



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: 18 October 2023

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

Mantis Investments Holdings v De Jager N O (696/2022) [2023] ZASCA 134 (18 October 2023)

Today, the Supreme Court of Appeal (SCA) dismissed an appeal from the Eastern Cape Division of the High Court, Makanda (high court). The appeal emanated from an order of the high court that the appellants were not entitled to contest the claims proved by the Eastern Cape Development Corporation (ECDC) in the liquidation of No. 1 Watt Street (Pty) Ltd (Watt Street). The case has its genesis in an action which the liquidators instituted against the appellants to set aside a collusive disposition of the assets of Watt Street.

The facts of the matter were that ECDC advanced money to Bushman Sands Development (Pty) Ltd (Bushman Sands), and Watt Street bound itself as surety and co-principal debtor with Bushman Sands to ECDC. ECDC instituted action against Bushman Sands and Watt Street after Bushman Sands defaulted on their loan to ECDC. Mantis Investment Holdings (Pty) Ltd (Mantis), being a shareholder of Watt Street, applied for the liquidation of Watt Street and shortly before the trial, Mantis claimed that it was a creditor of Watt Street for certain unsecured and interest free loans advanced to Watt Street. ECDC and Mantis managed to prove their claims against Watt Street in terms of s 44 of the Insolvency Act 24 of 1936 (the Act), and the claims were accepted by the Master of the High Court after Watt Street was ultimately placed in final winding-up. The high court found that the decision of the Master to accept a claim under s 44 of the Act constitutes administrative action, which existed and continued to have legal consequences until and unless it is reviewed and set aside in terms of s 151 of the Act.

Upon appeal, this Court held that s 44 dealt comprehensively with the procedure for the proof of liquidated claims against an insolvent estate. Where a Master admits a claim, it cannot subsequently alter the decision. If a liquidator was unsatisfied with the Master's decision, a court could be approached to review the matter in terms of s 151 of the Act. This Court found that since no steps were taken to review the Master's decision, the claim became conclusive and enforceable against the company in liquidation.

Consequently, the SCA held that where a party is aggrieved by a decision of the Master to admit proof of a claim against an insolvent estate, such party is limited to the remedy of a review under s 151 of the Act. In the result, the appeal was dismissed.