

REPUBLIC OF SOUTH AFRICA



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

CASE NUMBER: 2024-089623

- (1) REPORTABLE: YES / ~~NO~~
- (2) OF INTEREST TO OTHER JUDGES: YES / ~~NO~~
- (3) REVISED: ~~YES~~ / NO

19 November 2025

DATE

SIGNATURE

VOLTEX (PTY) LTD
(Registration Number: 1964/006740/07)

APPLICANT

AND

BOPAPE, NATHAN LEBOGANG

RESPONDENT

Heard: 27 October 2025

Delivered: 19 November 2025

Headnote: Insolvency – Sequestration – Final order – Act of insolvency established by nulla bona return – Respondent granted indulgence to file supplementary affidavit but failed to do so – Alleged reliance on sale of properties in deceased estates irrelevant and

unsubstantiated – No disclosure of respondent’s own financial position – Advantage to creditors reasonably established – Provisional order confirmed.

WRITTEN REASONS

WINDELL J:

Explanatory note: On 27 October 2025 this court confirmed a provisional sequestration order and placed the respondent under final sequestration. These are the reasons.

Introduction

[1] This is the return day of a provisional sequestration order granted against the estate of the respondent on 22 May 2025. The applicant seeks a final order of sequestration. The application originally included the respondent’s wife, but the applicant withdrew the proceedings against her on 25 November 2024, and the matter now concerns the respondent only.

[2] When the matter initially came before court on 1 September 2025, the respondent appeared in person. At that stage no answering affidavit had been filed, despite the application having been personally served on him almost a year earlier. In the interests of justice, he was granted an indulgence to file an answering affidavit during the week of the hearing.

[3] The respondent availed himself of this opportunity and delivered an answering affidavit on 2 September 2025. The applicant filed its replying affidavit on 3 September

2025. When the matter resumed, it was apparent that several allegations made by the respondent were contradicted by documentary evidence disclosed in the replying affidavit, including Deeds Office searches and correspondence regarding the purported sale of immovable properties.

[4] Given these discrepancies, I granted a further indulgence to the respondent to file a supplementary answering affidavit. The purpose of this affidavit was narrow but important: the respondent was directed to place evidence before the court explaining why the sequestration of his estate would not be to the advantage of creditors. He was afforded until 24 September 2025 to comply. The provisional order was thus extended to 27 October 2025.

[5] Despite the clear directive and the considerable indulgence granted to him, the respondent did not file any supplementary affidavit and has placed no further evidence before the court. The matter therefore proceeds on the founding papers, the answering affidavit of 2 September 2025, and the applicant's replying affidavit.

Factual background

[6] The applicant's claim arises from goods sold and delivered to Lebogang Electrical Wholesalers (Pty) Ltd during the period October 2017 to June 2018. The respondent bound himself as surety and co-principal debtor for that indebtedness.

[7] Judgment against the respondent was granted on 7 May 2019 in the amount of R2 772 861.76, together with ancillary relief. Despite the lapse of more than six years since judgment was granted, no payment has been made.

[8] On 16 July 2024, pursuant to the judgment, a writ of execution was served on the respondent. The Sheriff returned a nulla bona, reporting that he was unable to find attachable movable assets. This constitutes an act of insolvency under section 8(b) of the Insolvency Act 24 of 1936.

[9] In his answering affidavit, the respondent did not dispute the indebtedness, the judgment, or the act of insolvency. Instead, he sought to persuade the court that he was in the process of liquidating several immovable properties that belonged to the deceased estate of his late parents, in which he serves as executor, and that the proceeds of those sales would ultimately be available to settle his debt to the applicant.

[10] According to the respondent, six properties belonging to the deceased estates had either been sold or remained on the market. He asserted that two of the properties had already been sold and that four additional properties were being marketed, with a combined estimated value of R5 million. He claimed that the proceeds of the sales would be used to settle the liabilities of the estates, including the applicant's claim.

[11] He also expressed his commitment to settling the debt in full and requested the court's patience while the transfer processes were finalised.

Evaluation

[12] The applicant's reply demonstrates that the respondent's allegations are materially deficient. Deeds Office searches conducted after receipt of the answering affidavit reveal that only three properties are registered in the names of the deceased parents. Two of these properties are subject to mortgage bonds totalling R1.8 million. There is no

evidence regarding the outstanding amounts on these bonds or the current equity position.

[13] The respondent provided no substantiation for his assertion that the properties have a combined value of R5 million. He offered no valuations, no municipal estimates, no estate agent letters, and no documentary proof of offers or concluded sales, save for a letter dated 2 September 2025 referring to an offer to purchase that had not yet resulted in transfer more than a year after signature.

[14] Critically, the respondent failed to indicate who the other creditors of the deceased estates are, in what amounts they are owed, or whether any proceeds realised would be available for distribution after the settlement of estate claims and the satisfaction of secured creditors.

[15] More importantly, the application before this court concerns the sequestration of the respondent in his personal capacity, not the estates of his late parents. The respondent has provided no information whatsoever regarding his own assets, liabilities, monthly income, expenses, or financial solvency. This omission is material.

[16] The respondent's failure to file a supplementary affidavit—despite being afforded a generous opportunity to address these very issues—reinforces the inference that he is unable to meaningfully rebut the factual material placed before the court in reply.

[17] To succeed in obtaining a final sequestration order, an applicant must establish a liquidated claim; an act of insolvency or factual insolvency; and a reasonable prospect that sequestration will be to the advantage of creditors.

[18] The first two requirements are conceded or indisputable on the papers. The remaining issue is whether sequestration will be to the advantage of creditors.

[19] The threshold for establishing advantage is not high. A reasonable prospect of some pecuniary benefit is sufficient. This may include the prospect of investigations by a trustee, the recovery of concealed or unknown assets, or the equitable distribution of assets through the statutory winding-up process.¹

[20] On the evidence, the respondent owns immovable property jointly with his former spouse and holds interests in several juristic entities. These assets require proper investigation, which only a trustee can conduct. The respondent has provided no cogent or reliable evidence of solvency or of an alternative mechanism that would result in the applicant being paid.

Conclusion

[21] The respondent has had more than six years to liquidate or reduce the judgment debt. He has not done so. His reliance on the liquidation of the deceased estates is vague, unreliable, unsupported, and irrelevant to his own financial position.

[22] His failure to file the supplementary affidavit, which was directed specifically at the question of advantage to creditors, leads to the only reasonable conclusion. He is unable to dispute the applicant's case on this requirement.

¹ *Stratford and Others v Investec Bank Ltd and Another* 2015 (3) BCLR 358 (CC); 2015 (3) SA 1 (CC); (2015) 36 ILJ 583 (CC) (19 December 2014); *Meskin & Co v Friedman* 1948 (2) SA 555 (W).

[23] The applicant has shown that a trustee may recover assets or equity, investigate the respondent's financial affairs, and potentially realise value for creditors. This satisfies the statutory requirement.

[24] In these circumstances, the applicant has established all the jurisdictional requirements for the granting of a final sequestration order. The respondent has not placed any reliable evidence before the court to rebut the applicant's case or to show that sequestration would not be to the advantage of creditors.

[25] In the result the following order is made:

1. The provisional sequestration order granted on 22 May 2025 is confirmed.
2. The estate of the respondent is placed under final sequestration.



L WINDELL

JUDGE OF THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

Delivered: This judgement was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 19 November 2025.

Appearances

For the applicant:

Mr K. Lavine

Instructed by:

Orlewitz Inc

For the first respondent:

In person

Date of Hearing:

27 October 2025

Date of Judgment:

19 November 2025