



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 12 September 2025

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

Van Rooyen NO and Another v Mokwena NO and Another (63/2023) [2025] ZASCA 130 (12 September 2025)

Today, the Supreme Court of Appeal (SCA) upheld an appeal by the joint liquidators of the insolvent estate of Tumi Mokwena Incorporated (TMI), seeking the sequestration of the Dikwenanyana Trust (the Trust) and the piercing of its veneer.

The appellants contended that the Trust was insolvent, indebted to them in excess of R7 million, and had been used as a vehicle by Mr Tumi Mokwena (Mr Mokwena) to conceal assets unlawfully misappropriated from TMI. Both TMI and Mr Mokwena had previously been liquidated and sequestered for their inability to pay creditors, following findings of large-scale financial misconduct. The Limpopo Division of the High Court, Polokwane dismissed the sequestration application. On appeal, the SCA considered that the Trust had admitted receiving payments from TMI funds without providing any lawful basis. The Trust's defence – that Mr Mokwena, as director of TMI, could freely utilise trust and business monies – was rejected as untenable.

The matter had previously been the subject of a settlement agreement, which the Trust breached. In terms of that agreement, once breached, the appellants were entitled to proceed with the pending appeal unopposed. The SCA accepted this position, finding that the requirements of the Insolvency Act 24 of 1936 had been satisfied. The Court accordingly issued a provisional sequestration order against the Trust, directed that the Trust veneer be pierced, and ordered that the assets vested in the Trust be treated as part of the insolvent estates of Mr Mokwena and TMI. As a result, the appeal was upheld with costs, including the costs of two counsel, to be borne as costs in the administration of the Trust.