

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number:2025/146533

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
11 September 2025	
DATE	SIGNATURE

In the matter between:

SANLAM SPECIALISED ASSET MANAGEMENT (PTY) LTD

Applicant

and

FEELER AFRICA (PTY) LTD
(Registration number:2016/224590/07)

Respondent

JUDGMENT

BOTHMA, AJ

1. The applicant applies for the urgent liquidation of the respondent on the basis of an indebtedness of R33 827 777,08 and the respondent's inability to pay its debts.

2. The urgent application was served on the respondent on Monday, 25 May 2025. The respondent was given until Friday, 29 May 2025 to file a notice of intention to oppose and until Monday, 1 September 2025 to file its answering affidavit.
3. The respondent filed an answering affidavit on Thursday 4 September 2025 wherein it mainly took issue with the allegations concerning urgency contained in the founding affidavit. In its answer the respondent does not deal with the merits of the liquidation application but strongly denies the urgency of the matter.
4. The applicant's case on the merits is not seriously disputed and the applicant has shown a clear case for the winding-up of the respondent. The only issue before me is that of urgency.
5. The respondent asks, both in its answering affidavit and in its heads of argument for the opportunity to file a further affidavit if the issue of urgency goes against it. In my view such an approach is not catered for in the rules nor does the case law support it.
6. In **Republikeinse Publikasies (Edms) Bpk v Afrikaanse Pers Publikasies (Edms) Bpk** 1972 (1) SA 773 (A) at p782, the Supreme Court of Appeal held that a party dare not ignore the time limits set by an applicant in an urgent application. What that entails is that a respondent has one opportunity to answer the applicant's case. The respondent is not permitted to have the

matter heard in a piecemeal fashion in the hope that it will be successful with its argument on urgency.

7. In **Republikeinse Publikasies** at p782 Rumpff JA held: *"In die geval van 'n dringende aansoek word 'n aansoekdoener toegelaat om by kennisgewing van mosie op te tree sonder om die Reëls wat van toepassing is op gewone beregting in aanmerking te neem. Die aansoekdoener word in 'n sekere sin toegelaat om, na gelang van die omstandighede van die geval, sy eie reëls te maak, maar 'vir sover moontlik' in ooreenstemming met die bestaande Reëls. Reël 6 (12) maak dus voorsiening vir 'n proses onderhewig aan ander Reëls as die gewone en wanneer 'n aansoekdoener op so 'n prosessuele manier voor die Regter verskyn moet hy die Regter vra om af te sien van die Reëls van gewone beregting. Hy hoef nie éérs na die Regter te gaan om toestemming te vra om by buitengewone beregting op te tree nie omdat Reël 6 (12) uitdruklik bepaal dat die Regter so 'n geleentheid kan afhandel waar en wanneer hy goed dink. Tree 'n aansoekdoener onder hierdie Reël op en stel hy die respondent in kennis dat hy die aansoek as dringend beskou, volg dit m.i. dat die respondent verplig is, in die sin dat hy die risiko loop van 'n bevel teen hom by verstek, en geregtig is om die reëls wat die applikant vir homself gestel het voorlopig te aanvaar. Wanneer die saak voor die Regter dien, kan hy beswaar maak, maar intussen darf hy nie die reëls wat die applikant vir homself maak te veronagsaam nie." (emphasis added)*
8. What is required is for a respondent to do as well as it can in the time allowed and to set out its case and its defences on material issues in one affidavit. The matter before me proceeded on this basis.

9. As stated above, the applicant makes out a clear case for liquidation of the respondent. The only issue is urgency.
10. On 24 July 2025, the applicant applied to the Gauteng High Court under case number 2025/121790, on an urgent and *ex parte* basis for an order authorising it to take possession of the respondent's movable assets on the strength of a notarial bond. On 29 July 2025, the Gauteng High Court granted a perfection order as sought authorising the applicant to take possession of the respondent's movable assets at its premises or at such further address as they may be found and to sell and dispose of the movable assets to the extent of the respondent's indebtedness to the applicant.
11. On 14 August 2025, the applicant, assisted by the sheriff, executed the perfection order by taking possession of the movable assets of the respondent found at its premises in Kempton Park.
12. In its founding affidavit, the applicant relies on the respondent's insolvency and the inordinately large sum of money owed by the respondent to the applicant together with the further considerations of competing claims to a significant portion of the respondent's movable assets and the fact that further assets are at associated dealerships throughout the country.
13. The applicant accordingly contends that a liquidator is best placed to undertake the necessary investigations and make the necessary determinations with respect to movable assets and to also take control of the

respondent's movable assets wherever they may be found. In its replying affidavit, the applicant then further expands on the issue of urgency.

14. The respondent takes issue with all aspects of the applicant's case dealing with urgency. In particular, the respondent contends that the urgency that the applicant relies upon is self-created and that the relevant date that the court should consider is April and May 2024 when the respondent failed to honour its financial obligations to the applicant.
15. In my view, the respondent's contention is not correct and the trigger for urgency is the granting of the perfection order on 29 July 2025 and the taking into possession of the movable assets on the 14th of August 2025.
16. Although the respondent contends that the application lacks urgency it does not refute the case set out by the applicant regarding the perilous financial position of the respondent.
17. If the applicant had brought this matter in the ordinary course and had served its long form notice of motion on 25 August 2025 the respondent would not have been required to file an answering affidavit before 22 September 2025 and the matter would not have been heard this year. I therefore also find that the applicant would not have been afforded proper redress if the matter were heard in the ordinary course.
18. Having regard to all the facts in this matter and also taking into account the inherent urgency in insolvency matters (**Ex parte Nell NNO 2014 (6) SA 545**

(GP) at para 55) I am of the view that a proper case for the winding-up of the respondent is made out and there is urgency of a sufficient degree to warrant this court hearing the matter as one of urgency.

19. Lastly, I must add that it would be illogical and not in the interests of justice if this matter were to be struck for a lack of urgency, where there is no defence on the merits, where the respondent is clearly unable to pay its debts and where the papers have been read and considered.

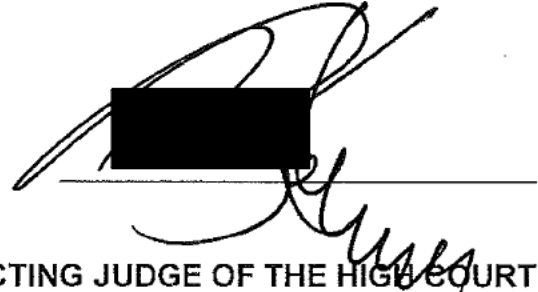
20. I accordingly make the following order:

20.1 The respondent is placed under provisional winding-up in the hands of the Master of the High Court, Johannesburg.

20.2 All persons who have a legitimate interest are called upon to put forward on the 28th October 2025 at 10h00 or so soon thereafter as counsel may be heard, the reasons why this court should not order the final winding-up of the respondent and that the costs of this application be costs in the winding-up of the respondent.

20.3 A copy of this order is to be served on the various persons as provided for in section 346A of the Companies Act, 1973 and is to be published once in the Government Gazette and once in a newspaper circulating in Gauteng.

20.4 A copy of this order is to be furnished to each known creditor and shareholder either per email or per telefax or per registered post.



ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

HEARD ON: 9 September 2025
DELIVERED ON: 11 September 2025

APPEARANCES:
FOR THE APPLICANT: B M Gilbert SC
N Potgieter

FOR THE RESPONDENT: Stefan Maritz SC