



SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 19 September 2014
STATUS Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

COENRAD JOHAN LAMPRECHT v KLIPEILAND (PTY) LTD (753/13) [2013] ZASCA 125 (19 September 2014)

The Supreme Court of Appeal (SCA) today upheld with costs an appeal by Mr Lamprecht against a judgment of the North-Gauteng High Court, Pretoria discharging a provisional winding-up of the respondent with costs.

The high court had found that Mr Lamprecht had not satisfied the jurisdictional requirements for a winding-up of a company as set out in s 345(1)(a) of the Companies Act 61 of 1973. Essentially, the high court had found that as the amount claimed by Mr Lamprecht was disputed by the respondent, the amount owed was not liquid as contemplated by s 345(1)(a) of the Act.

On appeal, the appellant relied on an order of court in terms whereof the respondent had virtually admitted all the three jurisdictional requirements for a winding-up as set out in s 345(1)(a) in that it had agreed that the appellant is its creditor, for an amount not less than R100 and further that the debt was due and payable. Furthermore, it averred that the failure by the respondent to satisfy the amount claimed justifies the presumption that it was commercially insolvent.

The SCA held that winding-up proceedings are not a mechanism for the recovery of a debt. It is a mechanism which an applicant can use to establish its *locus standi* under s 345(1)(a) of the Act.

Having found that the appellant had met all the three jurisdictional requirements for a winding-up order, the SCA set the judgment of the court below aside and replaced with an order that the respondent is placed under a final winding-up order and that the costs be costs in the winding-up.

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