

IN THE HIGH COURT OF SOUTH AFRICAGAUTENG DIVISION, JOHANNESBURGCASE NO: 005394/2024DATE: 24.02.2026

DELETE WHICHEVER IS NOT APPLICABLE
 (1) REPORTABLE: NO
 (2) OF INTEREST TO OTHER JUDGES: NO
 (3) REVISED



SIGNATURE

DATE: 24 February 2026

In the matter between

10 BODY CORPORATE OF KOLMANS

Applicant

and

MOGAILE ANDRIES MOGASHOA

Respondent

J U D G M E N T E X T E M P O R E

WILSON, J: This is an application to finally sequestrate Mr Mogashoa, the respondent in these proceedings. When the matter was called this morning, Mr Mogashoa was not in attendance nor was any counsel or attorney briefed on his behalf placed on record.

It appears from correspondence between Mr Mogashoa and my registrar that Mr Mogashoa would have preferred a virtual hearing. However, there was no motivation whatsoever given for the request for a virtual hearing. In an affidavit dated 18 August 2025, Mr.

Mogashoa says that he “experience[s] some degree of travelling in current times, for various reasons” and that “there exist[s] a possibility that the day a court hearing date announced; it may clash with these travels, meaning I may not be in the city to attend [the] hearing and make representations”. It was on this basis that Mr. Mogashoa requested what he called a “virtual sitting”. Mr. Mogashoa’s affidavit was filed a full six months ago. There is no further explanation of why Mr Mogashoa cannot attend the hearing
10 in person today.

In those circumstances, the default approach being that all matters are heard in open court, and having issued a directive that all of the matters on my roll for this week would be heard in open court, I was not inclined to grant Mr Mogashoa a virtual hearing. Mr Mogashoa was informed of this yesterday, on 23 February 2026. His response, received by email shortly before the matter was called, was that he would like the court to find some other day on which the matter can be heard virtually. Again, no reason was given
20 why Mr. Mogashoa is unable to attend court in person today.

Since Mr. Mogashoa is a lay litigant, I will interpret the request in his email as an application to postpone the matter. But such an application has no prospects of success. The applicant's case on the merits is overwhelming. Van der Merwe AJ granted a provisional

order on 4 December 2025, in which he found that all the requirements for a provisional sequestration order had been fulfilled: *prima facie* the applicant has a claim in excess of the prescribed amount; an act of insolvency has been committed (in that Mr. Mogashoa failed to satisfy a judgment debt, the Sheriff, on 4 April 2023, having issued a *nulla bona* return in confirmation of this); and there is an advantage to creditors to be had in sequestrating Mr. Mogashoa.

10 Nothing has been placed before me today that would displace those *prima facie* findings. Indeed the defence on the merits in Mr. Mogashoa's answering affidavit is far from coherent. It is undisputed that Mr Mogashoa is hopelessly behind with his payments to the applicant, of which he is a member. He is also hopelessly behind with his payments to the City of Johannesburg which supplies him with services. I understand from the papers that Mr. Mogashoa's only known immovable property has been attached in execution of a mortgage debt outstanding on it.

20 In these circumstances, Mr Mogashoa, in addition to having committed the acts of insolvency set out on the papers, is quite plainly hopelessly factually insolvent.

 There are also at least three creditors, one of whom is the applicant, who would derive some benefit from Mr Mogashoa being sequestrated. His affairs, on the

papers, seem to me to be murky at best. Mr Mogashoa says he operates a company. I do not know on the papers whether that company is profitable, has any assets distinct from Mr. Mogashoa's own or gives Mr. Mogashoa any sort income.

A trustee appointed as part of the insolvency process would no doubt be able to explore those issues and would be able to consider whether a reasonable dividend for at least the three creditors named in this application and any
10 other creditors Mr Mogashoa might have, could be calculated and paid out. There is accordingly, on the undisputed facts, a clear advantage to creditors.

It is for these reasons that in my view the applicant's prospects of success in the main application are overwhelming.

It follows that Mr Mogashoa suffers little to no prejudice if I refuse to postpone the matter and grant an order against him in his absence. If he were here, he could do no better than the papers would allow. On the papers
20 there is no prospect of Mr. Mogashoa resisting a final sequestration order.

The prejudice to the applicant and to Mr Mogashoa's creditors, in granting a postponement, is, on the facts as I have set them out, palpable. In particular the applicant suffers real prejudice from having to put up with an owner of

one of its sections who does not pay his levies. The failure of Mr Mogashoa to pay those levies no doubt prejudices the other members of the body corporate who have every right to live in a well-run and solvent sectional titles scheme.

For all these reasons the application cannot be postponed, and must plainly succeed.

I will grant an order for Mr Mogashoa's final sequestration in terms of the draft handed up by counsel, which I have signed, dated and marked X.

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WILSON, J
JUDGE OF THE HIGH COURT
24 February 2026

