

REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

Case no: 2023/127918

(1)	REPORTABLE: No
(2)	OF INTEREST TO OTHER JUDGES: No
19.03.25	
DATE	SIGNATURE

In the matter between:

CAPITEC BANK LIMITED

Applicant

and

**UBUNTU FAMILY HEALTH CENTRE GRAYSTON
(PTY) LTD**

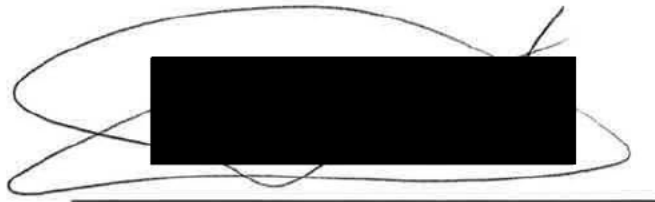
Respondent

This judgment was delivered by uploading it to the court online digital database of the Gauteng Division of the High Court of South Africa, Johannesburg, and by email to the attorneys of record of the parties on 19 March 2025.

JUDGMENT

VAN DER WALT AJ

- [1] This is a judgment in an application for leave to appeal. The applicant is Capitec Bank Limited. The respondent is Ubuntu Family Health Centre Grayston (Pty) Limited, now in liquidation, who abides the decision of this court.
- [2] In the judgment which is the subject of this application for leave to appeal, I interpreted subsection 133(1) of the Companies Act.¹ In doing so, I found that the interpretations of most pertinently the phrases “legal proceeding” (if had been interpreted not to include the rei vindicatio) and “lawfully in its possession” in previous judgments of this court and that of other divisions are, with respect, incorrect.
- [3] The decision appealed against therefore involves a question of law of importance in respect of which a decision of the Supreme Court of Appeal is required to resolve the differences of opinion.
- [4] In the event, I make the following order:
1. Leave to appeal to the Supreme Court of Appeal is granted.
 2. Costs are to be costs in the appeal.

A handwritten signature in black ink is written over a solid black rectangular redaction box. The signature is cursive and appears to be 'Van der Walt'. Below the signature and box, there is a horizontal line.

¹ Act 71 of 2008.

Nico van der Walt

Acting Judge, Gauteng Division,
Johannesburg.

Heard: 19 March 2025

Judgment: 19 March 2025

Appearances:

For the applicant

Mr W.G. Pretorius

Instructed by Brooks & Braatvedt Inc.

For the respondent

Mr S. Janse Van Rensburg SC

Instructed by liquidators Messrs Seima and Sibanda