IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, JOHANNESBURG)

Case no: 2020/20343

Reportable: No

Of interest to other judges: No

05 July 2023

In the matter between:

ANOOSHKUMAR ROOLAL N.O **Applicant**

And

PETER TONI MPHEPHU N.O **First Respondent**

PORTIA HULISANI MPHEPHU N.O **Second Respondent**

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by email, and uploaded on caselines electronic platform. The date for hand-down is deemed to be 5 July 2023.

JUDGMENT

Molahlehi J

Introduction

[1] The applicant, the liquidator of VBS Mutual Bank (in liquidation), Mr Anooshkumar Rooplal N.O, seeks an order placing the estate of Dzata Trust under provisional sequestration. The respondents who are cited in their capacity as the trustees of Dzata Trust, are Mr Peter Tony Mphephu N.O and Mrs Portia Hulisani Mphephu N.O.

[2] The applicant seeks the sequestration of Dzata Trust on the following grounds:

> "191 the Trust is indebted to VBS Bank as defined in section 9(1) of the Insolvency Act 24 of 1936 ("Insolvency Act");
>
> 19.2 the debt arises from monies lent and advanced by VBS to the Trust through a credit overdraft facility;
>
> 19.3 the Trust has, to date, failed, refused and/or neglected to repay the debt it owes to VBS despite demand;
>
> 19.4 the Trust is factually insolvent in that the value of its liabilities (fairly valued) exceeds the value of its assets (fairly valued); and
>
> 19,5 it will be to the advantage of the Trust's creditors that the estate of the Trust be sequestrated, as envisaged in 10(c) of the Insolvency Act."

[3] The indebtedness upon which the applicant relies in support of the application is that Dzata Trust should be sequestrated based on the failure to meet the demand for the payment of R10 610 912.23. According to the applicant, the indebtedness of Dzata Trust arose from the fraudulent scheme perpetrated against the VBS Bank account on 29 March 2017. According to the applicant, the amount owed is reflected in the restated statement dated 31 December 2018 after the recalculated balance.

[4] The applicant contends that Dzata Trust benefited from the fraudulent scheme perpetrated upon the VBS Bank. The existence of the fraudulent scheme is traced to 19 March 2017 when a meeting was held between the former chairperson of the VBS Bank's board, Mr Matodzi, the head of treasury Mr Makhodobwane and the former treasurer, Mr Truter, and chief financial officer at the Eagle Canyon estate.

[5] The detailed facts about the fraudulent scheme that was perpetrated against VBS Bank are set out in the affidavit of Mr Mukhodubwane dated 22 May 2018. The affidavit was made available to the investigation, which was conducted in terms of section 134 of the Financial Sector Regulation Act 9 of 2017.

[6] In asserting that Dzata Trust is indebted to the VBS Bank, the applicant relies on the overdraft facility allegedly made available to it (Dzata Trust) under business account number 010004306001 (credit facility).

[7] The applicant has, despite diligent search, not been able to locate the copy of the application for the overdraft facility. The applicant relies on a VBS Bank account as proof of the overdraft facility's utilisation. The terms and conditions that would ordinarily apply to such overdraft facility would provide for the following:

"44.1 the overdraft facility would be granted by VBS to clients who will open or have an existing transactional banking account with VBS (clause 1 of terms);

44.2 VBS would be entitled to charge interest at its prime rate of interest as publicly quoted from time to time, and such interest will be charged on the total outstanding amount of the client's overdraft facility and calculated daily and compounded monthly in arrears (clause 2 of terms);

44.3 VBS would also be entitled to charge penalty interest on the amounts in arrears, and the interest rate will be the same as the interest rate charged in respect of the overdraft facility (clause 2 of terms);

44.4 the client would be entitled to increase the facility limit at any time by informing the applicant in writing or telephonically, and VBS would confirm that new limit in writing or telephonically (clause 10 of terms);

44.5 VBS has the right, any time, within ten days written notice or upon the default of the client, to cancel or suspend the facility and claim the full outstanding amount on the credit facility (clause 5 of terms); and

44.6 a certificate of indebtedness signed by "any person appointed by VBS (whose authority and appointment need not be proved) certifying the amount outstanding from time to time, shall constitute prima facie evidence of any amounts outstanding (clause 14 of terms) VBS made the overdraft facility available to the customer in accordance with the Overdraft Agreement, as they are applicable to all overdraft facilities made available by VBS to its client and/or customers."

[8] The applicant contends that Dzata Trust utilised the overdraft facility through the account referred to above from 1 December 2016, and this is evidenced through the transactions reflected in the account held by the VBS Bank in the name of Dzata Trust. In this respect, reference is made to Dzata Trust making payment of its membership of the Home Owners Association at Dainfern. The membership is reflected in the deed of transfer. The mortgage bond which Dzata Trust has on the immovable property based at Dainfern was also serviced through the same account, and payment was made in the amount of R929 351.68. In support of this averment, the applicant attached to the founding affidavit the copy of the mortgage bond account reflecting the payment made by the Dzata Trust to that account. There is also a reference to the various withdrawals from the same account. For instance, R25,500 and R100,000 withdrawals were made in December 2016 for Mr Makhavhu and Mr TP Mphephu.

[9] In brief, the applicant contends that the Dzata Trust has failed to pay for the debt due and owing to VBS Bank in the sum of R10 610 912.23. The applicant contends that for this reason, Dzata Trust is factually insolvent, as its liabilities exceed its assets. It is further argued that Dzata Trust is commercially insolvent because it cannot pay its debts.

[10] The applicant further avers that it would be to the advantage of the body of creditors for Dzata Trust to be sequestrated.

Dzata Trust's defence,

[11] The trustees of Dzata Trust opposed the application and contended that they had never applied for an overdraft facility at VBS Bank. They further contended that they had no bank account with VBS Bank. According to them the bank account which the applicant relies on was fraudulently opened and used to finance activities in which Dzata Trust had no interest.

[12] The respondents further contended that Dzata Trust never benefited from the fraudulent scheme alleged by the applicant. The grounds upon which the

respondents opposed the application are set out in both the answering affidavit and the supplementary affidavit. The sustainability of the grounds set out in the supplementary affidavit depends firstly on whether the respondents are granted leave for the admission of the supplementary affidavit as an additional affidavit. This is dealt with later in the judgment.

[13] In paragraph 16 of the answering affidavit, the respondents state the following:

> "16.1 The allegation that there was a factitious credit in the alleged account is something that I cannot deny nor confirm on the basis that I have no knowledge of the bank account. The bank account was not operated by Dzata Trust through the second respondent and myself.
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> 6.2. It is clear from the statement which is alleged to be that of the Trust (which I deny) that the payment which has been made in that account were made to several intuitions and people that Dzata Trust have no relationship with I do not understand why Dzata Trust would pay so much money to people and institutions when there is no relationship which justifies such payments.
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> 16.3. The process of effecting factitious credit into the alleged account obviously has nothing to do with the Second Respondent and myself in our own capacities as the trustees. It is clear that if indeed there was a fraudulent scheme it was perpetuated by other people without our knowledge and for their selfish benefit(s)."

[14] In paragraph 29.3 of the answering affidavit, the respondents state the following:

> "In the event, even if the Court finds that the Trust has benefited from the alleged overdraft facility, the Trust is prepared to pay the amount which it benefited."

The issues

[15] The central issue in this matter is whether, based on the papers before this court, the applicant has established a *prima facie* existence of a debt due and payable by Dzata Trust.

[16] The other issues listed in the joint practice note filed by the parties are the following:

(a) whether the filing of the applicant's replying affidavit deserves condonation.
(b) whether the respondents should be permitted to supplement the answering affidavit and file a counter application.
(c) whether Dzata Trust's denial of the bank account constitutes a *bona fide* defence to the sequestration.
(d) whether the sequestration should be to the advantage of the body of creditors.
(e) whether this court should exercise its discretion of granting sequestration in favour of the applicant.
(f) whether Dzata Trust's counterclaim is compatible with its defence.
(g) whether VBS Bank is a registered as a credit provider.

[17] I pause to deal with the last issue mentioned above. During the hearing the respondents' Counsel abandoned the point about the registration of VBS Bank as a credit provider in terms of the National Credit Act. It was, in other words, accepted that VBS Bank was registered as a credit provider, and thus that defence fell away. I also find that all the other technical points raised by the respondent relating to the compliance with the National Credit Act not to have merit.

[18] The other point that needs brief attention is the condonation application for the late filing of the replying affidavit. The application is not opposed. Accordingly, having regard to this fact and the explanation proffered for the delay and the interest of justice, condonation is granted.

The counter application and the supplementary answering affidavit

[19] The counter application was filed late, and accordingly, the respondents (the applicant in the counter application) applied for condonation for its late filing. This included an application for leave to file a supplementary answering affidavit.

[20] The respondent is further seeking to have the purported overdraft agreement concluded with VBS Bank declared invalid. In the alternative, should it be found that an overdraft agreement was concluded with Dzata Trust, such a credit agreement was reckless credit.

[21] The respondents further pray to have the registration of the mortgage bond in favour of VBS Bank over the immovable property of Dzata Trust be rescinded and set aside or declared void.

[22] The respondents seek permission to file the supplementary answering affidavit to supplement their answering affidavit because they claim to have discovered after appointing the current attorneys of record that the erstwhile attorneys should have advised them properly about the defences they should have raised in relation to the applicant's application.

[23] The general rule, dealing with the number of affidavits to be filed in an application, allows for three sets of affidavits, the founding, answering, and replying affidavits. The court does, however, have a discretion depending on the circumstances of the case, to depart from the provision of the rule.[1] The court will exercise the discretion to allow for additional affidavits if warranted by special circumstances. The party seeking leave to have additional affidavit/s admitted by the court has a duty to provide an explanation for seeking such leave. A proper and satisfactory explanation must be provided as to why the information in the additional affidavit was not provided earlier.[2] The authorities are clear that consideration of admission of an additional affidavit is a matter of fairness to both parties. In the absence of a satisfactory explanation as to why the information sought to be introduced by an additional affidavit was omitted earlier, the admission of such evidence cannot be fair to the other party.

[24] In the present matter, the supplementary affidavit having been filed more than six months after the applicant filed its replying affidavit, the question is whether

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[1] See James Brown and the Simons NO 1963, [4] SA. 656 at 660 D – G.

[2] See *Standard Bank of South Africa v Sewpersadh* 2005 (4) SA 148 (C) at 154.

Dzata Trust has satisfied the requirements for condonation for the late filing of the supplementary affidavit.[3]

[25] The explanation provided by the respondent for the delay in filing the supplementary affidavit is as follows:

> "Upon a perusal of the papers, both the new attorney and Counsel realised that there are significant shortcomings with the existing answering affidavit which was filed on behalf of the Trust and that there are sound and good defences in law available for the Trust, which have not been raised in the existing answering affidavit.
>
> Consequently, I was advised about these developments and instructed the attorneys to immediately do the nary in order to amplify the Trust's defences. In this context, I have been advised that it would be necessary for the Trust to file a supplementary answering affidavit with which to supplement the defences, but as an answering affidavit has already been filed, it would probably be necessary for the Trust to explain the reason why a supplementary affidavit has to be filed, and to seek permission from this Honourable Court to file the further supplementary affidavit."

[26] The reason provided by the respondents which is as stated above was that they were ill-advised by the erstwhile attorneys and only discovered this after appointing the current attorneys of record is unsustainable and unsatisfactory. The explanation fails to provide the court with the necessary information to assist it in determining the reasonableness of the explanation. The time when the erstwhile attorneys withdrew their instruction is not provided leaving the court in darkness as to at what point did the attorneys withdraw.

[27] The new attorneys of record were appointed on 24 January 2022. There needs to be an explanation as to why it took two months to file the supplementary affidavit after their appointment. In essence, the respondents still need to provide a satisfactory explanation for the delay in filing the supplementary affidavit. For this reason, the application to file the supplementary affidavit stands to fail.

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[3] See *Makgalemele v The Road Accident Fund* (JR 1676/14) [2015] ZALCJHB 198 (30 June 2015) and Q*uentin Lessing v Quanza Holdings (Pty) Ltd* (2362/2018) [2019] ZAECMHC 10 (28 February 2019.

[28] I turn to deal with the issue of the counter application, which is governed by rule 6(7) of the Rules. Rule 6 (7) (a) provides as follows:

> "[a]ny party to any application proceedings may bring a counter-application or may join any party to the same extent as would be competent if the party wishing to bring such counter-application or join such party were a defendant in an action and the other parties to the application were parties to such action."

[29] The rule further provides in sub-rule (b) that, "[t]he periods prescribed with regard to applications apply to counter applications: …"

[30] It is trite that rule 6(7) has to be read with rule 24 of the Rules, which deals with counterclaims and requires a defendant who counterclaims to deliver a claim in reconvention together with the plea. Similarly, in motion proceedings a counter-application must be filed together with the respondent's answering affidavit. See *Goodhope Plasters CC v E–Junction Property Developers* ,[4] where the court held that:

> ". . . the first respondent's counter-application should have been filed together with its answering affidavit on 7 August 2020... . and the counter-application was accordingly delivered out of time on 26 August 2020."

[31] It follows that the respondents in the present matter required leave of the court to file their counter-application because they failed to do so when they filed their answering affidavit. The counter-application was filed after the applicant had filed the heads of argument. It is apparent from the reading of the papers before this court that the counter-application was filed to address the deficiencies in the respondents' answering affidavit.

[32] In my view, the respondents have failed to provide circumstances that would justify deviation from the general rule that only three sets of the affidavit should be permitted in motion proceedings. In other words, the respondents failed to make a case for the admission of supplementary affidavit. The above explanation is

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[4] [2020] ZANCHC1 62 At paragraph 48.

undermined further by what the deponent to the answering affidavit says at both paragraphs 1.3 and 1.5 of his affidavit. He states the following in both paragraphs:

> "1.3 The facts contained herein are within my personal knowledge unless the context may otherwise indicate and are to the best of my knowledge and belief both true and correct.
>
> 1.4 . . .
>
> 1.5. I confirm that I have perused and understood the allegations contained in the Applicant's Founding Affidavit."

[33] In light of the above, I find that the respondents have failed to show that there are exceptional circumstances warranting the filing of further affidavits. In this respect, the prejudice to be suffered by the applicant outweighs that which will be suffered by Dzata Trust if the discretion is exercised against the granting of leave to file further affidavit. It follows from this conclusion that the counter-application also stands to fail. Put in another way; I am not persuaded that I should exercise my discretion in favour of granting leave for Dzata Trust to file further affidavit.

Has the applicant made out a case for the relief sought?

[34] As pointed out earlier, the central issue in this matter is whether the applicant has established the existence of a *prema facie* debt as envisaged in terms of section 9 (1) of the Insolvency Act 24 of 1936.

[35] It is trite that sequestration proceedings are not designed to resolve a dispute about the payment of a debt, and thus, sequestration would be refused where it is disputed on *bona fide* grounds.[5] The onus is on the applicant to show that a *prima* facie debt exist. Upon the discharge of the onus by the applicant that there exists a *prima facie* debt it is upon the defendant to show that there is a *bona fide* defence against the debt.

[5] See Trinity Asset Management (Pty) Ltd v Grindstone Investment 132 (Pty) Ltd 2018 (1) SA 94 at par 27.

[36] The general principles governing the approach to dealing with whether a respondent in a sequestration application has successfully resisted the application is set out as follows in GAP Merchants CC v Goal Reach rading 55 CC:[6]

"[20] The rule that winding-up proceedings should not be resorted to as a means of enforcing payment of a debt the existence of which is *bona fide* disputed on reasonable grounds is part of the broader principle that the court's processes should not be abused Liquidation proceedings are not intended as a means of deciding claims which are genuinely and reasonably disputed The rule is generally known as the 'Badenhorst rule', after one of the leading cases on the subject, *Badenhorst v Northern Construction Enterprises (Pty) Ltd* 1956 (2) SA 346 (T) at 347H-348C A distinction is thus drawn between factual disputes relating to the respondent's liability to the applicant and disputes relating to the other requirements for liquidation At the provisional stage, the other requirements must be satisfied on a balance of probabilities with reference to the affidavits In relation to the respondent's liability, on the other hand, the question is whether the applicant's claim is disputed on reasonable and *bona fide* grounds; a court may reach this conclusion even on a balance of probabilities (based on the papers) the applicant's claim has been made out (*Payslip Investment Holdings CC v Y2K Tec Ltd* 2001 (4) SA 781 (C) at 783G-I) However, where the applicant at the provisional stage shows that the debt *prima facie* exists, the onus is on the company to show that it is *bona fide* disputed on reasonable grounds (*Hülse-Reutter & Another v HEG Consulting Enterprises (Pty) Ltd* 1998 (2) SA 208 (C) at 218D-219C).

[21] There was some debate before me as to how far a respondent need to go in order to discharge the burden of proving that a debt which is *prima facie* due and payable is *bona fide* disputed on reasonable grounds. Both parties referred me to statements made by Thring J in *Hülse-Reutter supra*. It is desirable that I quote fully what the learned judge said at 219F-220C:

'I think that it is important to bear in mind exactly what it is that the trustees have to establish in order to resist this application with success Apart from the fact that they dispute the applicants' claims, and do so *bona fide*, which is now common cause, what they must establish is no more and no less than that the grounds on which they do so are reasonable They do not have to establish, even on the probabilities, that the company, under their direction, will, as a matter of fact, succeed in

[6] 2016 (1) SA 261 (WCC) at paragraph 20 and 21.

> any action which might be brought against it by the applicants to enforce their disputed claims They do not, in this matter, have to prove the company's defence in any such proceedings All they have to satisfy me of is that the grounds which they advance for their and their company's disputing these claims are not unreasonable To do that, I do not think that it is necessary for them to adduce on affidavit, or otherwise, the actual evidence on which they would rely at such a trial This is not an application for summary judgment in which, in terms of Supreme Court Rule 32(3), a defendant who resists such an application by delivering an affidavit or affidavits must not only satisfy the Court that he has a *bona fide* defence to the action but in terms of the Rule must also disclose fully in his affidavit or affidavits "the material facts relied upon therefor"…. It seems to me to be sufficient for the trustees in the present application, as long as they do so *bona fide*, and I must emphasise again that their *bona fides* are not here disputed, to allege facts which, if approved at a trial, would constitute a good defence to the claims made against the company Where such facts are not within their personal knowledge, it is enough, in my view, for them to set out in the affidavit the basis on which they make such allegations of fact, provided that they do so not baldly, but with adequate particularity This being the case, they may, in my judgment, refer to documents and to statements made by other persons without annexing to their affidavits such documents or affidavits deposed to by such persons, subject of course to the qualifications which I have mentioned and, in particular satisfied, as it is in this case, of their *bona fides*."

[37] Furthermore, the applicant has to show that the defendant is factually insolvent and that its sequestration would be to the advantage of the body of creditors.[7]

[38] The requirement of reasonable belief that the sequestration will result in the advantage of the creditors was defined in Meskin & Co v Friedman,[8] as follows:

> "The phrase "reason to believe", used as it is in both these sections, indicates that it is not necessary, either at the first or at the final hearing, for the creditor to induce in the mind of the court a positive view that sequestration will be to the

[7] See Trinity Asset Management (Pty) Ltd v Grindstone Investment 132 (Pty) Ltd 2018 (1) SA 94 at par 27.
[8] 2016 (1) SA 261 (WCC) at paragraph 20 and 21.

> financial advantage of creditors. At the final hearing, though the court must be "satisfied", it is not satisfied that sequestration will be to the advantage of creditors, but only that there is reason to believe that it will be so."

[39] The court further, at page 559, said:

> "In my opinion, the facts put before the Court must satisfy it that there is a reasonable prospect – not necessarily a likelihood, but a prospect which is not too remote – that some pecuniary benefit will result to creditors It is not necessary to prove that the respondent has any assets Even if there are none at all, but there are reasons to believe that as a result of an enquiry under the Act some may be revealed or recovered for the benefit of creditors, that is sufficient…". [9]

[40] In my view, the applicant has satisfied the requirements for provisional sequestration of Dzata Trust. The facts before the court indicate quite clearly that there exists a debt which the respondents are unable to pay. Although the VBS Bank could not produce a copy of the application for the overdraft agreement between it and Dzata Trust, the evidence from the bank account supports the proposition that an overdraft agreement did exist. This is further supported by the mortgage bond over the property in Dainfern and the payment of the Homeowners Association from the account which the applicant contends Dzata Trust had with the VBS bank.

[41] The contention by the respondents that Mr Makhavhu could not transact for Dzata Trust because he was not a trustee is unsustainable. The case of the applicant is not that he was a trustee but rather that he was authorised by the Trust to represent it in transacting with the VBS Bank. The respondents presented no evidence to show that the payment to the Homeowners Association was not from another party and not VBS Bank.

[42] As mentioned earlier, the mortgage bond was registered in favour of VBS Bank over the Dainfern property owned by Dzata Trust. An amount of R1 000 000.00

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[9] See also See Dunlop Tyres (Pty) Ltd v Brewitt 1999(2) SA 580 (W) at 583.)

was withdrawn from the VBS to service the mortgage bond. The respondents' bare denial of the payment and the contention that the property has been fully paid for cannot in the context of this matter, sustain a reasonable defence. What was required of the respondents in order to sustain a defence in the context of this application was to provide an explanation as to how the mortgage bond over the Dainfern property exists and is registered in the deeds office in favour of the VBS Bank.

[43] The facts presented by the applicant show that between February 2016 and August 2016, payments were made from the account into the Dainfern Homeowners Association. The first respondent, in his answering affidavit, obfuscate as to whether the Dainfern property belongs to him or the Trust. He, at one level, sought to distance himself from the ownership of the property by stating that he did not know the address of the property or that he and the second respondent stay in Limpopo. This does not assist the case of the respondents because there is an admission that the Dzata Trust owns the property. In fact, annexure FA4 contains a resolution by Dzata Trust for the purchase of the property and appointing Mr Makhavhu to act on its behalf to effect the transfer of the property. Annexure FA13 contains a resolution authorising Mr Makhavhu to pass a mortgage bond over the property in favour of the VBS Bank.

[44] The other difficulty confronting the case of the respondents is that except for a bare denial, they fail to explain the transaction appearing in the account with VBS Bank and, more particularly, those appearing in the statement in December 2016. The weakness of this denial is that it is not made by the person who was involved in the banking transaction, Mr Makhavhu. In the absence of an affidavit by Mr Makhavhu, explaining the transaction and why it is denied, there is no evidentiary value to the denial, thus the denial stands to be rejected.

[45] The respondents have also failed to explain several entries on the bank statement which concerned the payment of a motor vehicle Range Rover.

[46] In conclusion, there is clear evidence linking the Dzata Trust to the VBS account, the mortgage bond over the Dainfern property, the payment of the Range

Rover and the names of the respondents and Mr Makhavhu on the bank statements. Thus the conclusion to draw is that either the bank account belonged to Dzata Trust or even if the bank account did not belong to Dzata Trust it benefited from the payment made from the bank account.

[47] On the proper analysis of the facts of this matter it is clear that Dzata Trust is indebted to VBS Bank in an amount exceeding R100.00 The denial of the debt by the respondents is not reasonable or *bona fide.*

[48] As concerning the issue of whether sequestration would benefit the body of creditors, the only evidence before this court is that the asset owned by Dzata Trust is the Dainfern property. The value of this property, according to the applicant, is lower than the debt owed to VBS Bank. The respondents have disputed the value of the property by the applicant but have failed to substantiate this contention. There is also evidence suggesting the existence of other assets belonging to Dzata Trust. On the face of it, there are other transactions in the bank statements that may require some investigation. It will accordingly be in the interest of the body of creditors that Dzata Trust be placed under provisional liquidation.

[49] In light of the above, I make the following findings:

(a) the applicant has a liquidated claim against Dzata Trust.

(b) Dzata Trust is factually insolvent in that the value of its liabilities (fairly valued) exceeds the value of its assets (fairly valued); and

(c) there is reason to believe that sequestration will be to the advantage of the creditors of Dzata Trust if the estate is sequestration, as envisaged in 10(c) of the Insolvency Act.

Order

[50] In the premises the following order is made:

1. The late filing of the applicant's replying affidavit is condoned;
2. The respondents' application for leave to allow the filing of the supplementary affidavit is dismissed.
3. The respondents' counter-application is dismissed;

4. The estate of Dzata Trust, with Master's reference number IT00020/2010, is provisionally sequestrated and placed in the hands of the Master of the High Court; Johannesburg.

4. A rule nisi is issued, returnable on 29 August 2023 whereby any interested party is called upon to show cause why Dzata trust and or the respondents should not be finally sequestrated.

5. This order is to be served on:

5.1 the first and second respondents.

5.2 the Master of the High Court, Johannesburg and the South African Revenue Services;

5.3 the South African Revenue Services, Pretoria, Costs to be costs in the administration of the insolvent estate.

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E Molahlehi
Judge of the High Court,
Gauteng Local Division,
Johannesburg.

For the applicant: Emiel van Vuuren SC

Instructed by: Werksman Attorneys

For the respondents: MP Van der Merwe SC

Instructed by: Thovhakale Attorneys.

Date heard: 6 February 2023.

Delivered: 05 July 2023