



**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

CASE NUMBER: 2025-131798

In the matter between:

GREAT LAKES CONSULTANCY (PTY) LTD

APPLICANT

Versus

**SCHOONSPRUIT DEVELOPMENT (PTY) LTD
EXEOKHOKELA CIVIL ENGINEERING**

FIRST RESPONDENT

CONSTRUCTION (PTY) LTD

SECOND RESPONDENT

AGRI INDUSTRIA (PTY) LTD

THIRD RESPONDENT

BUSINESS PARTNERS

FOURTH RESPONDENT

In re:

CASE NUMBER: 2025-063300

**KWAZULU-NATAL HIGH COURT
BUSINESS PARTNERS LIMITED**

APPLICANT

Versus

ORDER

The following order is made:

1. First and Third Respondents are placed under supervision and business rescue proceedings be commenced in terms of section 131 (1) of the Companies Act 71 of 2008, for Schoonspruit Development (Pty) Limited and Agri Industria (Pty) Limited.
2. Dean Du Toit and Kurt Robert Knoop be appointed as business rescue practitioners to conduct the business of the companies with all powers and duties entrusted to them in terms of the Companies Act 71 of 2008.
3. That notice of this order be given in the following manner.
 - 3.1 By notifying effected parties of the companies within 5 days of this order having been granted by way of electronic mail.
 - 3.2 By publication of this order in one publication of Die Beeld and Cape Times within ten (10) days of this order being granted.
4. That the costs of this application be paid by Fourth Respondent on scale C and to include the costs of two counsel where so employed.
5. That the application by Fourth Respondent for the provisional liquidation of Third Respondent Agri Industria (Pty) limited under case 2025/063300 in the KwaZulu-Natal High Court is adjourned sine die.

JUDGMENT

P C BEZUIDENHOUT J:

[1] There are two applications set down for hearing namely case number 2025-131798 Great Lakes Consultancy (Pty) Ltd v Schoonspruit Development (Pty) Ltd & 3 others and Business Partners Limited v Agri Industria (Pty) Ltd under case number 2025-063300. The application by Great Lakes Consultancy (Pty) Ltd is an application

to place Schoonspruit Development (Pty) Ltd (Schoonspruit) First Respondent and Agri Industria (Pty) Ltd (Agri Industria), Third Respondent under the supervision of a business rescue practitioner and that business rescue proceedings be commenced in respect of these two companies in terms of section 131 of the Companies Act 71 of 2008. Fourth Respondent opposed the application.

[2] It was agreed at the commencement of the hearing that the application of Great Lakes v Schoonspruit will be heard first. The second is an application for the provisional liquidation of Agri Industria. After the matter of Great Lakes v Schoonspruit is finalised it will be decided what would be the course to follow in respect of the application by Business Partners.

[3] For convenience the parties are to be referred to by their names and not as Applicant and Respondents.

[4] Great Lakes is the major shareholder in Schoonspruit and Agri Industria. Schoonspruit and Agri Industria are both property development companies whose business is to acquire land and developing such land into erven after the necessary permission has been granted. They acquired land in the Malmesbury district to develop the land, instal services, subdivisions etc for the properties to be sold to various individuals and companies. Schoonspruit has twenty-nine properties which it still expects to sell and generate an income from of approximately R88 000 000.00. Agri Industria also owns a vast portfolio of land some already subdivided into individual properties and is expecting an income of between R400 000 000.00 and R500 000 000.00 from the sale thereof.

[5] During January 2020 to early February 2020 Business Partners, Fourth Respondent, provided three loans to Schoonspruit and Agri Industria totalling R23 679 624.00. Various properties were sold by Schoonspruit and Agri Industria which will be referred to later on.

[6] On 4 February 2022 the Swartland Municipality approved the rezoning of the properties of Agri Industria. The approval of the subdivision of agricultural land was granted by the Department of Agriculture and Land Reform and Rural Development in 2022.

[7] Business Partners is the single largest creditor of Schoonspruit and Agri Industria with a claim of R15 576 618.00. The total debt of Schoonspruit and Agri Industria is in the sum of R42 416 721.70. The amount of R10 750 000.00 in respect of Schoonspruit's which excludes a suretyship towards Business Partners of R15 000 000.00. Agri Industria's total debt is the amount of R31 000 000.00 which includes the Business Partner's loan amount of approximately R15 000 000.00.

[8] The value of the properties of Schoonspruit and Agri Industria as valued by a sworn valuer is the sum of R478 940 000.00 and R96 290 700.00 respectively.

[9] The application by Great Lakes for business rescue was brought on 5 August 2025. At approximately 15H03 the bundle was electronically served on all affected parties of Schoonspruit and Agri Industria. It was also thereafter served on the companies and intellectual property commission. It was then served on the South African Revenue Services on the same date at approximately 19H55. Documentation for submitting the application to court online at the Western Cape High Court was uploaded accordingly. As the court online system did not process the documents it was done again on the morning of on 6 August 2025. The documentation for the KwaZulu-Natal High Court was submitted and uploaded on 5 August 2025 at 16H29.

[10] Exeo Khokela Civil Engineering (Second Respondent) brought an application in the Western Cape High Court for the provisional liquidation of Schoonspruit. Prior to the commencement of the hearing in the Cape Town High Court of the application by Exeo Khokela Civil Engineering the KwaZulu-Natal High Court allocated a case

number to the business rescue application which was issued on court online by Great Lakes Oral argument was heard in the Western Cape High Court on 6 August 2025 and an order was granted later provisionally liquidating Schoonspruit. It was held in the judgment that the business rescue applications did not prevent the court from issuing a provisional winding up order.

[11] In the case of *Blue Star Holdings (Pty) Ltd v West Coast Oyster Growers CC* 2013 (6) SA 540 (WCC) it was held that in terms of section 131(6) a business rescue application suspended liquidation proceedings and that no provisional liquidation order can be granted until the court had adjudicated on the business rescue application. This was also followed in the KwaZulu-Natal High Court.

[12] It was held in *Richter v Absa Bank Ltd* 2015 (5) SA 57 (SCA) that business rescue can be granted even after a final order of liquidation had been granted. It was however not disputed at the hearing that the business rescue application could be brought even though the provisional liquidation of Schoonspruit had been granted and therefore it is not necessary to pursue this aspect any further.

[13] Before Schoonspruit was provisionally liquidated there were transactions in progress worth approximately R28 000 000.00 which was more than enough to pay the debts of Schoonspruit amounting to about R10 000 000.00 and also the suretyship in respect of Business Partners in the sum of about R15 000 000.00.

[14] In terms of section 131(4) of the 2008 Companies Act a Court to which an affected person makes an application for business rescue may:

- (a) Make an order placing the company under supervision and commencing business rescue proceedings if a court is satisfied that:
 - (i) The company is financially distressed and
 - (ii) There is a reasonable prospect for rescuing the company.

Section 128(1)(f) defines financially distressed as:

“It appears to be reasonably unlikely that the company would be able to pay off all its debts as they become due and payable within the immediate ensuing six months.”

[15] It was held in the matter of *Oakdene Square Properties (Pty) Ltd and Others v Farm Botha's fontein (Kyalami) (Pty) Ltd and Others* 2013(4) SA (SA) 539 (SCA) at paragraph 29 that there must be a reasonable prospect with the emphasis on reasonable which means that it must be a prospect based on reasonable grounds.

[16] It was submitted on behalf of Great Lakes that in terms of section 131 (4) of the 2008 Companies Act it had to be shown by an effected person who makes an application for business rescue that there is a reasonable prospect for rescuing the company and that it must be financially distressed. There must therefore be a reasonable prospect that the company can be rescued and placed under supervision. I was referred to the decision in *Oakdene Square Properties (Pty) Ltd & Others v Farm Bothas fontein (Kyatami) & Others* 2013 (4) SA 539 (SAC) at para 29 where it was held that it requires more than a mere prima facie case or an arguable possibility. Of even a greater significance is that it must be a reasonable prospect with the emphasis on reasonable which means that it must be a prospect based on reasonable grounds a mere speculative suggestion is not enough. I was also referred to the decision of *Cloete Murray and another NNO v FirstRand Bank Limited t/a Wesbank* 2015 (3) SA 438 (SCA) at para 14 where it states,

“It is generally accepted that a moratorium on legal proceedings against a company under business rescue is of cardinal importance since it provides a crucial breathing space or a period of respite to enable the company to restructure its affairs. This allows a practitioner, in conjunction with creditors and other affected parties, to formalise their business rescue plan designed to achieve the purpose of the process.”

[17] It was submitted that in *Oakdene* it was decided that a business recuse application can succeed either for the company to continue in existence on a solvent

basis or if not possible to continue in existence will result in a better return for the companies' creditors or shareholders than what would result from the immediate liquidation of the company.

[18] It was submitted that Business Partners continued stating in their answering affidavit that the application was merely to delay the winding up application and that it was for their own benefit and to the disadvantage of the insolvent companies' creditors. It was submitted that the value of Agri Industria of R478 000 000.00 was not disputed. It was further submitted that Ms August in her answering affidavit failed to disclose that although Business Partners brought a winding up application and while a business rescue application is pending Business Partners tried to transfer 3 properties into the name of Vasar Properties from Schoonspruit. Those are properties that are serviced subdivided and can be transferred.

[19] It was submitted that the demand for the properties was there, but the sale had to be finalised and that a business rescue practitioner would be in the position to do the necessary to ensure that the sales are brought to conclusion. This would generate a large sum of money which even after Business Partners are paid would provide a large sum for future development of the land in question. It was therefore submitted that the applicant had made out a case for the two companies to be placed under supervision and that the business rescue proceedings be commenced in terms of the Companies Act.

[20] Although the liquidation proceedings are suspended by the business rescue application such an order was granted. This however does not preclude the business rescue application which is before court as it was held in *Richter v ABSA Bank Limited* 2025 (5) SA 57 (SCA) that a business rescue application can be brought even after a final order of liquidation had been granted. There is therefore no legal impediment in the bringing of this application. Business Partners also did not submit anything to the contrary. Much was said in argument by Business Partners that this was to prevent the liquidation and that it was an abuse of the court process. However, as I already mentioned although it may have been to prevent liquidation the applicant was entitled to bring such an application and therefore the application must be considered.

[21] Great Lakes Consultancy (Applicant) is the majority shareholder in both Schoonspruit and Agri Industria. They are both property development companies whose business is the acquisition of land the subdivision thereof installing services and thereafter the sale of the erven and in such a way earn a profit and to conduct their businesses. The land which was purchased is in the town of Malmesbury in the Western Cape and was purchased after 2015 as it was foreseen that any expansion in the area of Cape town would have to be in the Region of Malmesbury as there was no such opportunity in the Paarl, Stellenbosch, and Somerset West area. As a result, thereof vast portions of land in the Municipal area of Malmesbury was purchased.

[22] Approval for various subdivisions from agricultural land to non-agricultural use was granted by the Department of Agriculture and Land Reform and Rural Development in 2022. In the process certain loans were received from Business Partners and at the moment the single largest creditor of Schoonspruit and Agri Industria is Business Partners in the sum of R15 576 618, 14. The total debt of Schoonspruit is R10 750 178.70 plus the suretyship in respect of the amount owing to Business Partners. The total debt of Agri Industria is R31 666 543.00 which includes the R15 557 618.14 owed to Business Partners.

[23] The value of the said land by a registered valuator instructed by Great Lakes valued the land in respect of Agri Industria in the amount of R478 940 000.00 and in respect of Schoonspruit of R96 290 700.00. There is a valuation by Fourth Respondent for a much lesser amount which is about R66 000 000.00. This valuation is not by a registered valuator and does not appear that the person who valued the property has the necessary qualifications to do such a valuation.

[24] At the commencement of the argument on behalf of Great Lakes a document which was headed TimeLine was handed in and was used in argument. From this document it appears that Schoonspruit was registered on 20 November 2015 and Agri Industria on the 7 December 2016. On 21 August 2017 certain rezoning and subdivisions were granted to Schoonspruit by the Swartland Municipality. From April 2018 to January 2019 approximately ten properties were sold by Schoonspruit and transferred to the various owners in a total amount of R23 400 305.00. In September 2019 a further property was sold and it further appears that various other properties

were transferred to buyers in the period of 2019 to 2020. It is not necessary to deal with each of the properties as it is not an issue in this application.

[25] On the 28 January 2020 three loan agreements were concluded with Business Partners in the sum of R26 700 000.00. On 21 January 2021 a payment of R5 900.000.00 was made to Business Partners. During 2021 various other properties approximately eight of them were sold and transferred. This amounted to approximately R10 924 540.00. During 2022 there were further sales and transfers of another approximately four properties. During March, May and June further properties were sold whereafter an amount of R11 177 257.71 was paid to Business Partners. During the period May to October 2024 there were further deeds of sale signed and transfer of properties to the value of about R25 000 000.00. Various reservation agreements were also signed. On 1 February 2025 Business Partners were granted Power of Attorney to pursue sales. On 24 March 2025 three offers to purchase was received from Vaser Properties via Mr Lang the attorney of Business Partners in a total amount of R9 450 000.00. There was also an offer by Mr Lang on behalf of Coastal Capital to purchase all the properties for R66 000 000.00 which was rejected by the shareholders.

[26] During May 2025 various reservation agreements were concluded for various properties totalling approximately R45 000 000.00. During May 2025 the first meeting of the shareholders to discuss business rescue was held. On 1 July 2025 a second meeting of the shareholders was held. On 2 July 2025 a loan on various conditions was negotiated with De Kleinevalleij 1581 (Pty) Limited in the sum of R32 500 000.00. On 5 August 2025 the business rescue founding affidavit was signed by Carol Petoors and the documents were uploaded in both Pietermaritzburg and Cape Town as set out above.

[27] During August 2025 further reservation agreements were concluded for about R6 000 000.00. On 1 October 2025 there was an attempt by Business Partners and Mr Lang to have three erven transferred. On 21 October 2025 Schoonspruit was provisionally liquidated in the Western Cape High Court Cape Town, During March 2026 offers to purchase Agri Industria land was received and an agreement of sale

with Agri Industria were concluded. Further supplementary affidavits were filed in respect of this matter by Ms Petoors.

[28] It was submitted that from the timeline which I have summarised above it is apparent that various properties have been sold over the years and that there is presently a demand for properties as appears from the offers which have been made and also from the reservation agreements which have been concluded. It was submitted that there was indeed an appetite for the said properties and that these properties if sold would ensure that an amount far exceeding that which is owed to Business Partners is obtained which would then provide the necessary working capital to Schoonspruit and Agri Industria to continue with the developments and the installations of infrastructure required. There would accordingly be more than enough capital for the companies to continue in business.

[29] As already mentioned, there is a vast difference in the valuations of the properties between that which is contended by Great Lakes Consultancy and Business Partners. However, even if one considers the valuation which is contended by Business Partners which as I have stated is not from a sworn valuer, there is still after Business Partners is paid in full a large amount of approximately R50 000 000.00 which will be available from the sale of the land.

[30] It was submitted on behalf of Great Lakes Consultancy that the provisional winding up order that was granted by the Western Cape High Court effected Schoonspruit as the sales which had been concluded for R12 850 000.00 and R21 000 000.00 were at risk as they could not proceed due to the provisional liquidation.

[31] It was submitted that Schoonspruit has properties which would generate an income of R 88 165 000.00 which consists of urban land which has to be subdivided, some which have already been subdivided in respect of which reservation agreements and offers to purchase have been made. Land that has been subdivided have not yet been serviced. The costs to do the necessary would amount to about R 6.6 million rand. This would be financed from the pending sales which have been referred to. There would accordingly be more than enough available to pay the debt of

Schoonspruit as well as the Suretyship to Business Partners and for development purposes. If a business rescue practitioner is appointed it will allow him/her to take care of these transactions that are in progress and have been concluded and to bring them to perfection.

[32] In respect of Agri Industria there is land which is zoned industrial and has not yet been serviced but is of value. There are also various other stands which are zoned either for residential ,for hotel, motor retailers etc. These properties are valued by Rooderland Property Consultants and Valuers at approximately R 478 million rand. Once again if a business rescue practitioner is appointed these transactions that are in progress can be brought to perfection. The electricity to the properties will happen in 2027 and a large transformer has already been installed and it is merely the rest of the infrastructure that has to be completed by Eskom. Once again from the offers even if that of Mr Lang is accepted by the business rescue practitioner Agri Industria will be in a position to pay off all its debts including the suretyship to Business Partners and there will still be sufficient for it to continue operating and developing the other remaining land. It would thus be able to continue with its business.

[33] It was submitted on behalf of Business Partners (Fourth Respondent) that there is no prospect that business rescue would assist and that it was an attempt to have an informal winding up by disposing of Schoonspruit immovable properties to satisfy the debt of the company. It was further submitted that it is contended that there are a series of reservation agreements, expressions of letters to purchase Schoonspruit Property. However, none of these sales would be viable in the short or medium term. Schoonspruit has failed to demonstrate that it is in a position to comply with the intended sales of the property. It was further contended that the loan which was contended would be received from De Kleinevalleij would not automatically be made to Agri Industria should it be placed in business rescue. It is contended that it is an abuse of the process that there is no real prospect of rescuing the insolvent companies. It was further submitted that it was an attempt to avoid liquidation although there is no real prospect of achieving a higher return for either the creditors or members of the insolvent companies.

[35] It is not in dispute that the companies are in financial distress, and the question was therefore if there is a reasonable prospect of rescuing the companies. I was referred to the case of Oakdene once again where it was held that it must establish reasonable grounds. In accordance with the rules of motion proceedings which generally speaking a case must be made out in its founding affidavit. It was submitted that no case was made out for the preference of business rescue. It was further submitted that the values of the properties are irrelevant whether the business rescue should be ordered or not.

[36] Mr Wallis appearing on behalf of Business Partners submitted that the decision in Oakdene as well as the decision in this division in the matter of the Trustees of the Inkwazi Trust and another versus Skema Holdings & Others (Pty) Ltd (D3822/2025) as well as the judgment in A1 Capital (Pty) Ltd v Urban Life Investment Holdings (Pty) Limited & Others 2026-120753 (KZN) supported the submission that business rescue should be refused in this case. It was submitted that the cases were similar to that in the present matter and should therefore be followed.

[37] I have considered the three cases referred to above and, in my view, the facts in those cases are not the same as in the present matter and that they are therefore distinguishable. In the case of Oakdene besides various difficulties of leases etc it concerned one property which was to be sold and then would have allowed the other property to be retained. In the case of A1 Capital all the properties intended to be acquired by the first respondent (therein) from the property-owning companies were bonded to Nedbank as security for the loans of the company. In the A1 case as appears in paragraph 140 the Gribritz plan for business rescue (proposed in that case) requires the immovable property to be offered by the first respondent at 75% of their true value and this would be unlikely to fully discharge all the amounts owing to Nedbank. In Skema Holdings the actual business had been transferred out of Skema Holdings and was no longer conducted by it. Further many of the properties which were relied upon by the applicants was owned by subsidiaries' and was subject to mortgage bonds. It did not explain how these properties could lawfully and practically be brought within the control of Skema Holdings.

[38] These factors in my view distinguish the present matter on the facts from the facts of those cases. The land in question in the present matter is owned by Schoonspruit and Agri Industria and this is not disputed. It further appears on the papers that there are properties which can be sold at this stage. There are also properties which could be developed and which would bring in a substantial income. It is therefore not the position as in the cases referred to above where it concerned not a property development company which owns properties that are developed as in the present matter. In the present matter even if one considers the very low and which is challenged valuation of the properties by Business Partners, then if certain properties are sold for which there are deeds of sale signed and also for which interest is being shown it would create an income which would allow all the debt to be paid and further development of the properties.

[39] It also is apparent from the supplementary affidavit filed by Ms Petoors and from photos attached thereto that indeed the transformers and substation had been installed which is all indicative that indeed progress is being made to ensure that the necessary infrastructure is installed. If a business rescue practitioner negotiates with various other purchasers which have shown interest and such sales can be concluded which in my view is a real probability it can indeed settle the debt of both Schoonspruit and Agri Industria and allow sufficient capital for the further development of the vast pieces of land which is owned by them, which is worth millions of rand and is unencumbered. Also, a factor which needs to be considered is that due to the provisional liquidation of Schoonspruit it stopped the sales of the properties for which there were interests at the time. If business rescue is approved and the business rescue practitioner can bring those offers to finalisation it would indeed create an income which would not only pay all the debt but would enable the two companies to continue with their business of developing the land, installing the necessary infrastructure, etc which is required.

[40] The amount of the debt which is owed to Business Partners is very small in relation to the total value of the land which is owned by Schoonspruit and Agri Industria. It is also noteworthy that Exeo Khokela Civil Engineering Construction (Pty) Ltd (Second Respondent herein) who sought the provisional liquidation of

Schoonspruit in the Western Cape Division does not oppose this business rescue application.

[41] Besides the sales completed and the interest which has been shown in the properties although some may only be reservation agreements at this stage indicates that there is interest in the said properties and that there are individuals and companies that are willing to purchase these properties. Income can therefore be obtained from concluding such sales. In my view, it must be borne in mind that in the present case it is not the sale of certain property for the company to be able to retain another property. It is sales to create income to further develop the land which is paid for which it owns for which there is an interest. In that way it can continue with its business which is the developing of properties, the subdivision of which some have been approved and to create an income therefrom. It is therefore a situation where such would enable Schoonspruit and Agri Industria to continue with the business which they conduct.

[41] As held in Cloete Murray and Another referred to above it would provide the crucial breathing space for the two companies to restructure their affairs.

[42] It would accordingly appear to me that the requirement of a reasonable prospect for rescuing the company has been shown. I am satisfied that it is not merely speculative but that indeed there is documentation which indicates that there is a reasonable possibility that business rescue can restore the two companies to a position where they can continue trading.

Accordingly the following order is made:

1. First and Third Respondents are placed under supervision and business rescue proceedings be commenced in terms of section 131 (1) of the Companies Act 71 of 2008, for Schoonspruit Development (Pty) Limited and Agri Industria (Pty) Limited.
2. Dean Du Toit and Kurt Robert Knoop be appointed as business rescue practitioners to conduct the business of the companies with all powers and duties entrusted to them in terms of the Companies Act 71 of 2008.
3. That notice of this order be given in the following manner

3.1 By notifying effected parties of the companies within 5 days of this order having been granted by way of electronic mail.

3.2 By publication of this order in one publication of Die Beeld and Cape Times within ten (10) days of this order being granted.

- 4 That the costs of this application be paid by Fourth Respondent on scale C and to include the costs of two counsel where so employed.
- 5 That the application by Fourth Respondent for the provisional liquidation of the third respondent Agri Industria (Pty) limited under case 2025/063300 in the KwaZulu-Natal High Court is adjourned sine die.


P BEZUIDENHOUT J.

JUDGMENT RESERVED: 17 APRIL 2026

JUDGMENT HANDED DOWN: 18 JUNE 2026

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