

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 2022-056746

1. REPORTABLE: NO
2. OF INTEREST TO OTHER JUDGES: NO
3. REVISED: NO

DATE: 2024-01-30

In the matter between:

THE BODY CORPORATE SALVOKOP

Applicant

and

DOUGLAS ZIRAMBA

Respondent

REASONS FOR JUDGMENT

K STRYDOM, AJ

- 1) This matter was set down on the unopposed motion roll off the 12th of December 2023, being the return date of a rule nisi granted in terms of which the respondent was provisionally sequestered.
- 2) On that day I ordered that the rule nisi be discharged and set aside the provisional sequestration order.
- 3) The applicants filed a request for reasons for this judgment on the 14th of December 2023, however, for some unbeknownst reason, the request only came to my attention on the 9th of January 2023.

- 4) The application for final sequestration was premised on the basis of a court order obtained in the Magistrates Court against the respondent for payment of arrear levies and a subsequent *nulla bona* return received from the Sherriff pursuant to the court order.
- 5) At the hearing I had expressed my reticence in making such a final order not only in view of the low amount to the Magistrates Court order (approximately R13,000), but also given the clearly erroneous assertion on the return that the respondent has no immovable property. Given that the applicant is the body corporate for a property owned by the respondent and that the court order was based on levies due for an immovable property so owned by the respondent, the statement is factually (and within the knowledge) incorrect. I also queried why attachment of the respondents' immovable property and its sale instead of the present proceedings were not instituted and was informed that the applicants elected to follow the sequestration route.
- 6) Whilst acknowledging that the applicants are entitled to their election, I noted that the Court still retains a discretion in ordering a final sequestration.
- 7) I pertinently drew counsel's attention to the findings and reasoning of Van der Schyff J in *Waterkloof Boulevard Homeowners Association (Association Incorporated under Section 21) v Yusuf and Another* (028945/2022) [2023] ZAGPPHC 737 (28 August 2023) and indicated that, in reaching my decision, I applied that reasoning (and finding) to the present matter.
- 8) My reasons for the order made is thus as per the judgment of Van der Schyff, which are directly incorporated herein.

K STRYDOM
ACTING JUDGE OF THE HIGH COURT
OF SOUTH AFRICA GAUTENG
DIVISION, PRETORIA

Date of hearing: 12 December 2023

Reasons delivered: 30 January 2024

Appearances:

For the Applicant: Adv. F.C. Lamprecht

Instructed by: EY Stuart Incorporated

For the Respondent: In person