



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

CASE NUMBER: 53157/2021

**DELETE WHICHEVER IS NOT
APPLICABLE**

- (1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO

09/12/2021

In the matter between:

BENNIE KEEVY N.O.

First Applicant

MARTIN MASHILA SAMBO N.O.

Second Applicant

[in their capacity as the appointed provisional liquidators of
China Auto Rental (Pty) Ltd (in liquidation)]

and

EASY RENT RENTAL SERVICES (PTY) LTD

Respondent

JUDGMENT

YACOOB J:

1. The applicants seek an order liquidating the respondent (Easy Rent) on an urgent basis.
2. The applicants are the liquidators of a company called China Auto Rental (Pty) Ltd ("CAR"). CAR and Easy Rent are related entities. They are both wholly owned subsidiaries of China Africa Motors (Pty) Ltd ("CAM"). The three companies operate from the same premises and share some directors. The respondent denies the applicants' allegation that the staff and management team are shared.
3. The shared business model was that CAM imported and manufactured minibus taxi vehicles, CAR bought the vehicles and leased them to Easy Rent and also sold them to end users, and Easy Rent in turn leased the vehicles leased from CAR to end users.
4. The applicants contend that it is urgent that Easy Rent be liquidated because Easy Rent is not paying rental for the vehicles to CAR, and the vehicles are depreciating daily. The liquidators bring the application on the basis that the creditors of CAR are losing value daily. According to them the liquidation is necessary because Easy Rent owes CAR money, possibly over R11 million, and because the liquidators have not been able to get sufficient information from Easy Rent.
5. Easy Rent denies that it owes CAR money, contending that CAR's rights have vested in a cessionary as a result of the liquidation. It contends that its non-payment is not an act of insolvency but a dispute of indebtedness. Easy Rent also contends that the application is not urgent.
6. It is obvious that vehicles in use depreciate in value. I accept for purposes of the determination of urgency that that is the case. However that is not the end of the

urgency enquiry. What the applicants have to show is that irreparable harm would result if the application for liquidation that is made out on the papers is not heard on an urgent basis. It is not just that there is something happening which needs to be remedied urgently. Rather, it must be that there is something happening which has already or would result in irreparable harm if the relief sought in the application brought is not dealt with urgently.

7. The applicants do not seek interdictory relief calling upon Easy Rent to pay rental for the leased vehicles, or calling upon Easy Rent to provide information, if Easy Rent is withholding information, or any such specific relief. They seek liquidation. So the question is what harm would result if the liquidation is not dealt with urgently.
8. On the assumption that Easy Rent is eventually liquidated, the *concursum creditorum* would date from the date of the bringing of this application. Easy Rent's liquidators would be able to investigate and find and follow the money, if in fact there is money that is owing to creditors. Dispositions could be set aside. Easy Rent is continuing to lease vehicles and collect rentals, and the collection of the money by Easy Rent means that the vehicles are not depreciating with no consideration. Any harm resulting from the delay of the liquidation application has not, in my view, been established to be irreparable.
9. The liquidation application is therefore not urgent.
10. I do
11. For these reasons, then, I make the following order:
 1. The application is not urgent and the applicants' non-compliance with the rules is not condoned.
 2. The applicants are to pay the costs of the urgent application, in their

capacity as the liquidators of CAR.

S. YACOOB
JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION, JOHANNESBURG

Appearances

Counsel for the Applicant: C Van Der Merwe
Instructed by: Senekal Simmonds Attorneys

Counsel for the Respondent: J G Dobie
Instructed by: Lloyd Kieser Attorneys

Date of hearing: 01 December 2021

Date of judgment: 09 December 2021