

**IN THE NORTH GAUTENG HIGH COURT, PRETORIA
(REPUBLIC OF SOUTH AFRICA)**

Case no: 65657/12

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE: YES ☒ NO ☐	
(2) OF INTEREST TO OTHER JUDGES: YES ☐ NO ☒	
(3) REVISED	
DATE: 11/10/2013	SIGNATURE: 

11/10/2013

In the matter between:

UCON PROJECTS

APPLICANT

and

SCHEEPERS CJ AND OTHERS

RESPONDENT

JUDGMENT

HASSIM A AJ

1. This matter began as an application for the eviction of the First to Fourth respondents from portion 78 of the farm California, 507, Registration Division LT, Limpopo Province by virtue of a rei vindicatio in that the Applicant is the owner of the property.
2. When the matter was called for hearing, counsel for the applicant sought leave to hand up a supplementary affidavit setting out developments in the matter since the last pleadings were filed. There was no appearance for the Respondents.
3. It emerges that since the application was instituted the Third Respondent has been placed under provisional liquidation on 30 August 2013. The Applicant is therefore not seeking relief against the Third Respondent at this stage and requests a postponement of the matter in respect of the

Third Respondent. The return date for the provisional liquidation is 10 February 2014.

4. The First Respondent is no longer occupying the property, having left the employ of the Third Respondent. The court has been advised that he now lives in the Kalahari and that he evacuated the property on 15 May 2013.
5. The Second Respondent, a former security guard of the Third respondent also no longer occupies the property. On 26 July 2013, the Applicant, upon visiting the property, found an elderly gentleman living on the property, having been hired as a security guard by the Third Respondent. This gentleman has since been employed by the Applicant.
6. The Fourth Respondent is simply cited as "The Occupiers" of the property in question. There are no named individuals identified. The return of service from the sheriff indicates that no other workers or tenants were found or reside on the property, and the sheriff was also informed of such by the First and Second Respondents at the time.
7. The Applicant nevertheless wishes the court to grant an order against the Fourth Respondent. Counsel submitted that this is necessary because Mr Michael Bryant, who is the sole director of the Third Respondent, is frustrating the Applicant's right of ownership by claiming that he is a lawful lessee in his personal capacity. Mr Bryant does not appear to be physically occupying the land. Mr Bryant is not cited in these proceedings in his personal capacity, nor is any relief sought against him in his personal capacity.
8. To add a further twist, Mr Bryant has launched spoliation proceedings against the Applicant, the return date being 7 November 2013.
9. I am firmly of the view that I cannot grant the order requested by the Applicant regarding the Fourth Respondent. There is no person identified as being the fourth Respondent. The suggestion that the use of the citation

of 'occupiers', without more, may be used even where the applicant is fully aware of the party against whom he seeks relief, is misguided. It is not intended for a case where the applicant knows exactly who the occupier is. The effect of this would be to subvert the provisions of the Prevention of Illegal Eviction From and Unlawful Occupation of Land Act 19 of 1998. Section 4 of that Act sets out the procedure to be followed, including the details that are to be provided to the occupier on notice, and the factors that the court should consider in order to make an order that is just and equitable in the circumstances.

10. What is more, were I to grant the order requested it would frustrate spoliation proceedings that are already before another court. It is not for me to decide possessory rights as between the Applicant and Mr Bryant. Mr Bryant is not before this court.

11. In summary, no relief is sought against the first, second and fifth respondents, a postponement is sought in relation to the third respondent, and an order of eviction is sought against the nameless fourth respondent.

12. In the circumstances, I make the following order:

- 12.1. The application against the fourth respondent is dismissed.
- 12.2. The application in respect of the third respondent is postponed.
- 12.3. Costs of the postponement to be costs in the cause.