WILLIS, J:

- [1] Earlier this morning I gave a judgment which dismissed an application for a postponement with costs.
- [2] We are now dealing with the substantive application, which relates to the application for the removal of Mr Moloto as the appointed liquidator of Newtown Housing Co-operative Limited and another.
- [3] I repeat, by way of completeness, that an application was made to liquidate Newtown Housing Co-operative in 2008. The liquidation order was granted on 7 August 2009. In November 2009, members of the co-operative received notice that the property was advertised for sale by way of public auction. The public auction took place on 26 November 2009, and transfer of the property took place sometime during the course of 2011.
- [4] The application has been opposed by the first respondent, being Mr Moloto, the liquidator, and by the fourth respondent, being the Johannesburg Housing Company.

- [5] The first point that has been taken by the respondents is that the application is fatally defective inasmuch as the applicants have no locus standi. In response thereto the applicants rely, inter alia, purportedly on the fact that they were appointed as directors. Their certificates of appointment as directors, however, date sometime between 3 November 2010 and 26 March 2011, when, as I have already indicated, Newtown Housing Co-operative had been put into liquidation in 2009. They simply could not have been directors at the critically relevant time.
- [6] The other ground upon which the applicants claim locus standi is that they were creditors. There is no merit in this particular ground, as they have failed utterly to comply with the requirements of the Co-operatives Act, 14 of 2005, insofar as proving any claim as creditors is concerned. They have, in particular, failed to allege or even prove compliance with section 74 of the Co-operatives Act.
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