IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISON, PRETORIA

CASE NO: 17653/2009

(1) REPORTABLE: ~~YES~~ /NO
(2) OF INTERST TO OTHER JUDGES: ~~YES~~ /NO
(3) REVISED
17/03/2026 .... DATE: [redacted]ATURE

In the matter between:

DEON JOHANN PIENAAR	Applicant
(and in his capacity as joint trustee of the	
Steelpoort Debenture Trust)	

and

BLUEZONE PROPERTY INVESTMENTS (PTY) LTD	First Respondent
AND/OR SPITSKOP VILLAGE PROPERTIES LTD	
(in liquidation)	
and/or all related persons and/or entities	
THE GOVERNOR OF THE SOUTH AFRICAN RESERVE BANK	Second Respondent

THE PRUDENTIAL AUTHORITY	Third Respondent
MICHEAL SIDNEY BLACKBEARD N.O.	Fourth Respondent
[The former Deputy Registrar of the South African Reserve Bank]	
DELOITTE INC. N.O.	Fifth Respondent
MARIUS ALBERTS N.O.	Sixth Respondent
[The former temporary inspector appointed by the Governor of the South African Reserve Bank]	
THE REGISTRAR OF THE FINANCIAL SERVICES CONDUCT AUTHORITY	Seventh Respondent
THE FINANCIAL SECTOR TRIBUNAL	Eighth Respondent
COMMISSIONER OF THE COMPANIES AND INTELLECTUAL PROPER SOMMISSION	Ninth Respondent
THE COMMISSIONER FOR SOUTH AFRICAN REVENUE SERVICES	Tenth Respondent
HENDRIK CHRISTOFFEL LAMPRECHT	Eleventh Respondent
JOHAN FRANCOIS ENGELBRECHT N.O.	Twelfth Respondent
[Appointed liquidator of Spitskop Village Properties Ltd (in liquidation) and/or other Bluezone related companies]	
ANY OTHER APPOINTED LIQUIDATOR IN BLUEZONE INVESTMENTS (PTY) LTD	Thirteenth Respondent
THE MASTER OF THE HIGH COURT (GAUTENG DIVISION, PRETORIA)	Fourteenth Respondent
DIRECTOR OF THE FINANCIAL INTELLIGENCE CENTRE	Fifteenth Respondent
INDEPENDENT REGULATORY BOARD OF AUDITORS	Seventeenth Respondent
MATTHYS ISAK CRONJE N.O. (STEELPOORT DEBENTURE TRUST)	Eighteenth Respondent

THE NATIONAL DIRECTOR OF THE NPA	Nineteenth Respondent
DANIEL FREDERICH BURMEISTER	Twentieth Respondent

JUDGMENT

T P KRÜGER AJ:

[1] This is an application in terms of Uniform Rule 47(3) to compel the applicant to set security for the anticipated costs to be incurred by two groups of respondents, to wit the first, twelfth and thirteenth respondents (to whom I shall herein refer as the "liquidators") and the second, third and fourth respondents (to whom I shall herein refer as the "SARB group"), in opposing the latest litigation instituted by the applicant, Mr Deon Johann Pienaar (Pienaar) in the main application. Pienaar is, on his own version, a layperson who litigates without the guidance of a lawyer.

[2] This application was set down for two days in the Special Motion Court, although, as I was informed by counsel for the liquidators, the applicant had requested the Deputy Judge President during a case management meeting for an allocation of three days to traverse the iniquity of all the parties accused of delinquency in the matter However, two days before the hearing date, the applicant informed the Court that he had previously indicated that he would not attend the hearing of the application, for the reasons advanced at the time. These reasons were not repeated in this letter. He failed to turn up at the hearing. The duration of the hearing, which proceeded in his absence, was two hours, constituting a flagrant waste of judicial resources which had been allocated for two days.

Locus standi

[3] Pienaar, the applicant in the main application issued on 23 July 2021, essentially seeks to rescind the winding-up order granted by the Bertelsmann J in the application of *Benn & others v Spitskop Village Properties Ltd* (hereinafter "Spitskop") on 21 August 2009. The liquidation order was granted, due to the commercial and factual insolvency of Spitskop following the Court's finding that Spitskop had 'lost its substratum' and its ability to continue with business.

[4] The applicant was not a party to the aforesaid liquidation application. He is a former registered Financial Service Provider who had marketed and sold investments offered by the first respondent. He brings this application in his personal capacity and "on behalf of other adversely prejudiced parties in the matter, who are Bluezone investors and previous Bluestone Financial Service Providers" and in his capacity as joint trustee of the Steelpoort Debenture Trust (hereinafter "SDT"). The applicant describes SDT as the "rightful major creditor of Spitskop Village Properties Ltd (in liquidation), the major flagship property syndication promoted by the first respondent promoters".

[5] The identities of the other prejudiced parties or financial service providers are not disclosed. There is also no indication that the rescission application forms part of a class action. The co-trustee of the SDT, Matthys Izak Cronje N.O, is cited as the eighteenth respondent. According to the applicant, he "obviously will not consent to the application." Mr Cronje, in life a well-known attorney in Pretoria, is deceased. There is no indication on the papers that Mr Cronje was replaced as co-trustee upon his demise.

[6] The non-identification of the other parties who allegedly support the applicant in his application and the absence of the eighteenth respondent as applicant raises the question whether Pienaar has the necessary *locus standi* to institute the application.

[7] The question of *locus standi* is in a sense procedural, but it is also a matter of substance. It concerns the sufficiency and directness of a person's interest in the litigation to be accepted as a litigating party. It is also related to the capacity of a person to conclude a jural act. Sufficiency of interest depends on the facts of each case and there are no fixed rules. The general rule is that it is for the party instituting proceedings to allege and prove its *locus standi*, and the onus of establishing it, rests on that party. It must accordingly appear *ex facie* the founding papers that the parties have the necessary legal standing (*locus standi in iudicio*). (see in this regard *Mars Inc v Candy World (Pty) Ltd 1991 (1) SA 567 (A)* p. 575 and *Kommissaris van Binnelandse Inkomste v Van der Heever [1999] 3 All SA 115 (A), 1999 (3) SA 1051 (SCA) para. 10*].

[8] It was held in *Giant Concerts CC v Rinaldo Investments (Pty) Ltd and others* 2013 (3) BCLR 251 (CC) para. 32 that the issue of *locus standi* is divorced from the substance of the case and must be determined before the merits are considered.

[9] According to *Mabuza v Nedbank Ltd 2015 (3) SA 369 (GP) a* party claiming rescission of a judgment need not have been a party to the original matter but must establish a direct and substantial interest in the matter which would have entitled that party to have intervened in the matter in which the judgment was given. For the reasons mentioned in paragraph [3] to [6] above, Pienaar is unable to show sufficiency and directness of interest in the litigation to have launched his application for rescission. He faces the additional hurdle of section 354(1) of the Companies Act which inhibits him from bringing the application, as he was and is not a liquidator, creditor or member of Spitskop.

[10] It would be improper to allow a person who on his own version has no *locus standi* to pursue litigation without putting up security for costs. For this reason alone, I would be inclined to grant the relief sought by the liquidators and the SARB group.

Vexatious litigation

[11] Even if Pienaar had *locus standi* to launch the rescission application, he woefully fails to put forward any legal grounds on which the judgment of Bertelsman J can be impugned and consequently be set aside.

[12] After the liquidation of Spitskop, the twentieth respondent in this application, Daniel Frederich Burmeister, and Leseding Development ("Leseding") brought an application to place Spitskop under supervision and to commence business rescue proceedings pursuant to s 131(4)(a) of the Companies Act 71 of 2008 as well as for the appointment of a business rescue practitioner for that purpose. Makgoka J dismissed the application with costs on 16 September 2015. Contrary to Pienaar's averment as to the identity of the major creditor, Makgoka J described the South African Revenue Service as Spitskop's major creditor.

[13] The applicant, in his representative capacity as trustee of SDT (but without the cooperation of his co-trustee Mr Cronje) and Leseding brought an unsuccessful urgent application to stay the sale of the immovable property that Spitskop had intended to develop on 27 September 2016, under case number 73558 / 2016

[14] The applicant brought an application to rescind this order of Makgoka in person in December 2016. On 7 February 2019, the applicant and Leseding filed a "notice for condonation, amendment of pleadings and documents and a special case for adjudication upon points of law" under case number 73558 / 2016. This was

followed by a "notice to request National Prosecuting Authorities (sic) to join proceedings and/or ask the Honourable Court to appoint a curator to protect victims of crime" under the same case number filed by the applicant and Leseding on 12 April 2019. The applicant and Leseding brought another application to rescind the judgment granted by Makgoka J on 3 June 2019 under case number 73558 / 2016. This last application also served as "notice to oppose the first to fourth respondents from seeking taxation of their account dated 13 May 2019."

[15] The applicant did not follow up on any of his notices or his and Leseding's applications to institute litigation procedures under case number 73558 / 2016. This matter remains inchoate. Whether any of these notices had any prospect of success is in any case an open question. Lay litigants should at least enlighten themselves about rules of practice in courts as inter alia contained in the Uniform Rules of Court and Practice Directives applicable in the various Divisions of the High Court before haphazardly launching a lawsuit.

[16] The present application for security of costs pertains to the applicant's main application, which seeks to rescind the winding-up order granted by the Bertelsmann J in the application of Benn & others v Spitskop Village Properties Ltd (hereinafter "Spitskop") on 21 August 2009. The liquidators argue that it would be a time-consuming exercise to investigate and consider the allegations traversed in the applicant's founding affidavit, issued on 23 July 2021. I agree: not only does it consist of 291 pages, but it would involve the perusal of a vast amount of historic litigation, spanning over almost a decade. Processing all this information is expected to take weeks before a comprehensive answering affidavit can be prepared.

[17] The liquidators are only directly involved in and/or affected by the relief sought in prayers 1.2, 1.9 and 1.13. Although the majority of the remaining prayers (or

proposed orders) may be incompetent and devoid of any factual and/or legal foundation or even riddled with subjective opinions (as the liquidators contend), the manner in which the prayers are formulated does not and should not play any role in the decision whether the applicant should be ordered to put up security for costs.

[18] The SARB group alleges in their founding affidavit that Pienaar's general dissatisfaction with the fact that property syndication schemes in respect of which he acted as a broker have collapsed, lies at the root of his litigation against the SARB and various other parties. Investors in these schemes lost substantial sums of money, and the Ombud for Financial Services Providers has held the brokers responsible for the investments made by the deceived investors and ordered the brokers in question to pay back the funds to investors. The SARB group therefore argues that Pienaar had brought the main application to avoid liability.

[19] The grounds for the rescission of the winding-up order of Spitskop are not clearly set out in the voluminous founding affidavit. It starts by informing the reader that the "document serves as an investigation as well as an application where evidence is given of criminal conduct and averments. This document had to elaborate on very complex white-collar corruption that involves various parties, and for this reason the application is lengthy." The affidavit traverses the history of the registration of Bluezone Property Investments (Pty) Ltd as a product supplier in property syndication and its involvement in various projects. Seemingly (because the deponent assumes that the reader knows thereof), at some stage, the FSB, the predecessor of the Financial Sector Conduct Authority, the FSCA, and the SA Reserve Bank conducted investigations into Bluezone's affairs. Allegedly, the SA Reserve Bank investigation included more entities than just Spitskop. According to Pienaar, the Reserve Bank should not have focused on the Spitskop estate, but rather Bluezone and related estates. Pienaar is of the view that the rule of law was not applied when Spitskop was liquidated in isolation but fails to properly apply

this principle. He continues to elaborate at length on the reasons for this contention, alleging and accusing various entities, institutions and persons of criminal conduct.

[20] On a close reading of the founding affidavit, it is impossible to determine what the actual legal grounds for the rescission of the winding up order would be. It is not brought in terms of Rule 31 or Rule 42. If it were brought in terms of the common law, there is no discernible causa.

[21] It was held in *Boost Sports Africa (Pty) Ltd v South African Breweries (Pty) Ltd* *2015 (5) SA 38 (SCA)* at paragraph 16 that in order for security for costs in terms of Rule 47 to be ordered to be furnished, it must be established that the relevant party is acting vexatiously in prosecuting the main application.

[22] As a general rule the doors of court will not be closed to a litigant, since to deprive a litigant access to justice may offend the constitutional right of access to justice and give rise to injustice, unfairness and discrimination. There are however exceptions to the general rule as the Constitutional Court noted in *Beinash and Another v Ernst & Young and Others* *1999 (2) SA 116 (CC)*:

"Indeed, as the respondents argued, the court is under a constitutional duty to protect *bona fide* litigants, the processes of the courts and the administration of justice against vexatious proceedings. Section 165(3) of the Constitution requires that "[n]o person or organ of state may interfere with the functioning of the courts." The vexatious litigant is one who manipulates the functioning of the courts so as to achieve a purpose other than that for which the courts are designed. This limitation serves an important purpose relevant to section 36(1)(b). It would surely be difficult to anticipate the litigious strategies upon which a determined and inventive litigator might embark. Thus there is a requirement for special authorisation for any proposed litigation."

[23] This manipulation of the functioning of the courts to achieve a purpose other than that for which the courts are designed lies at the heart of the SARB group's argument, as I have indicated above. Pienaar does not seek the rescission of Spitskop's winding up but uses that as the basis to fire a broadside at the SARB group.

[24] In *Bisset and Others v Boland Bank Ltd and Others 1991 (4) SA 603 (D)* the court considered the meaning of vexatious:

> "Vexatious in this context means 'frivolous, improper, instituted without sufficient ground, to serve solely as an annoyance to the defendant'. (*Fisheries Development Corporation of SA Ltd v Jorgensen and Another; Fisheries Development Corporation of SA Ltd v AWF Investments (Pty) Ltd and Others 1979 (3) SA 133 (W)*.) This power to strike out is one which must be exercised with very great caution, and only in a clear case. The reason is that the courts of law are open to all, and it is only in very exceptional circumstances that the doors will be closed upon anyone who desires to prosecute an action. (*Western Assurance Co* case *supra* at 273, *Fisheries Development* case *supra* at 1338G.) Whilst an action which is obviously unsustainable is vexatious, this must appear as a certainty and not merely on a preponderance of probability (*Ravden v Beeten* 1935 CPD 269 at 276; *Burnham v Fakheer* 1938 NPD 63; *African Farms* case *supra* at 565D E)."

[25] I am mindful of the caution advanced in the matter of *Member of the Executive Council for the Department of Co-operative Governance and Traditional Affairs v Maphanga (652/2018) [2019] ZASCA 147; [2020] 1 All SA 52 (SCA); 2021 (4) SA 131 (SCA) (18 November 2019)*, where the court said:

[25] It was firmly established in the South African common law, long before the advent of the Constitution, that the Supreme Court had the inherent power to regulate its own process and stop frivolous and vexatious proceedings before it. This power related solely to proceedings in the Supreme Court and not to proceedings in the inferior courts or other courts or tribunals. The following principles crystallised over the ages. It had to be shown that the respondent had 'habitually and persistently instituted vexatious legal proceedings without reasonable grounds. Legal proceedings were vexatious and an abuse of the process of court if they were obviously unsustainable as a certainty and not merely on a preponderance of probability. I must point out at this juncture that this definition applied to all litigation that amounted to an abuse of court process. The attempt by the MEC's counsel to distinguish the cases from which the principle derives on their facts was, therefore, mistaken.

[26] A court must, in granting this type of relief, proceed very cautiously and only in a clear case, make a general order prohibiting proceedings between the same parties on the same cause of action and in respect of the same subject matter where there has been repeated and persistent litigation, and craft such order to meet only the immediate requirements of the particular case. The stringent onus on the applicant who seeks the relief and the need for the court's caution in exercising this power obviously arise from the fact that the relief curtails a litigant's access to court

[26] I am, however, persuaded that this is a clear case in which the court must infringe on the applicant's right to continue the application for rescission based on the vexatious nature of his application. I hold that the following reasons are persuasive why the application before this court stands to be declared vexatious:

[26.1] The first reason is that the applicant was not a party to the liquidation application that served before Bertelsman J in August 2009. It is therefore incumbent on him to show more than a mere interest in the matter to be able to join as an intervening party in the application. The test for intervention is well established. In National Director of Public Prosecutions v Zuma, 2009 (2) SA 277 (SCA) at para [85) it was held that:

"Nevertheless, to be able to intervene in proceedings a party must have a direct and substantial interest in the outcome of the litigation, whether in the court of first instance or on appeal. The basic problem with the application is that the applicants have no interest in the order but only in the reasoning. They are in the position of a witness whose evidence has been rejected or on whose demeanour an unfavourable finding has been expressed. Such a person has no ready remedy, especially not by means of intervention. To be able to intervene in an appeal, which is by its nature directed at a wrong order and not at incorrect reasoning, an applicant must have an interest in the order under appeal. The applicants do not have such an interest."

Although the matter before this court is an application for rescission and not an appeal, the same principles apply. An application for rescission is directed at a wrong order, as in the case of an appeal. The applicant has no direct and material interest in the outcome of the liquidation application. He is a removed bystander who professes to act on behalf of interested parties.

[26.2] The second reason is that the application for rescission was brought in July 2021, twelve years after the winding-up order was granted. A central and pervading tenet of the judicial system is that matters, once resolved, are not to be reopened except in a few, narrowly defined circumstances, like fraud. Accordingly, to launch a rescission application twelve years after the fact, without even remotely attempting to substantively address the reasons for the delay, as is the case in this matter, flies in the face of the principle of finality of litigation.

[26.3] The third reason is that Makgoka J, held in September 2015 that there was no basis for Spitskop's resurrection from the ashes. Pienaar did not appeal this judgment but brought two rescission applications to rescind the order in September 2016 and June 2019. However, he failed to prosecute these applications for recission. When a litigant commences proceedings, the opponent is put to the task to defend the proceedings and incurs costs in doing so. The failure of a litigant to prosecute the matter to finalisation not only has adverse financial implications for the opposing party but also adds to the already cluttered court rolls, leading to further delays in court dates.

[26.4] The fourth reason is that Pienaar purports to act as a trustee of a trust, which is dysfunctional, as the co-trustee has not been replaced after his demise. In *Shepstone and Wylie Attorneys v Abraham Johannes de Witt NO and other [2025] ZACC 14 (1 August 2025)*, the Constitutional Court held that trustees must act together unless the trust deed provides differently. Pienaar's averment that the Master of the High Court refuses to assist him in appointing a co-trustee does not address the fundamental issue that prevents him from representing the trust.

[26.5] Pienaar inter alia fails to illustrate that no undesirable consequences will result from the rescission of Spitskop. The main reason for the liquidation of Spitskop, according to Bertelsman J, was the disappearance of the company's substratum. It was at least expected from Pienaar to show why the substratum of Spitskop had not disappeared. Although he criticises the finding of the learned Judge in respect of the disappearance of the substratum in his founding affidavit, he fails to advance any argument to dispel the finding.

[27] The Western Cape High Court on 10 September 2021 in *Pricewaterhouse Coopers Inc v Pienaar and Others (1845/2021) [2021] ZAWCHC 184* declared the applicant to be a vexatious litigant as contemplated in section 2(1)(b) of the Vexatious

Proceedings Act, 3 of 1956 and prohibited him from instituting any legal proceedings against the applicant in that application

> "or any of its employees or agents, particularly the second, third, and fourth respondents;
>
> relating to or concerning:
>
> 2.3 generally any Property Syndication Scheme in South Africa; and
>
> 2.4 particularly their appointment to provide services to either fifth or sixth respondents;

without the leave of the court, or any judge thereof and such leave shall not be granted unless the court or judge, as the case may be, is satisfied that the proceedings are not an abuse of the process of the court and that there is a prima facie ground for the proceedings."

[28] The goal of the Vexatious Proceedings Act is to protect the court and opposing parties from further abuse of the court process. A declaration as a vexatious litigant is generally **not retrospective** in the sense that it voids past legal actions, but it is based on a retrospective analysis of a person's history of litigation. This general rule prevents a defendant or respondent from approaching the court to frustrate litigation that has already commenced.

Security for costs

[29] The available remedy for a defendant or respondent to thwart litigation where it has already commenced is to apply for security for costs. It is trite law that the courts have a discretion to grant or refuse an application for security, and in coming to a decision, will consider the relevant facts of each case. *In Shepstone & Wylie and Others v Geyser NO 1998 (3) SA 1036 (SCA)* 1046A-D in deciding whether security for costs should be granted approved of the approach in *Keary Developments Ltd v Tarmac Construction Ltd and Another [1995] 3 All ER 534 (CA)* at 540a-b, where Peter Gibson LJ said:

"The court must carry out a balancing exercise. On the one hand it must weigh the injustice to the plaintiff if prevented from pursuing a proper claim by an order for security. Against that, it must weigh the injustice to the defendant if no security is ordered and at the trial the plaintiff's claim fails, and the defendant finds himself unable to recover from the plaintiff the costs which have been incurred by him in his defence of the claim."

These are probably the "considerations of equity and fairness" mentioned in Magida v Minister of Police 1987(1) SA 1 (A) at 14D-F in regard to the consideration of an application for security for costs against a peregrinus, and which should, in my judgment, also prevail in an application under sec 13 .

[30] Pienaar is on his own version, a man of straw. The applicants in the present application have, to date, been unable to recover any costs for any of the applications brought by Pienaar. This state of affairs, however, does not *per se* entitle a respondent or defendant to security for costs. Something more is required.

[31] Pienaar professes to act as a representative of "other adversely prejudiced parties in the application, who were Bluezone investors and previous Bluezone Financial Service Providers"'. In *Hepute and Others v Minister of Mines and Energy 2008(2) NR 399 (SC)* the Namibian Supreme Court said -

"[23] Our common law recognises, as a general rule, the immunity enjoyed by an incola plaintiff or applicant from having to provide security for costs. The ratio behind this rule is that every citizen should have uninhibited access to the courts: Vanda v Mbuqe and Mbuqe; Namoyi v Mbuqe 1993 (4) SA 93 (TK) at 94F - 95B. One exception to this general rule, founded in my view on the principle that the process of the court should not be abused, is that an incola who is a man of straw and litigates in a nominal capacity, or as a front for another, may be ordered to furnish security: Pillemer v Israelstam and Shartin 1911 WLD 158; Vanda v Mbuqe supra at 94J - 95A, and the obiter dictum in Mears v Brook's Executor and Mears's Trustee 1906 TS 546 at 550.

[24] I agree with Muller J that the implicated exception creates two discrete categories: while being a man of straw litigating in a nominal capacity, or while being a man of straw being put up as a front for another. Both instances would amount to an abuse of the process of the court. There is, or ought to be, a distinction between being a nominal plaintiff and being a front. In my view, a nominal plaintiff/applicant is one who, although he might be entitled to maintain the action, has no interest in the subject matter of the cause such as the case was in Mears' case supra at 550. A front, on the other hand, is one who is being used to shield another from the adverse consequences of litigation. In both respects, the principle underlying the rule is sound and is founded on the public policy consideration that the abuse of the process of the court should be frowned upon: it is not fair to allow a plaintiff with no real interest in the litigation to drag another through litigation while being unable to meet an adverse costs order at the end of the day; and it is equally unfair to allow a party who has an interest in the litigation to use a poor man (who also has an interest) and in so doing hedge itself against an adverse costs order. It needs to be understood very clearly that in the application of the exception, a person is not ordered to pay costs because he or she is poor but because, while being impecunious, he or she is either a nominal plaintiff/applicant or is being used as a front by another. Poverty, without more, is no bar to seeking justice.

[25] A defendant/respondent who wishes to obtain security for costs on the strength of the implicated exception should, on balance of probability, show that the plaintiff/applicant is poor and is, in addition, a nominal litigant or a front for another party. If the jurisdictional facts are established for the invocation of the exception, the court may order security for the costs of the defendant/respondent upon application therefore".

[32] There are thus two requirements which an applicant for security would need to meet in an application of this nature. Firstly, it would need to be established that the plaintiff is either a nominal plaintiff or a front for another party and secondly that the plaintiff is a "man of straw". Both these requirements are met. On Pienaar's version he does not only professes to act for a trust, but represents Bluezone investors and financial service providers.

[33] It is not my duty to adjudicate the merits of the rescission application. For the reasons above I am however satisfied that Pienaar should be ordered to put up security before he is allowed to continue his application for rescission of judgment. As Wunsch J observed in *D-Jay Corporation CC v Investor Management Services* 1996 CLR 854 *(W)* at 861-

"They (the rules for the furnishing of security for costs) are, in any event, a matter of practice of the courts and not substantive law (see Africair (Rhodesia) Ltd v Interocean Airways SA **1964 (3) SA 114** *(SR) at 116 G and cases there cited). Against the general rule referred to in Van Zyl v Euodia Trust (Edms) Bpk, supra*[1] *that an incola should have unrestricted access to the courts should be weighed the principle, which applies in South Africa as much as in England, 'that the system of justice which prevails in this country is founded on the premise that the interest of justice are ordinary best served if successful litigants recoup the costs of their litigation, or the bulk of those costs, and unsuccessful litigants pay them' (Keary Developments Ltd v Tarmac Construction Ltd* **(1995) 3 All ER 534** *(CA) at 536c), which is the approach on which section 13*[2] *is based."*

[34] Pienaar did not dispute the amounts claimed by the liquidators and the SARB group. It is therefore not necessary to refer the matter to the Registrar for the determination of the amounts to be put up for security.

[35] If Pienaar, as a result of his financial position, is unable to set up security within the time stipulated in the order, the applicants for security of costs are granted leave to approach the court for dismissal of the rescission application issued by Pienaar on 23 July 2021.

I make the following order:

1. The applicant, Deon Johan Pienaar, is ordered to furnish security for the first, twelfth and thirteenth respondents' costs in the amount of R500 000.00 (Five Hundred Thousand Rand) within 10 (ten) days from date of this order.

2. The applicant, Deon Johan Pienaar, is ordered to furnish security for the second to fourth respondents' costs in the amount of R900 000.00 (Nine Hundred Thousand Rand) within 10 (ten) days from date of this order.

3. In the event that the applicant fails to comply with paragraph 1 & 2 of this order, the first, twelfth and thirteenth respondents and the second to fourth respondents respectively are granted leave to approach the court on the papers filed in the Rule 47 application, appropriately amplified, for an order dismissing the application for rescission brought by the applicant and issued on 23 July 2021.

4. The applicant is ordered to pay the costs of the application, including the costs of two counsel where employed, on Scale C.

[redacted]

T P KRÜGER AJ
Acting Judge of the High Court

Appearance for the applicant: None

Heads of argument drafted by the applicant in person

Counsel for the first, twelfth and thirteenth respondents		J Vorster SC
Instructed by JI van Niekerk	per	Mr JI van Niekerk
Counsel for the second to fourth respondents:		EL Theron SC
		A Milovanovic-Bitter
Instructed by GMI Inc	per	Ms R Shamout