



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

- (1) REPORTABLE: No
(2) OF INTEREST TO OTHER JUDGES: No
(3) REVISED.

SIGNATURE

DATE: 19 January 2026

Case No. 2024-077776

In the matter between:

KRUGER RANCH INVESTMENTS (PTY) LTD

Applicant

and

ABSA BANK LIMITED

First Respondent

MASTER OF THE HIGH COURT, JOHANNESBURG

Second Respondent

JOHANNA MAHANYELE NO

Third Respondent

RENE WEBBER NO

Fourth Respondent

RANEL FINANCIAL TRUST (PTY) LTD

Fifth Respondent

SHERIFF OF THE HIGH COURT – KOSTER

Sixth Respondent

JUDGMENT

WILSON J:

- 1 On 2 December 2025, the applicant, Kruger Ranch, instituted proceedings to rescind a final order for its winding-up, which was granted in this court on 27

February 2025. Kruger Ranch now applies to me for a stay of the winding-up order, pending the final determination of the rescission application.

- 2 The application was enrolled in my urgent court on 13 January 2026, Kruger Ranch having averred that it only became aware of the winding-up order on 26 November 2025. The case for urgency is in many respects dubious, not least because it is impossible to credit the claim that the winding-up order only came to Kruger Ranch's attention some nine months after it was made. However, counsel for the respondents ultimately accepted that the application should be treated as urgent, if only because its manifest lack of merit rendered it in the interests of justice that it be dismissed rather than struck from the roll.
- 3 The stay and rescission applications are both prosecuted on Kruger Ranch's behalf by one of the company's former directors, a Mr. Clinton Kruger. Ms. Denichaud, who appeared for the first respondent, Absa Bank, took the preliminary point that Mr. Kruger could not bring such an application on Kruger Ranch's behalf, since the final winding-up order had divested him of the power to act for the company. Assuming Kruger Ranch could apply for the rescission of the order winding it up, the company could only do so if assisted by its liquidator, in whom control of the company is vested as a matter of law.
- 4 Ms. Denichaud submitted that, if Mr. Kruger wanted to reverse the winding-up order, he was required to bring an application under section 354 (1) of the Companies Act 61 of 1973. That provision entitles any "liquidator, creditor or member" of a company being wound up to apply to have the winding-up order set aside. Ms. Denichaud submitted that Mr. Kruger's failure to bring the

applications for stay and rescission under that section meant that the stay application had to be dismissed on that ground alone.

5 Such was the intuitive appeal of this submission that Ms. Simelane, who appeared for Kruger Ranch, conceded the point when I put it to her at the outset of her argument. That might have been the end of the case, had Mr. Lautré, who appeared for the third respondent, Kruger Ranch's liquidator, not drawn our attention to the decision of the Supreme Court of Appeal in *Dr WAA Gouws (Johannesburg) v HR Computek (Pty) Ltd* 2025 (6) SA 89 (SCA) ("*Gouws*"). In that matter, the Supreme Court of Appeal decided that a company can, after all, bring an application to set aside orders for its own winding-up, and that its erstwhile directors may do so on its behalf without the consent or the assistance of the company's appointed liquidator.

6 Both Mr. Lautré and Ms. Denichaud were critical of the decision in *Gouws*, but neither of them submitted that I could ignore it. Ms. Denichaud's attempts to distinguish this case from *Gouws* on the facts were thoughtful but unconvincing. I am constrained to conclude, on the authority in *Gouws*, that the stay application is properly before me. Having gratefully adopted Mr. Lautré's submissions on the point, Ms. Simelane set out her case on the merits.

7 That case is exceptionally weak. Its essence is that service of the application for winding-up was defective, since Kruger Ranch was served at its registered address rather than at its principal place of business. Ms. Simelane relied on a Sheriff's return that suggests that Kruger Ranch no longer operated from its registered address at the time the winding-up application was served. There

is no substance to this point. Service on a company's registered address is good service. If a company vacates its registered address, it has the responsibility either to ensure that its registered address is updated on the relevant public register, or to ensure that process delivered to its registered address will be brought to its attention. Kruger Ranch does nothing in its papers to set out the circumstances that would have prevented process served on its registered address from coming to its attention. Nor does Kruger Ranch expressly aver, in either its stay or rescission application, that the founding papers in the winding-up application did not in fact come to its or its directors' attention.

8 Ms. Simelane submitted that the winding-up order should never have been granted, since the debt Absa Bank relied upon to obtain it had prescribed at the time the winding-up application was instituted. The debt in question was a loan Absa advanced to Kruger Ranch in August 2019. The term of the loan was to run until 1 November 2026. Kruger Ranch defaulted on the loan on 16 April 2024. Ms. Simelane submitted that the "debt" embodied in the loan fell due when the loan was advanced. That being so, the debt prescribed in August 2022.

9 This is manifestly wrong. The full outstanding amount repayable on the loan fell due when Absa called the loan up on default. This could only have happened after the default occurred, on 16 April 2024. Assuming that the amount due under the loan agreement was an ordinary debt, Absa's claim for it would have prescribed on 17 April 2027 at the earliest. Ms. Denichaud pointed out that the loan amount was in fact secured by a mortgage bond,

meaning that it would only have prescribed after 30 years, but I need not consider that issue. The debt had plainly not prescribed at the time the winding-up application was brought.

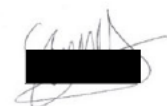
10 The other submissions advanced in support of the rescission application were similarly lacking in substance. It was suggested that the loan amounted to reckless credit under the National Credit Act 34 of 2005. But this overlooks the fact that the Act does not apply to the loan, because Kruger Ranch is a juristic entity, whose turnover exceeds the relevant amount the Act prescribes. It was contended that Kruger Ranch was factually solvent at the time it was wound up, but no evidence of that proposition was presented in support of it. It was argued that winding-up order was invalid because summons had not been issued claiming the debt upon which the order was founded. But no such summons was necessary. The winding-up application was founded upon Kruger Ranch's undisputed failure to answer a statutory notice issued under section 345 (1) (a) of the Companies Act, calling upon it to settle the debt it owed to Absa.

11 In all these circumstances there can be no *prima facie* right to the rescission of the winding up order, and accordingly no basis on which to stay its execution. The stay application will be dismissed.

12 Both Ms. Denichaud and Mr. Lautré asked me to order Mr. Kruger, the deponent to Kruger Ranch's founding affidavit, to pay the costs of this application in his personal capacity, on the attorney and client scale. It was argued that Mr. Kruger had litigated in bad faith, and that his true intent was not to stay or rescind the winding-up order, but to hold the winding-up process

at bay for so long as is necessary to strip Kruger Ranch of its income streams and assets.

- 13 The circumstances of this case are certainly consistent with such a scheme, but if that is what is really happening, Mr. Kruger's unlawful acquisitions can and must be pursued as part of the winding-up process itself. The fundamental problem in this case is the manner in which Kruger Ranch's legal representatives have allowed themselves to abet an application which transparently lacks merit, and which has been slovenly pursued. I cannot imagine, on the material before me, how Kruger Ranch could ethically have been advised to advance either the rescission or the stay application in the form that they were presented to me. The founding affidavits in both cases are repetitive but nonetheless lack either detail or particularity. Transparently bad points are taken, and the points that might, in theory, have grounded a colourable claim are left unelaborated. This was a poorly litigated case.
- 14 Be that as it may, no-one has asked me to mulct Kruger Ranch's legal representatives in costs, and that is reason enough to refrain from doing so.
- 15 The application is dismissed. The costs of the application, including the costs of the abortive hearing on 17 December 2025, and the costs of counsel, which may be taxed on scale "B", will be costs in the winding-up.



S D J WILSON
Judge of the High Court

This judgment was prepared by Judge Wilson. It is handed down electronically by circulation to the parties or their legal representatives by email, by uploading it to the

electronic file of this matter on Caselines, and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed to be 19 January 2026.

HEARD ON: 13 January 2026

DECIDED ON: 19 January 2026

For the Applicant: Ms Simelane
(Trust Account Advocate)

For the First Respondent: C Denichaud
Instructed by Jay Mothobi Inc

For the Third Respondent: T Lautré
Instructed by Oosthuizen Caine Inc