
SOUTH AFRICA / JUDGMENT

Winterboer v CX Developers CC and Others (28/7/2015) [2015] ZAGPPHC 545 (28 July 2015) [2015] ZAGPPHC 545

COURT

North Gauteng High Court, Pretoria

BEFORE

Wright

CASE / FILE NUMBER

2015/11797

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REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA,

GAUTENG DIVISION,

PRETORIA

CASE NO: 2015/11797

In the matter between:

STEFAN WINTERBOER

APPLICANT

and

CX3 DEVELOPERS CC

1ST RESPONDENT

ASTRID LAURA NEEB

2ND RESPONDENT

CAREL ALBERT EDUARD NEEB

3RD RESPONDENT

STANDARD BANK OF SOUTH AFRICA LIMITED

4TH RESPONDENT

J U D G M E N T

WRIGHT J

1. The applicant is a businessman. He is a one third interest holder in the 1st respondent close corporation. The second and third respondents are the other interest holders. The fourth respondent bank does not oppose any relief sought. The applicant says that he was defrauded by the second and third respondents, they having tricked him into relinquishing his signing powers over the 1st respondent's bank account with the intention of using the 1st respondent's funds for their own benefit and to the prejudice of creditors of the 1st respondent. His signing powers were restored at some point by an agreed court order. The second and third respondents deny the

allegations of fraud. It is not necessary for me to find fraud. What is before me is only the question of whether or not the 1st respondent should be wound up. It cannot be said that the applicant is the cause of the impasse.

2. The applicant has shown beyond any doubt that the members of the first respondent are in deadlock. They agree on almost nothing, they have not been able to meet, the allegations and counter-allegations are very serious and are unresolvable between them. The first respondent has creditors who are prejudiced or may be prejudiced by this state of affairs. The first respondent is in substance a partnership in collapse. There is mistrust, tension and deadlock. Compare *Sader v Warda Butchery* 2008 JDR 0387 (N) at paragraph 11. It matters not that the second and third respondents are in agreement with each other. What matters is that there are two opposing sides who can't get along to the extent indicated above.

3. ORDER

The first respondent close corporation is wound up.

GC WRIGHT J

JUDGE OF THE HIGH COURT,

On behalf of the Applicant:

Adv M Coetsee

Instructed by:

ML Schoeman Attorneys

012 562 9900

On behalf of the Respondent: Adv H Van Zyl

Instructed by: De Bryun & De Kock Inc

086 133 2335

Date of Hearing:

28 July 2015

Date of Judgment:

28 July 2015

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