

THE REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: 2023-064626

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

26 MARCH 2026
DATE

SIGNATURE

In the matter between:

SOCIAL HOUSING REGULATORY AUTHORITY

Applicant

and

EVENING SHADE PROPERTIES 56 (PTY) LIMITED

First Respondent

NEDBANK LIMITED

Second Respondent

LETS CARE SOUTH AFRICA NPC

Third Respondent

In re:

EVENING SHADE PROPERTIES 56 (PTY) LIMITED

First Applicant

NEDBANK LIMITED

Second Applicant

and

LETS CARE SOUTH AFRICA NPC

First Respondent

Delivered: *This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the parties' legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date and time for hand-down is deemed to be 10:00 on 24 March 2026.*

JUDGMENT

VAN EEDEN AJ

[1] This is an application for leave to appeal by the Social Housing Regulatory Authority ("SHRA") against a judgment handed down on 19 September 2025. The parties are represented as before.

[2] In submitting that leave to appeal should be granted to SHRA, Mr Lecoge SC appearing with Mr Mokwena, referred to the case of *MEC of Health, Eastern Cape v Mkhapha and Another* (1221/2015) [2016] ZASCA 176 (25 November 2016) where the Supreme Court of Appeal stated the following in respect of the test for reasonable prospects of success:

"Once again it is necessary to say that leave to appeal, especially to this court, must not be granted unless there truly is a reasonable prospect of success. Section 17(1)(a) of the Superior Courts Act 10 of 2013 makes it clear that leave to appeal may only be given where the Judge concerned is of the opinion that the appeal would have a reasonable prospect of success ...

An applicant for leave to appeal must convince the court on proper grounds that there is a reasonable prospect or realistic chance of success on appeal ... There must be a sound, rational basis to conclude that there is a reasonable prospect of success on appeal."

[3] The essence of the application for leave to appeal was already advanced during the main hearing. In short, it entails the contention that the administration order granted on 23 June 2023, which placed Lets Care South Africa NPC ("Lets Care")

under SHRA's administration, trumps the provisional order of winding-up granted on 5 August 2024. According to SHRA the effect of the administration order is that a creditor is precluded from applying for a winding-up. The argument has again been advanced that whilst the administration order remains in place, a winding-up order obtained by a creditor is meaningless. In addition, the contention is repeated that since constitutional rights of housing are infringed, a purposive interpretation should be given to the Social Housing Act, 16 of 2008 ("Housing Act"), to create a special winding-up regime for the social housing institution which is in administration. It was submitted that this special winding-up procedure clothes the applicant with exclusive authority in respect of winding-up procedures.

- [4] In its express terms neither the Housing Act nor the administration order supports the argument for reasons set out in the main judgment. With some justification, Mr Horn submitted that these submissions are based on a fiction created by argument that the Housing Act and the Companies Acts of 1973 and of 2008 are in conflict, or that they are competing with each other.
- [5] Mr Horn also submitted that the administration had lapsed with reference to paragraph 31 of SHRA's founding affidavit. He submitted that the forensic investigation referred to in paragraph 2 of the administration order was completed on 27 January 2024. Mr Lecoge SC's argument that paragraph 3 of the administration order is not time bound, cannot be accepted as correct when regard is had to paragraph 2, which clearly provides that rights and obligations of the Let's Care are suspended "*pending the conclusion of the Applicant's forensic investigations into the affairs of the First Respondent*".
- [6] Mr Lecoge SC also submitted that leave to appeal could be granted because of the public interest in the matter and that it would be in the interests of justice to obtain legal certainty on the effect of two court orders, where the administration order grants rights to SHRA and a (provisional) winding-up order seemingly interferes therewith. But the answer to this is that the Housing Act does not infringe on rights of creditors. In consequence and as submitted by Mr Gibson, the interests of justice require that finality be reached. Grounds for an appeal in

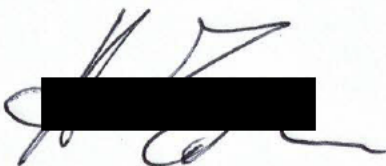
terms of section 17 of the Superior Courts Act, 2013 on the basis that there is some other compelling reason to grant leave, are accordingly not established.

[7] I find nothing in the application for leave to appeal to cast doubt on the finding that the jurisdictional requirements for a final winding-up order were met. The orders 2 and 3 granted in paragraph [15] of the main judgment provide guidance to the parties, given the clear indication during argument of the main application, that SHRA was going to persist with its un-operative attitude even if final liquidators were appointed.

[8] In the circumstances the test for leave to appeal has not been met and this application cannot succeed.

[9] I make the following orders:

1. The application for leave to appeal is dismissed.
2. The costs of the application for leave to appeal shall be costs in the winding-up, including the costs of two counsel where so employed, on scale C.

A handwritten signature in black ink, appearing to be 'H Van Eeden', is written over a solid black rectangular redaction box.

**H VAN EEDEN
ACTING JUDGE OF THE HIGH COURT
JOHANNESBURG**

For Nedbank Limited:

NJ Horn and LV Swandle instructed by
Werksmans

For Social Housing Regulatory Authority:

MB Lecoge SC and CI Mokwena instructed by
Galanzhele Sebela Attorneys Inc

Date of hearing:

24 March 2026

Date of judgment:

26 March 2026