REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case Number: 2025-026740

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: NO

[redacted]

9 March 2026
DATE   SIGNATURE

In the matter between:

IMRAN DINATH N.O.	First Applicant
ELIZABETH WILANDA PRINSLOO N.O.	Second Applicant
and	
MANDLAKAYISE PRINCE NDAMASE	Respondent

Delivered: this judgment was prepared and authored by the judge whose name is reflected and is handed down electronically and by circulation to the parties/their legal representatives by email and by uploading it to the electronic file of his matter on Caselines. The date for handing down is deemed to be 9 March 2026.

ORDER

1. The payments made by Champions Royal Assembly NPC (in liquidation) to the respondent reflected in Annexures "X1" and "X2" to the notice of motion, in the total amount of R1 730 898.00, are declared dispositions not made for value and are set aside in terms of section 26(1)(a) read with section 32 of the Insolvency Act 24 of 1936 and section 340 of the Companies Act 61 of 1973.

2. The respondent is ordered to pay to the applicants the amount of R1 730 898.00.

3. The respondent is ordered to pay interest on the aforesaid amount at the applicable prescribed legal rate as contemplated in the Prescribed Rate of Interest Act, Act 55 of 1975 (as amended), *a tempore morae* to date of final payment.

4. The respondent is ordered to pay the cost of this application on scale C, including the cost of counsel.

JUDGMENT

CARELSE AJ

Introduction

[1] This is an opposed application in terms of section 26(1)(a) read with section 32 of the Insolvency Act 24 of 1936 (the Insolvency Act), as made applicable to companies by section 339 of the Companies Act 61 of 1973.

[2] The applicants are the duly appointed joint liquidators of Champions Royal Assembly NPC (in liquidation) (Champions Royal). They seek to set aside certain payments and withdrawals effected during 2019 in favour of the respondent as dispositions not made for value.

[3] The impugned transactions comprise:

(a) Payments into the respondent's personal bank account totalling R1 109 198.00 (Annexure "X1" to the notice of motion); and

(b) Cash withdrawals effected by the respondent from Champions Royal's bank account totalling R621 700.00 (Annexure "X2" to the notice of motion).

[4] The total amount sought to be recovered is R1 730 898.00 together with interest and costs.

Background

[5] The applicants bring this application following the liquidation of Champions Royal, a related entity to Supreme National Stock Holdings (Pty) Ltd (SNS) and Joshua Iginla Ministries NPC (JIM NPC), both of which are also in liquidation.

[6] SNS was placed in liquidation by the High Court of South Africa, KwaZulu-Natal Division, Pietermaritzburg, on 24 July 2020. On 30 January 2023, that Court declared that SNS had, before its winding-up, conducted an illegal and unlawful Ponzi scheme. The scheme defrauded members of the public of approximately R650 million.

[7] During the liquidation of SNS, Champions Royal and JIM NPC were identified as related entities that had received substantial funds from SNS. Champions Royal received payments totalling R6 295 101.31. On 16 August 2022, those payments were declared voidable dispositions and Champions Royal was ordered to repay the amount. That order confirmed that Champions Royal was obliged to restore the SNS-derived funds and thus bore a corresponding liability in respect thereof.

[8] An inspection of Champions Royal's bank statements reveals that funds received from SNS were rapidly disbursed. Among the payments were the impugned transactions reflected in annexures "X1" and "X2" to the notice of motion.

[9] It is common cause that the respondent was at all relevant times, a director of both Champions Royal and JIM NPC. He does not dispute that the impugned payments and withdrawals were effected. The annexures ("X1" and "X2" together with the bank statements which they summarise, "ID9") are therefore accepted as proving

what they purport to prove and reflect the dates and amounts of the impugned transactions.

[10] The respondent was subpoenaed to provide evidence and to testify at an inquiry held under sections 417 and 418 of the Companies Act 61 of 1973 in relation to SNS. He was unsuccessful in his attempt to review and set aside that subpoena and has, notwithstanding this, still failed to provide any records to the liquidators of SNS or Champions Royal.

The issues

[11] The main issues for determination are:

(a) Whether the impugned transactions constituted dispositions not made for value within the meaning of section 26(1) of the Insolvency Act; and

(b) Whether the applicants have discharged the onus under section 26(1)(a) of proving that immediately after the dispositions, the liabilities of Champions Royal exceeded its assets.

[12] The liquidators allege that the impugned transactions constitute impeachable transactions and voidable dispositions. It should be noted that Champions Royal did not appoint auditors, submit financial statements, or provide annual reports, further complicating the administration of its estate. The respondent does not deny this. The applicants, therefore, relied on the best evidence at their disposal to prove their case.

[13] The respondent's position, without admitting or denying the existence of any financial records or related documents, is that if the applicants required documentation or information from him, they could have subpoenaed him again to appear at an inquiry under sections 417 and 418 of the Companies Act during the administration of Champions Royal's affairs, which they have failed to do. Counsel for the respondent, during argument, explained that because the onus rests on the applicants, there was no obligation on the respondent to assist the applicants in discharging such onus by providing them with documentation or information. A director of a company in

liquidation bears a statutory duty to cooperate with the liquidators and to provide information relating to the company's affairs.[1]

[14] The central issue, as emerged during the hearing, is whether, immediately after the impugned dispositions, Champions Royal's liabilities exceeded its assets, as required by section 26(1)(a) of the Insolvency Act.

The legal framework

[15] Section 26 of the Insolvency Act reads as follows:

> "(1) Every disposition of property not made for value may be set aside by the court if such disposition was made by an insolvent –
>
> (a) more than 2 years before sequestration of his estate, and it is proved that, immediately after the disposition was made, the liabilities of the insolvent exceeded his assets;
>
> (b) within two years of the sequestration of his estate, and the person claiming under or benefited by the disposition is unable to prove that, immediately after the disposition was made, the assets of the insolvent exceeded his liabilities:
>
> Provided that if it is proved that the liabilities of the insolvent at any time after making the disposition exceeded his assets by less than the value of the property disposed of, it may be set aside only to the extent of such excess."

[16] It is common cause that the impugned transactions occurred in 2019 and that Champions Royal was finally wound up on 15 March 2023. The dispositions were therefore effected more than two years before liquidation. Section 26(1)(a) applies and the onus rests squarely on the applicants. No statutory presumption operates in their favour.

[17] Section 26(1) aims to prevent someone from impoverishing their estate by giving away their assets without receiving any present or future benefit. It therefore

[1] Sections 417 and 418 of the Companies Act 61 of 1973.

applies only to gratuitous dispositions.[2] In *Umbongitwini Land and Investment Co (Pty) Ltd (in Liquidation) v Barclays National Bank Ltd*,[3] the Court held that the test for whether a disposition is made for value is whether it forms part of a genuine commercial transaction, concluded with the expectation of some advantage at the time. That advantage must be equal to or greater than the risk assumed by the party providing the security. More recently, the phrase "not made for value" in section 26(1) was held to mean that no value was received in return for the disposition.[4]

[18] The meaning of the phrase "not made for value" in section 26(1) has now been authoritatively settled by the Supreme Court of Appeal in *Strydom N.O. and Another v Snowball Wealth (Pty) Ltd and Others*.[5] The Court held that the expression means for no value at all. It thus does not extend to dispositions made for inadequate, insufficient or less-than-market value. If some real and substantial value was received in return, the disposition does not fall within section 26(1), even if the bargain was objectively a poor one.

[19] The enquiry in the present matter is therefore not whether Champions Royal received adequate or commensurate value, but whether it received any legally cognisable value in return for the impugned dispositions. The applicants bear the onus of establishing that no such value was received.

[20] The enquiry into insolvency under section 26 is one of factual insolvency, not commercial insolvency. In *Ex parte Harmse,*[6] the Court confirmed that factual insolvency exists where, fairly valued, liabilities exceed assets. A formally prepared balance sheet is not indispensable; insolvency may be established inferentially from admissible evidence.

[21] The evidentiary approach in motion proceedings is governed by the well-known principles in *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd*.[7] Where the respondent's version is far-fetched or clearly untenable or consists of bald or

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[2] *Estate Wege v Strauss* 1932 AD 76 at 84.
[3] *Umbongitwini Land and Investment Co (Pty) Ltd (in Liquidation) v Barclays National Bank Ltd* 1987 (4) SA 894 (A).
[4] *Strydom N.O. and Another v Snowball Wealth (Pty) Ltd and Others* 2022 (5) SA 438 (SCA) at paras 32 and 36.
[5] Id.
[6] *Ex parte Harmse* 2005 (1) SA 323 (N) at paras 8–9; *Strydom* id at para 27.
[7] *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A) at 635C.

unsubstantiated denials in circumstances where the facts lie peculiarly within his knowledge, a court is not bound to accept such assertions.

Dispositions

[22] It is common cause that the payments and withdrawals constituted transfers of property from Champions Royal to the respondent. They therefore fall within the statutory definition of "disposition" in the Insolvency Act.

Whether the Dispositions Were Made for Value

[23] Champions Royal paid into the respondent's personal bank account a total amount of R1 109 198.00, as shown in annexure "X1". These payments were made between 1 March 2019 and 24 December 2019. The cash withdrawals made by the respondent from Champions Royal's bank account, totalling R621 700.00 (as appears from annexure "X2"), occurred during the period of 9 February 2019 to 28 December 2019.

[24] The respondent contends that he acted as a volunteer and that the monies were utilised for church-related expenses, including municipal accounts, venue bookings and transport.

[25] No invoices, vouchers, reconciliations, proof of payment, accounting records or other documentary substantiation are annexed to the answering affidavit. No contractual entitlement to remuneration or reimbursement regime is identified or explained. No explanation is given as to why corporate expenses would be channelled through a director's personal account when Champions Royal maintained its own bank account, rendering his explanation far-fetched and clearly untenable.

[26] Champions Royal did not appoint auditors, and as far as the liquidators could ascertain, also did not keep any accounting books, asset registers, or the like.

[27] A bare and unsubstantiated allegation that funds were utilised for church purposes does not establish that any value was given to Champions Royal. This is

particularly so where the applicants have gone to considerable lengths on the papers to explain why they contend that the dispositions were not made for value.

[28] The respondent, as a director and the direct beneficiary of the transfers, was uniquely placed to explain the nature and application of the funds, particularly against the backdrop of an apparent pattern whereby, once SNS paid money into Champions Royal's bank account, the funds were dissipated in large amounts within days of such payment. His failure to provide documentary substantiation justifies the drawing of an adverse inference. It is trite that where a party fails to testify or produce evidence on matters peculiarly within his knowledge, a court may draw an adverse inference.[8] In motion proceedings, bald and unsubstantiated denials do not suffice to create a genuine dispute of fact.[9]

[29] On the probabilities, and in the absence of cogent proof of any *quid pro quo*, the applicants have established that the dispositions were not made for value within the meaning of section 26(1).

The insolvency enquiry

[30] The respondent contends that the applicants have failed to prove factual insolvency in 2019 because they have not produced any balance sheets or formal financial statements.

[31] That contention misconceives the nature of the enquiry. Factual insolvency is a question of fact determined by comparing the value of the debtor's assets with its liabilities at the relevant time. It may be established inferentially from admissible evidence. The absence of formal financial statements is not dispositive if the evidence otherwise demonstrates that liabilities exceeded assets.

[32] The respondent further contends that Champions Royal was solvent at the time because it received payments from SNS and additional contributions from the church members.

[8] See for example *Oosthuizen v Minister of Police*, unreported judgment of Gauteng High Court, Pretoria, Case No 23993/2016 (11 April 2023) at [11] to [12]; and the authorities cited there.
[9] See *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd).*

[33] Two answers dispose of that contention. First, donations from church members were negligible compared with funds from SNS. Second - and more fundamentally - the submission proceeds on the premise that any obligation to repay the SNS funds arose only upon the subsequent judicial declaration that SNS operated an unlawful Ponzi scheme.

[34] That premise is legally unsustainable.

[35] The same argument was raised and correctly rejected in *Dinath and Another v Iginla and Another*,[10] where the liquidators of JIM NPC sought to set aside payments that were used to purchase a farm, in the name of the first respondent (Joshua Lasisi Iginla), in terms of section 26 of the Insolvency Act. Nharmuravate AJ found that, "when the high court in KwaZulu-Natal Pietermaritzburg confirmed that SNS was engaged in an unlawful Ponzi scheme as rightfully argued by the applicant, that decision meant that all payments made by SNS to JIM NPO retrospectively became due and payable".[11] Properly understood, that court did not create a new obligation; it recognised that the scheme's unlawfulness rendered the payments repayable from inception.

[36] I agree. It is trite that an unlawful agreement is void ab initio. A court order declaring such illegality does not create invalidity; it merely recognises a pre-existing legal position. The legal consequences flow from the unlawfulness itself, not from the order recording it.

[37] In the context of a Ponzi scheme, which is inherently illegal and void ab initio, as the Court found on 30 January 2023, the obligation to restore funds is triggered by performance rendered pursuant to the unlawful scheme. The subsequent court order confirming the scheme's illegality is declaratory, not constitutive. It confirms a liability that burdened the recipient from the moment of transfer; it does not bring that liability into existence.

[38] Accordingly, the contention that the SNS payments could be treated as unencumbered assets for purposes of determining solvency cannot be sustained.

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[10] *Dinath and Another v Iginla and Another,* unreported judgment of the Gauteng High Court, Pretoria, Case No 079671/2023 (22 November 2024).

[11] Id at para [35].

Each receipt carried with it a simultaneous restitutionary liability. The fact that such liability had not yet been reduced to judgment does not detract from its existence as a liability for purposes of the balance-sheet enquiry.

[39] To hold otherwise would permit an entity's factual insolvency to be obscured by the temporary possession of proceeds derived from an unlawful enterprise. The law does not recognise as "assets" funds that are immediately burdened by an obligation of restoration equal in value.

[40] Once those liabilities are recognised, Champions Royal's financial position becomes clear:

(a) Its assets consisted primarily of transient bank balances;
(b) It possessed no immovable property;
(c) The only movable asset identified by the liquidators was a tent;
(d) It had no independent income-generating asset base of substance;
(e) It was entirely dependent on SNS-derived funds, which were rapidly disbursed.

[41] On the uncontested evidence, Champions Royal lacked the asset base necessary to meet its concurrent restitutionary obligations at the time each impugned disposition was made. Put simply, once the SNS-derived funds were paid to the respondent, Champions Royal was left without sufficient assets to discharge the liability attached to those funds. Its liabilities, therefore, exceeded its assets immediately upon each such payment. Factual insolvency has accordingly been established.

[42] No evidence of surplus assets of any nature has been produced. The respondent, as a former director, was uniquely placed to place evidence of any surplus assets before the Court. None has been forthcoming. On a balance of probabilities, and for the reasons already set out, the liabilities of Champions Royal exceeded its assets immediately after the dispositions were made. Even on the respondent's version, the expenditure allegedly incurred through him amounted to approximately R1 730 898.00 over 11 months. A cursory analysis of Champions Royal's bank

statements demonstrates that, absent the payments from SNS, the account never reflected funds in excess of that amount.

[43] The applicants have therefore discharged the onus under section 26(1)(a).

Remaining defences

Locus Standi

[44] The respondent maintains that the applicants lack *locus standi* to bring this application.

[45] The applicants are duly appointed joint liquidators. Section 32 of the Insolvency Act, read with section 340 of the Companies Act, empowers them to institute proceedings to set aside impeachable dispositions. The defence lacks merit.

The application being out of time

[46] The respondent submits in his heads of argument that ". . . the application must be brought within a period of more than two years before the sequestration of the estate, in terms of section 26(1)(a) of the Insolvency Act. . .".

[47] The submission that section 26 sets a time bar or time period within which proceedings thereunder should be instituted misconstrues the clear meaning of the section.

[48] Section 26 regulates the timing of dispositions and the onus that follows, not time periods for the institution of proceedings.

Failure to disclose Champions Royal's bank balance when the liquidators took control

[49] The respondent's submission on this issue is not altogether clear. The respondent seems to suggest that the applicants were duty-bound to disclose

Champions Royal's bank balance at the time they took control over it, as that would have shown whether the entity was solvent or not.

[50] However, the relevant enquiry is insolvency immediately after the dispositions were made, not the balance at liquidation. This submission is also once again contingent upon whether the SNS payments can be regarded as assets of Champions Royal, which have been dealt with above.

[51] The respondent, in any event, also did not produce any evidence that sufficient assets existed.

Reliance on SNS

[52] The respondent also complains that the applicants rely heavily on information concerning SNS and are "beating the drum of a fraudulent Ponzi scheme being carried out by SNS to get sympathy from the courts", and that this is objectionable.

[53] The objection is without merit. The applicants rely on SNS only to establish the source and nature of the funds and the existence of restitutionary liabilities.

[54] That reliance is legally relevant and proper.

Dispute of fact

[55] The respondent contends that the court does not know whether his version that the monies were used for the church is true or not, and that it therefore creates a dispute of fact that cannot be resolved in motion proceedings.

[56] However, the respondent's bald and unsubstantiated allegations regarding what he used the monies for do not raise a real, genuine, and bona fide dispute of fact.

Conclusion

[57] The applicants have established that:

(a) The dispositions were made more than two years before liquidation;

(b) They were not made for value as defined in section 26(1) and clarified in *Strydom*;

(c) Immediately after the dispositions, the liabilities of the company exceeded the value of its assets.

[58] Consequently, the statutory requirements of section 26(1)(a) have been satisfied, and the order that follows is granted.

Order

[59] Therefore, I make the following order:

1. The payments made by Champions Royal Assembly NPC (in liquidation) to the respondent reflected in Annexures "X1" and "X2" to the notice of motion, in the total amount of R1 730 898. are declared dispositions not made for value and are set aside in terms of section 26(1)(a) read with section 32 of the Insolvency Act 24 of 1936 and section 340 of the Companies Act 61 of 1973.

2. The respondent is ordered to pay to the applicants the amount of R1 730 898.

3. The respondent is ordered to pay interest on the aforesaid amount at the applicable prescribed legal rate as contemplated in the Prescribed Rate of Interest Act, Act 55 of 1975 (as amended), *a tempore morae* to date of final payment.

4. The respondent is ordered to pay the cost of the application on scale C, including the cost of counsel.

[redacted]

CARELSE AJ

ACTING JUDGE OF THE HIGH COURT

GAUTENG DIVISION, PRETORIA

Date of hearing:	24 February 2026
Judgment delivered:	9 March 2026
For the Applicant:	Adv C.G.V.O Sevenster
	instructed Vezi & De Beer Inc.
For the Respondent:	Adv E Sepheka
	instructed by Mahlakoane Attorneys