

CASES DECIDED
IN THE
TRANSVAAL PROVINCIAL DIVISION.

S.A. LAW REPORTS (1913).

T.P.D. PART I.

EX PARTE THE LIQUIDATOR OF THE CAROLINA
KO-OPERATIEVE VERENIGING.

1913. *January 16.* GREGOROWSKI, J.

*Co-operative Society.—Voluntary liquidation.—List of contribu-
tories.—Confirmation.—Power of Court.—Act 17 of 1908, sec.
24.*

The Court will not confirm the list of contributories of a co-operative society in liquidation where the liquidation has been a voluntary one.

Application for confirmation of a list of contributories.

The Carolina Ko-operatieve Vereniging went into voluntary liquidation in 1911, and a liquidator was appointed. The liquidator now applied for the confirmation of the list of contributories framed by him and alleged that all necessary notices had been given and publications made.

D. de Waal, moved that the list be confirmed.

B. A. Tindall, for certain contributories, submitted that under sec. 24 of Act 17 of 1908, the Court had no jurisdiction, this being a voluntary liquidation. The Company Law does not apply. The liquidator himself must decide what each member owes the Society and proceed against members in the same way as in the case of a partnership in liquidation.

EX PARTE THE MASTER.
[*IN RE NICHOLAS, LTD. (IN LIQUIDATION).*]

D. de Waal, replied: Section 167 of Act 31 of 1909 (Companies' Act) can apply to a voluntary liquidation, and the Court can therefore confirm the list. I admit the application is not in order.

GREGOROWSKI, J.: It is admitted that this application is entirely out of order. The applicant, the liquidator, has not been appointed by the Court, but by a special resolution of the co-operative society. The liquidation is a voluntary one; the aid of the Court has never been invoked, and the liquidation is taking place quite outside the Court. Under these circumstances there is no necessity for the liquidator coming to the Court to get the list of contributories confirmed. There is either a voluntary liquidation, or a liquidation by the Court. If the liquidation is by the Court, the list of contributories can be confirmed by the Court in terms of the Rules; but if it is a purely voluntary liquidation the Rules do not apply. The question now being only one of costs, I think it is apparent that the persons who received notice that application would be made to the Court for the placing of their names on the list of contributories are entitled to their costs of appearing before the Court.

Attorneys for Liquidator: *Ludorf & Strange*; Attorneys for Contributories: *Roux & Jacobsz*.

[Reported by *Adolf Davis*, Esq., Advocate.]

EX PARTE THE MASTER.
[*IN RE NICHOLAS, LTD. (IN LIQUIDATION).*]

1913. January 30. GREGOROWSKI, J.

Company.—Winding-up.—List of contributories.—Extent of liability.—Interest.—Act 31 of 1909.—Rule 19.

The list of contributories framed under Rule 19 of the Companies' Rules should not state the extent of each contributory's liability but merely his interest or the number of the shares held by him.

Ex parte The Master; In re Pretoria Industries, Ltd. (1912 T.P.D. 42) dissented from.

Application for confirmation of the list of contributories in the above company.