IN THE HIGH COURT OF SOUTH AFRICA
EAST LONDON CIRCUIT LOCAL DIVISION

CASE NO: 850/2018
DATE HEARD: 15/11/2018
DATE DELIVERED: 13/12/2018

In the matter between

RENAE OLGA KRIEDEMANN	**1ST APPLICANT**
THE TRUSTEES FOR THE TIME BEING OF THE RYETT TRUST	**2nd APPLICANT**

and

ONE VISION INVESTMENTS 139 (PTY) LTD (Registration number: 2005/014045/07)	**1ST RESPONDENT**
GARRY EDWARD RIEGER	**2ND RESPONDENT**
ROWAN WILLIAM RIEGER	**3RD RESPONDENT**
THE TRUSTEES FOR THE TIME BEING OF THE RIEGER FAMILY TRUST	**4TH RESPONDENT**
THE TRUSTEES FOR THE TIME BEING OF THE RODIC TRUST	**5TH RESPONDENT**

JUDGMENT

ROBERSON J:-

[1] This is an application for an order provisionally winding up the first respondent (One Vision), on the grounds that it is just and equitable, as provided for in s 81 (1) (d) (iii) of the Companies Act 71 of 2008 (the Act). Alternative relief sought in terms of s 163 (2) of the Act was not pursued. Section 81 applies to the winding up of solvent companies. Section 81 (1) (d) of the Act provides:

> **"Winding-up of solvent companies by court order**
>
> (1) A court may order a solvent company to be wound up if-
>
> (d) the company, one or more directors or one or more shareholders have applied to the court for an order to wind up the company on the grounds that-

> (i) the directors are deadlocked in the management of the company, and the shareholders are unable to break the deadlock, and-
>
> (aa) irreparable injury to the company is resulting, or may result, from the deadlock; or
>
> (bb) the company's business cannot be conducted to the advantage of shareholders generally, as a result of the deadlock;
>
> (ii) the shareholders are deadlocked in voting power, and have failed for a period that includes at least two consecutive annual general meeting dates, to elect successors to directors whose terms have expired; or
>
> (iii) it is otherwise just and equitable for the company to be wound up;"

[2] The first applicant and the second and third respondents are siblings. Without intending disrespect, I shall refer to them by their first names, as they were referred to in the papers. I shall refer to them jointly as the siblings. Renae is a trustee of the second applicant, Gary is a trustee of the fourth respondent and Rowan is a trustee of the fifth respondent.

[3] The application is brought on the basis that, with regard to the affairs of One Vision, the relationship between the siblings is a personal one of confidence and trust similar to that existing between partners in a partnership, and that the relationship has irretrievably broken down.

Background

[4] A piece of land known as Riegerton Farm (the farm) was originally owned by the siblings' late father and his brother in equal shares. The siblings purchased a 50% share of the farm after their uncle died. According to Renae in 1983 a partnership was formed between the siblings and their father, the father having a 50% interest in the partnership and the siblings 16.67% each. Garry and Rowan denied that there was a partnership and maintained that it was merely a situation of

co-ownership. I shall deal with this dispute later in this judgment and in the meantime refer to the arrangement as a partnership.

[5] Portions of the farm were subdivided for the purpose of selling residential erven. According to Renae this was the business of the partnership. During 2005, following advice from a tax expert, it was decided that subdivided portions of the farm would be sold to a development company which would install services and sell the subdivided portions on a plot and plan basis. The written advice of the tax expert was annexed to the answering affidavit. In his opening remarks he said with regard to the co-owners of the farm that:

> "It is suggested that they are all partners as far as this property is concerned."

[6] It was pointed out in the advice that if the sale of land was to comprise anything more than the subdivision and sale of land, the resultant gains could be exposed to taxation in full. This tax exposure, so the advice went, is generally managed by the sale of land to a development company. It was proposed that the land be sold piecemeal to a developer for onward sales to individual buyers on a plot and plan basis, with no infrastructural services being provided by the sellers, and that the developer should be a company with shares held by the family trusts. All development profits would then accrue to the company. The remaining property and loan accounts would remain in the estates of the sellers. It was further recommended that the siblings' parents should not be connected to the development company.

[7] One Vision was the company formed as the development company and the three siblings hold equal shares in One Vision through their respective trusts. The siblings are also the directors of One Vision.

[8] After the siblings' father died their mother Norma Rieger (Norma) became a 50% partner and co-owner of the farm. A portion or portions of the farm were subdivided and sold to One Vision (there was a dispute about the number of portions purchased by One Vision), which developed the portion(s) for the benefit of the shareholders. One of the developments was called Panorama Heights. The business of the partnership and of One Vision was conducted for many years.

Events leading up to present dispute

[9] Renae said she lives in Cape Town and relied on Garry and Rowan to keep her informed of the respective businesses. Garry is primarily responsible for the business of One Vision and the partnership. Garry became increasingly abusive towards her and her family and her relationship with Garry and Rowan deteriorated significantly. She learned that her brothers had enriched themselves from the partnership and had not shared any profits with her, but it was difficult for her to identify precisely what had happened. She said that more than R6 000 000.00 had been stripped from the partnership.

[10] In these circumstances, Renae decided to terminate the partnership. Garry did not agree and Renae brought an application in this court for a liquidation of the partnership. The three respondents in the application were Garry, Rowan and Norma. Garry opposed the application on the grounds that there was no partnership. Renae's replying affidavit in that application was annexed to her replying affidavit in this application. In that affidavit she mentioned numerous documents which she said indicated that there was a partnership. For example Garry himself had used the word "partnership" in correspondence with Renae's attorney; reference was made in minutes of meetings, at which the siblings and their

father were present, to the development of the farm as a "business"; other minutes headed "Minutes of a meeting of partners of Riegerton Farms" recorded that "any partners selling an erf would be paid 5%"; annual financial statements for the year ended 28 February 1995 were for "R F Rieger, N M Rieger, G E Rieger, R W Rieger and R Kriedemann trading as 'Riegerton Farms'"; and a rent income statement reflected that the nett profit was distributed between the siblings and their parents.

[11] Renae said that Garry eventually conceded that there was a partnership and the parties entered into a settlement agreement on 13 September 2017. The terms were as follows: the respondents were to pay Renae R1 822 599.00 (Renae said this was made up of amounts which had been unlawfully withheld from her by Garry and Rowan); Renae sold to the trustees of the Riegerton Trust and the trustees of the Rodic Trust her one sixth share in the farm for a price of R5 000 000.00; Garry and Rowan agreed to sign a deed of suretyship for the obligations of the two trusts; the respondents were to make a contribution of R150 000.00 to Renae's costs; Garry and Rowan undertook not to communicate with Renae other than in relation to the affairs of One Vision and in relation to the Bob and Norma Rieger Trust of which the siblings were co-trustees; and Garry and Rowan undertook not to abuse Renae emotionally or otherwise, including not to do so at Norma's funeral.

[12] However, according to Renae, Garry continued with his abuse. He arranged for a newspaper reporter to visit Norma, who was suffering from dementia, and ask her questions about Renae. These questions were contained in a letter from Renae's attorneys to Garry's attorneys and included asking Norma when Renae had last visited her, what presents she gave Norma, and who looked after Norma and took her to the doctor. It was alleged in the letter that Garry had set up the interview. The response from Garry's attorneys stated that the reporter had requested to

consult with Norma in connection with the High Court matter but that Garry had informed the reporter that it was a family matter and should not be reported in the newspaper. In late 2017 Renae sent birthday and Christmas presents to Norma but Garry took them and posted them back to Renae. Garry instructed Norma's carers not to allow Renae to speak to Norma on the telephone and that any of Renae's queries should be directed to him. In January 2018 Norma's doctor advised Renae that because of Norma's extremely poor state of health she should visit her as soon as possible. Renae arrived at Norma's home on 11 January 2018 but one of the carers refused to let her into the house. The carer explained that Garry had instructed her not to allow Renae to enter Norma's home and that Renae should discuss the matter with him. Renae instructed her attorneys to deal with the situation via Garry's attorneys but then received a call from a family member offering consolation for Norma's death. It appeared that Norma had already died before Renae arrived.

[13] In terms of Norma's will, the residue of Norma's estate, which according to Renae included her 50% ownership of the farm, was left to the Bob and Norma Rieger Trust. The beneficiaries of this trust are the three trusts of which the siblings respectively are trustees (the second applicant and the fourth and fifth respondents). The trustees of the Bob and Norma Rieger Trust are the three siblings and a Mr Thayn Niemand (Niemand).

[14] On 28 February 2018 Renae received an email from Niemand in which he advised that he, Garry and Rowan intended, through their majority power, to remove her as a trustee from the Bob and Norma Rieger Trust because of a material conflict of interest which had irreparably damaged the relationships between the parties and the trustees. The email specifically mentioned that Renae had recently instituted

legal proceedings against Norma who was a beneficiary of the trust, as well as against Garry and Rowan, who were beneficiaries and trustees of the trust. Renae's attorneys wrote to the other three trustees suggesting that all four trustees resign and arrange for the appointment of independent trustees.

[15] In Garry and Rowan's attorney's reply it was revealed that Norma had sold and transferred her 50% share in the farm to Garry and Rowan for R6 000 000.00, a price which Renae maintained was well below market value. Renae suspected that someone had forged Norma's signature on the sale agreement. Garry and Rowan also declined to resign as trustees. In this letter it was stated that there was no intention on the part of One Vision to acquire or develop any further land and that once the last plot of Panorama Heights was sold, the company would be wound up.

[16] By this time, so Renae maintained, the relationship between her and her brothers was non-existent. She received a request from Garry to sign One Vision's financial statements. Because Garry had withheld material information from her she had little insight into One Vision's affairs. Given conflicting information concerning the number of plots still available for sale in the development she wrote to the auditors asking for a reconciliation of all property sales by One Vision since inception. The auditors were unable to provide the reconciliation. Renae did not sign the financial statements.

[17] In March 2018 Renae's attorneys received a letter from Garry advising that expenses would have to be incurred to remove vegetation from some of One Vision's properties and that he and Rowan had authorised the expenditure. Three quotes were mentioned in the letter. The cheapest was from Riegers Contractors for R666 000.00 plus VAT. Garry also said that it was their intention to sell all plots and wind up One Vision, and that they were thinking of auctioning the plots. Garry also

mentioned that security services were to be employed owing to crime committed at the development. Renae's attorneys wrote to Garry pointing out that a special resolution of shareholders was required for the disposal of the property, and requesting certain information, including confirmation of the date of a shareholders meeting and a copy of the necessary special resolution proposed to be tabled at the meeting. An undertaking was requested that no disposal of assets would take place until the necessary formalities had been complied with. The attorneys also pointed out that the costs of clearing of vegetation appeared to be very high and requested copies of quotations for the clearing and for security services. Garry's response was to send three quotations for the clearing and one for security services. The quotation from Riegers Contractors (Pty) Ltd reflected that its directors are Garry E Rieger and Warren B Rieger. Garry did not provide the requested undertaking nor did he refer to the requirement of a special resolution of shareholders.

[18] In a further letter Renae's attorneys requested a breakdown of the quoted cost for bush clearing. Garry's response was to suggest that Renae send the attorneys to the area so they could see for themselves the extent of the bush clearing. He also said that he did not have to waste his energy on One Vision because he had other major projects to attend to.

[19] Renae made further allegations against Garry and Rowan including that Garry had purchased a shelf company using One Vision's funds, and that other withdrawals had been made from One Vision's bank account without her permission. She expressed the view that Garry and Rowan seemed intent on disposing of One Vision's remaining properties at minimal value on auction, that they apparently do not intend to pursue the objectives of One Vision by not undertaking further development of the property and that they are in the process of establishing a

separate entity from which she will be excluded, which would prevent One Vision from pursuing the objectives for which it was established. Her position is that the situation has been caused by Garry and Rowan. She has no confidence in her brothers' management of One Vision and is of the view that they are breaching their fiduciary duty towards One Vision in order to exclude her from future development opportunities. The directors are not on speaking terms and there has not been a directors meeting since 2014. Renae sees no prospect of the deadlock between her and her brothers being resolved.

[20] Garry deposed to the answering affidavit. He said that he at all material times ran businesses from the farm with the consent of the co-owners. Rowan also runs a business from the farm. Their father used to rent out houses on the farm, ran a dairy, and sold building sand from the farm. Garry continued in the manner of his late father, thereby earning income for the farm which would provide for Norma and cover property expenses. When a portion of the farm was subdivided and sold, all the co-owners received their pro-rate share of the proceeds of the sale, as co-owners, not as partners. They also shared rental income and income from the sale of top soil and sabunga.

[21] After One Vision was formed, a portion of the farm was transferred to One Vision for the price of R3 000 000.00. Garry arranged for the re-zoning, subdivision and registration of the township named Panorama Heights, and arranged for the installation of roads and services to the plots, which were then marketed. There are presently 44 plots remaining. It was always intended that once the last plot was sold, One Vision would be wound up. It was not intended that further developments would be undertaken in the name of One Vision. Since 2005 no other property has been developed in the name of One Vision.

[22] Garry said he has been the person involved in the day to day running of One Vision and Renae and Rowan have made no contribution. For his work he receives a management fee amounting to 15% of the selling price of the plots. One Vision's business activities consist only of the marketing and selling of erven which is achieved mostly through the services of estate agents. One Vision is solvent and profitable. The shareholders have been paid substantial dividends over the years. In the last 18 months there has been a reduced demand for vacant serviced erven but One Vision remains solvent.

[23] According to Garry One Vision is not a quasi-partnership. Renae and Rowan do not contribute to the running of One Vision other than in their capacity as directors and shareholders when they approve annual financial statements and make decisions as directors. Garry disagreed that it would be just and equitable for One Vision to be wound up. The running of One Vision continues as normal in pursuing its objective of selling the remaining plots. Renae, so he stated, can dispose of her shares if she wishes subject to his and Rowan's pre-emptive right but neither of them are prepared to purchase them at present, nor do they have the funds to do so.

[24] Garry denied that there was any deadlock in the functioning of the company or between the directors and shareholders. Renae's interests in One Vision are treated identically to those of Garry and Rowan. With regard to Renae's allegation that the directors were not on speaking terms and that there had not been a directors meeting since 2014, he said that One Vision's business is low level and does not require regular directors meetings. He maintained that the directors are on speaking terms and that for this reason it was specifically recorded in the settlement agreement that the siblings would communicate in relation to One Vision's affairs. However Renae had decided not to communicate with her co-directors.

[25] Garry denied that he excluded Renae and Rowan from the running of One Vision or that he was stripping One Vision's assets. He also denied that he and Rowan are establishing another company to take over One Vision's business. He denied that he and Rowan have acted fraudulently towards One Vision. With regard to the allegation that he and Rowan had enriched themselves from the partnership, he said that a portion of the farm was expropriated and the proceeds, paid by Buffalo City Metropolitan Municipality, were retained in an account for specific purposes. He and Rowan were paid for their services rendered during an extensive arbitration with that Municipality. Garry denied purchasing a shelf company. The payment was to the Commission for Intellectual Property and Companies for One Vision's annual return and the Commission's fee.

[26] Garry regarded Renae's request for information from the auditors as unreasonable and said that Renae had always been informed of all sales and had signed all annual financial statements from 2007 to 2016. Renae also has access to One Vision's bank accounts and can monitor movements on the accounts. Garry denied preventing Renae from accessing information about One Vision's affairs and said that he was prepared to provide such information, within reason.

[27] Garry denied that he was abusive towards Renae and her family. He at times became frustrated at her conduct and particularly when she instituted proceedings against Norma. Garry maintained that the breakdown in the relationship between the siblings occurred when Renae wanted to be paid out for her share of the farm. She unsuccessfully tried to find a purchaser. She brought the High Court application which Garry labelled as extreme conduct which resulted in much hurt and acrimony in the family. Norma was elderly and the application took its toll on her. The settlement was a compromise, in order to bring the application to an end and protect

Norma from its adverse effects. Garry denied that he had conceded that there was a partnership. The compromise was reached because of the numerous factual disputes. Garry denied that the payment of R1 822 599.00 was an amount unlawfully withheld. He said it was made up of Renae's loan account and an *ex gratia* payment. With regard to the inclusion in the settlement agreement that Garry and Rowan should not emotionally abuse Renae, Garry denied emotional abuse and said he reasonably believed that Renae required an undertaking from him and Rowan not to communicate with her, because she knew she had extensively damaged the family relationships. Her conscience was such that she could not face Garry and Rowan directly. According to Garry Norma had disposed of her 50% share in the farm in order to avoid further acrimonious litigation in the future. Despite the breakdown of the relationship, Garry maintained that this did not affect One Vision's business which carried on as usual.

[28] Garry denied that he had arranged for a newspaper reporter to interview Norma and said that it had nothing to do with the running of One Vision. Garry agreed that he had returned the birthday and Christmas presents sent by Renae to Norma, because she had not visited Norma for two years prior to her death, and thought that Renae ought to visit Norma and give her the presents personally. He denied giving instructions to Norma's carers that Renae should not be allowed to speak to Norma on the telephone. What he had done was the day before Norma died, he told the carers that if anyone wanted to speak to Norma on the telephone, they were to telephone either him or Rowan's wife. Norma died at 08h30 on 11 January 2018 and the carer was requested to refer people to him or Rowan's wife. He referred to the fact that Renae had insisted that neither he or Rowan should

communicate other than in relation to One Vision and the Bob and Norma Rieger Trust matters. He accordingly denied abusing Renae in this respect.

[29] With regard to the letter he wrote concerning clearing of the bush and the possibility of selling the plots by auction, Garry said that the clearing was necessary in order to avoid squatters moving onto the property and to make the plots more saleable. Security was also necessary because of an increase in break-ins. He said that in the last six months only seven plots have been sold to one purchaser and that it takes years to sell the plots. Garry said he was aware that a special resolution was required if One Vision was to sell the majority of its assets. He regarded the request for an undertaking as ridiculous because his letter had merely indicated that there was a possibility of selling the plots by public auction. No decision was taken to sell the plots by auction and such an auction would have to be approved by the directors. There was no threat of disposing of the assets and the marketing and sale of the plots had continued as normal.

Discussion

[30] The case of *Thunder Cats Investments 92 (Pty) Ltd and Another v Nkonjane Economic Prospecting & Investment (Pty) Ltd and Others* 2014 (5) SA 1 (SCA) concerned a similar application. In considering the words "otherwise just and equitable" in s 81 (1) (d) (iii) of the Act, Malan JA said the following at paragraphs [15] to [17] (footnotes omitted):

'Otherwise just and equitable'

> [15] Section 344(h) of the 1973 Act provides that a company may be wound up by the court when it is 'just and equitable' to do so. A winding-up on this basis 'postulates not facts but only a broad conclusion of law, justice and equity, as a ground for winding-up'. The subsection is not confined to cases which were analogous to the grounds mentioned in other parts of the section. Nor can any general rule be laid down as to the nature of the circumstances that had to be considered to ascertain whether a case came within the

phrase. There is no fixed category of circumstances which may provide a basis for a winding-up on the just and equitable ground. In *Sweet v Finbain* it was said:

> 'The ground is to be widely construed; it confers a wide judicial discretion, and it is not to be interpreted so as to exclude matters which are not *ejusdem generis* with the other grounds specified in s 344. The fact that the Courts have evolved certain principles as guides in particular cases, or examples of situations where the discretion to grant a winding-up order will be exercised, does not require or entitle the Court to cut down the generality of the words "just and equitable".'

Section 344*(h)* gave the court a wide discretion in the exercise of which certain other sections of the Act had to be taken into account.

[16] Some of the categories that have been identified are the disappearance of a company's substratum; illegality of the objects of the company and fraud connected in relation to it; a deadlock; oppression; and grounds similar to the dissolution of a partnership. A 'deadlock' which, because of a divided voting power at both the board and general meetings, affected the management of the company could also found a liquidation order on this ground. No doubt these categories remain under the new Act and may be extended.

[17] The word 'deadlock' is not always given the same meaning. The reference to deadlock in the previous paragraph and also in s 81(1)(d)(i) and (ii) was described as a case of 'complete deadlock', but there is no particular advantage in the introduction of this term. The 'deadlock principle', on the other hand, is —

> 'founded on the analogy of partnership and is strictly confined to those small domestic companies in which, because of some arrangement, express, tacit or implied, there exists between the members in regard to the company's affairs a particular personal relationship of confidence and trust similar to that existing between partners in regard to the partnership business'.

The 'superimposition of equitable considerations' in such a case may justify the dissolution of such a company under the just and equitable provision."

[31] In my view the arrangement between the co-owners of the farm appears to be that of a partnership. The tax expert was apparently of the opinion that the relationship between the co-owners in relation to the farm was that of a partnership. The nature of the affairs of the farm, namely the selling off of subdivided portions, the trading name, the reference to "partners" and a "business", the distribution of the profits amongst all the co-owners, and generally the contents of the various documents referred to by Renae in her replying affidavit in the liquidation application, strongly indicate the existence of a partnership. Garry himself, with reference to the

settlement agreement, said that part of the payment to Renae was her loan account. The tax expert referred to the sellers' loan accounts (see paragraph [6] above). It is difficult to understand a reference to loan accounts if the relationship was merely one of co-ownership.

[32] It follows, in my view, that the formation of One Vision was linked to and an extension of the business of "Riegerton Farms" and that although it was a juristic person, the relationship between the directors and shareholders was that of partners in a family context which had endured for many years.

[33] It is apparent that the relationship between the siblings, particularly between Garry and Renae, has irretrievably broken down and that communication between them is not possible. This conclusion is supported by Garry's failure to inform Renae, his sister, of their mother's death. Garry's response to the allegations relating to the prevention of contact between Renae and Norma was instructive. He did not deny them and his explanation for his conduct was unpersuasive. He did not dispel a scenario of an intention on his part to prevent such contact. It was cynical, to say the least, to rely on the terms of the settlement agreement regarding communication between the siblings for not informing Renae of Norma's death. Even if the settlement agreement provides for communication between the siblings in relation to One Vision and the Bob and Norma Rieger Trust, it is difficult to see how this term of the agreement could be put into practice, considering their personal relations. The breakdown of the relationship is in my view also supported by the term in the settlement agreement that Garry and Rowan were not to abuse Renae emotionally. Again Garry's explanation for this term was unpersuasive to the point of being disingenuous.

[34] Garry made much of the hurt caused to Norma by the High Court application. However those proceedings were not just against Norma but against Garry and Rowan as well. They all needed to be parties because they were partners in the partnership. His emphasis on the hurt caused to Norma was in my view an attempt to distort the true position and blame Renae for the breakdown. With regard to his purported concern for Norma, his response to the allegation that he had arranged for a reporter to visit her, a bare denial, is again instructive. Renae's attorneys' letter contained details of questions asked by the reporter but Garry's attorneys' letter in response avoided a direct response, presumably on Garry's instructions. Garry was in a position to respond much more specifically to this aspect but failed to do so. The result is that Renae's allegation can be accepted and it demonstrates manipulation by Garry of both Norma and Renae, which in turn relates to a poor relationship between Garry and Renae.

[35] The involvement of all the directors in the business of One Vision seems to have come to a standstill. There has not been a directors meeting since 2014 and Renae has refused to sign the latest financial statements. Correspondence from Garry's attorneys and Garry addressed to Renae's attorneys (see paragraphs [15] and [17] above, indicate that Garry and Rowan run One Vision without reference to Renae. Instructive in this regard is Garry's statement that he would provide information of One Vision's affairs to Renae within reason. This suggests, *prima facie*, that either he does not trust her with full information to which she is entitled, or that he believes that he can control what information he should provide to a fellow director.

[36] In this atmosphere it is difficult to see how One Vision can continue its business as envisaged, and for the benefit of the shareholders, when the directors

do not communicate and there is clearly immense personal animosity between them, and a lack of trust and confidence. It is so that some of Renae's allegations concerning Garry's and Rowan's conduct in relation to One Vision were not properly substantiated. However, in my view this does not detract from the fact of the breakdown in their relationship, and the lack of trust and confidence.

[37] *Apco Africa (Pty) Ltd and Another v Apco Worldwide Inc* 2008 (5) SA 615 (SCA) concerned an application for the winding up of the first appellant on the grounds that it was just and equitable to do so, in terms of s 344 (h) of the Companies Act 61 of 1973. Ponnan JA said the following at paragraph [30]:

> "It suffices, on the analogy of partnership law, to state that the company is now in a state which could not have been contemplated by the parties when it was formed and that it ought to be terminated as soon as possible. It is, after all, contrary to the good faith and essence of the agreement between the parties that the state of things encountered here should be allowed to continue. As it was put in *In re Yenidje Tobacco Co Ltd* (at 430):
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> > In those circumstances, supposing it had been a private partnership, an ordinary partnership between two people having equal shares, and there being no other provision to terminate it, what would have been the position? I think that it is quite clear under the law of partnership, as has been asserted in this court for many years and is now laid down by the Partnership Act, that that state of things might be a ground for dissolution of the partnership and for the reasons which are stated by Lord Lindley in his book on *Partnership* . . . and which, I think, is quite justified by the authorities to which he refers:
> >
> > > 'Refusal to meet on matters of business, continued quarrelling, and such a state of animosity as precludes all reasonable hope of reconciliation and friendly co-operation have been held sufficient to justify a dissolution. It is not necessary, in order to induce the court to interfere, to show personal rudeness on the part of one partner or the other, or even any gross misconduct as a partner. All that is necessary is to satisfy the court that it is impossible for the partners to place that confidence in each other which each has a right to expect, and that such impossibility has not been caused by the person seeking to take advantage of it.'"

[38] In my view this passage fits the circumstances of the present matter. I am satisfied that, *prima facie,* grounds have been established that it is just and equitable that One Vision be wound up.

[39] The following order will issue:

[39.1] the first respondent is placed under provisional liquidation in the hands of the Master of the High Court, Grahamstown.

[39.2] a rule *nisi* is issued calling upon all persons interested to show cause, if any, to the above Court on 05 February 2019:-

[39.2.1] why the first respondent should not be place under final liquidation; and

[39.2.2] why the costs of the application should not be costs in the liquidation.

[39.3] service of the order is to be effected:-

[39.3.1] by one publication in the Daily Dispatch newspaper;

[39.3.2] by service on the South African Revenue Services, East London;

[39.3.3] by service on the first respondent at its registered address being Farm 800 Main Road, Gonubie, East London;

[39.3.4] by service on the employees of the first respondent, if any; and

[39.3.5] by service on all registered trade unions, if any.

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J M ROBERSON
JUDGE OF THE HIGH COURT

Appearances:

For the Applicants: Adv L Olivier SC, instructed by Edward Nathan Sonnenbergs c/o Drake Flemmer & Ormond Incorporated, East London.

For the Respondents: Adv S Cole, instructed by Cooper Conroy Bell & Richards Incorporated, East London