THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

JUDGMENT

Case No: 977/2019

Reportable

In the matter between:

SIVALUTCHMEE MOODLIAR	**FIRST APPELLANT**
TREVOR PHILIP GLAUM	**SECOND APPELLANT**
KEITUMETSE TAUNYANE	**THIRD APPELLANT**

And

RECYCLING AND ECONOMIC DEVELOPMENT INITIATIVE OF SOUTH AFRICA NPC	**FIRST RESPONDENT**
BOWMAN GILFILLAN	**SECOND RESPONDENT**
THE MASTER OF THE HIGH COURT, WESTERN CAPE DIVISION, CAPE TOWN	**THIRD RESPONDENT**

And in the matter between:

STEPHEN MALCOLM GORE	**FIRST APPELLANT**
TREVOR PHILIP GLAUM	**SECOND APPELLANT**
FRANCIS TJALE	**THIRD APPELLANT**

And

KUSAGA TAKA CONSULTING (PTY) LTD **FIRST RESPONDENT**

BOWMAN GILFILLAN **SECOND RESPONDENT**

THE MASTER OF THE HIGH COURT, WESTERN CAPE DIVISION, CAPE TOWN **THIRD RESPONDENT**

Neutral citation: *Moodliar and Others v Recycling and Economic Initiative of South Africa NPC* (Case no. 977/2019) [2020] ZASCA 101 (15 September 2020)

Coram: NAVSA, MBHA, and PLASKET JJA, WEINER and UNTERHALTER AJJA

Heard: 27 August 2020

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email, publication on the Supreme Court of Appeal website and release to SAFLII. The date and time for hand-down is deemed to be 10h00 on 15 September 2020.

Summary: Companies Act 61 of 1973 – winding-up – appropriation or retention of company funds by liquidators to pay or secure their proposed fees – Act and the Regulations do not permit the liquidators to retain any company assets upon discharge of the provisional liquidation order – assets must be restored- liquidators not permitted to draw their remuneration until the estate account has been taxed and confirmed.

ORDER

On appeal from: The Western Cape Division of the High Court (Le Grange J, sitting as court of first instance):

1. Save to the limited extent related to the costs order of the counter-applications in the court below, reflected in 2 below, the appeal is dismissed with costs, such costs to include the costs consequent upon the employment of two counsel.
2. The order of the court below is amended to read as follows:
   'The relief sought by both Recycling and Economic Development Initiative of South Africa NPC and Kusaga Taka Consulting (Pty) Ltd in prayer 3 of their Notices of Motion respectively, is granted with costs. The Counter Applications are dismissed. The Joinder Applications are dismissed with costs. The costs are to include the costs attendant upon two counsel.

JUDGMENT

Weiner AJA (Navsa, Plasket JJA and Unterhalter AJ concurring)):

[1] When a company is discharged from winding-up, are its former liquidators entitled to appropriate or retain company funds to pay or secure their proposed fees (as yet untaxed) before they restore control of the balance of the company's assets to its directors? The court a quo found that former liquidators were not entitled to retain such funds and ordered them to pay over the amounts, held in trust by their attorneys, to the companies formerly in liquidation in each of the two cases that served before it. This appeal comes before us with the leave of the court a quo.

[2] The appeal comprises two matters, which concern the same issue. They were consolidated for the hearing before the court a quo. The appellants in the first case are Sivalutchmee Moodliar, Trevor Philip Glaum and Keitumetse Taunyane, the former liquidators of the first respondent in that case, Recycling and Economic Development Initiative of South Africa NPC ('Redisa'). In the second case, the appellants are Stephen Malcolm Gore, Trevor Philip Glaum and Francis Tjale, the former liquidators of the first respondent therein, Kusaga Taka Consulting (Pty) Ltd ('KTC'). For convenience, these respondents will be referred to as Redisa or KTC or as 'the companies', where applicable. For purposes of convenience the former liquidators of Redisa and KTC will be referred to as the liquidators. The second respondent in each

of the cases is Bowman Gilfillan ('Bowmans'), a firm of attorneys into whose trust account the liquidators paid the funds, which they had retained to cover their remuneration ('the disputed funds'). Bowmans abides the decision of this Court.

[3] The material facts in this matter are largely common cause. Redisa was responsible for the implementation of an Integrated Industry Waste Tyre Management Plan (the 'Redisa plan'), which was promulgated in late 2012 by the Minister of Environmental Affairs (the 'Minister'), in terms of the National Environment Management Waste Act 59 of 2008. Redisa engaged KTC to provide administrative and management services in respect of the scheme. The Redisa plan was to operate indefinitely, subject to a review to be conducted every five years. The Redisa plan was apparently approved by the Minister, but on 1 June 2017, the Minister, on an urgent *ex parte* basis, sought and obtained a provisional winding-up order, first against Redisa and then, on the same basis, a week later, against KTC. At the time Redisa and KTC were solvent.

[4] The Minister contending, inter alia, that since certain of Redisa's directors had not disclosed their relationship with or significant shareholding in KTC and that this enabled Redisa to misappropriate public funds by using KTC as a vehicle to channel monies for their personal benefit, sought the winding-up of both entities on the basis that it was just and equitable to do so. Provisional liquidation orders were granted *ex parte* and provided, inter alia, that the Master of the High Court (the 'Master') was to appoint provisional liquidators within 24 hours of the orders being granted. In the case of Redisa, the provisional liquidators were ordered to take immediate control of Redisa's business, including the administration and implementation of the Redisa plan. The court ordered further that the provisional liquidators' powers were extended to include the power and authority to continue to conduct the business of Redisa as a going concern. In the case of KTC, the provisional liquidators were directed to take immediate control of the assets and business of KTC. Upon their appointment, the liquidators took control of the assets of the companies including all funds in the companies' bank accounts, and were obliged to manage such businesses in accordance with their duties as liquidators.

[5] Upon learning of the provisional orders, the companies applied for the provisional winding-up orders to be discharged. On 15 September 2017, these

applications were refused and judgments were granted finally winding-up both Redisa and KTC. When they were placed under winding-up. Redisa's cash reserves exceeded R170 million and KTC's exceeded R9 million. Redisa and KTC appealed against the winding-up orders and the appeals were set down for hearing in this Court on 1 and 2 November 2018. On 24 October 2018, a week prior to the hearings, the Redisa liquidators transferred R20 million from the current account which they operated in Redisa's name into Bowmans' trust account. The KTC liquidators transferred R2 million from the current account which they operated in KTC's name into Bowmans' trust account. This appeal concerns these disputed funds.

[6] The final winding-up orders were set aside by this Court on 24 January 2019. It substituted the order of the high court to reflect that the provisional winding up orders were discharged[1].

[7] The liquidators in each case had been appointed in June 2017, as the provisional joint liquidators of Redisa and KTC, and held office until the companies were discharged from liquidation in January 2019.

[8] After the appeal had been upheld and the companies were discharged from liquidation, a meeting was held between the directors of the companies, the liquidators, and their legal representatives, regarding the return of control of the companies to the directors. The liquidators informed the meeting that they had taken the decision to 'ring-fence' an amount of R 20 million as cover for their fees in respect of Redisa and R 2 million in respect of KTC and that such sums had been transferred into the trust account of Bowmans.

[9] The liquidators delivered draft intromissions accounts in regard to the estate in which they reflected the proposed fees – just over R14 million in the case of Redisa, and just over R1.5 million in the case of KTC. On 19 February 2019, an amount (the difference between the original amounts transferred to Bowmans and the proposed fees) was accordingly paid out by Bowmans to the companies on the instructions of

[1] *Recycling and Economic Development Initiative of South Africa NPC v Minister of Environmental Affairs* [2019] ZASCA 1; 2019 (3) SA 251 (SCA).

the liquidators. Approximately R17.8 million of the disputed funds remains in Bowmans' trust account. The companies disputed both the probity and the quantum of such accounts and insisted that they be paid what was being held by Bowman's at the instance of the liquidators. The companies launched proceedings in the court a quo on 20 February 2019 seeking an order that the funds held by Bowmans be paid to them.

[10] The companies contended that whilst a company is in liquidation, the liquidators occupy a position in relation to the company which approximates that of a company's board of directors.[2] Upon discharge of the companies from provisional liquidation, the liquidators were divested of their powers and were required to restore control of all of the companies' assets, which included the disputed funds, to the former controllers.[3] The companies also disputed that Bowmans were holding the disputed funds as a stakeholder.

[11] The liquidators, on the other hand, contended that, as a matter of law, the companies were liable for their remuneration and they were thus entitled to payment of such remuneration from the assets of the companies. They stated that they paid over the disputed funds to Bowmans, as a stakeholder. They submitted further that the companies were liable to pay the reasonable remuneration as taxed or agreed, and that the monies could be retained by Bowmans pending taxation or agreement. Having regard to communications between the parties and to the assertions or a lack of them in the founding affidavits, the liquidators had a reasonable apprehension that payment for their services would be disputed. It was for that reason, in response to the applications by the companies, that they brought counter-applications, seeking an order that the companies were liable to pay their reasonable remuneration.

[12] Section 342[4] of the Companies Act 61 of 1973 (the Act) deals with how assets of a company are to be applied in a winding--up and s 391[5] of the Act sets out the

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[2] *Howat Motors (Pty) Ltd v Waterson* [1963] 4 All SA 54 (T); 1963 (3) SA 669 (T) at 673B-C.

[3] *AMS Marketing Co v Holzman and Another* [1983] 4 All SA 316 (W); 1983 (3) 263 (W) at 270A-C.

[4] Section 342. Application of assets and costs of winding-up
(1) In every winding-up of a company the assets shall be applied in payment of the costs, charges and expenses incurred in the winding-up and, subject to the provisions of section 435 (1)*(b)*, the claims of creditors as nearly as possible as they would be applied in payment of the costs of sequestration and the claims of creditors under the law relating to insolvency . . . shall be distributed among the members according to their rights and interests in the company.'

[5] Section 391. General Duties

general duties of a liquidator. Section 384 of the Act deals specifically with the remuneration of a liquidator.

[13] Section 384(1) of the Act provides that, in a winding-up, a liquidator is entitled to a reasonable remuneration for their services, which requires taxation by the Taxing Master in accordance with the prescribed tariff. In terms of s 384(2), the Taxing Master may reduce or increase or disallow such remuneration on certain grounds. For this reason, the companies contended that the entitlement to payment of the fees cannot arise before taxation.

[14] The liquidators relied on s 384(3) of the Act, which provides that the liquidator is entitled to be paid their remuneration, to which they are entitled under the Act 'out of the assets of the company'. They submitted that there was thus statutory justification for retention of certain of the assets (the disputed funds) to be applied in relation to fees due to liquidators, as opposed to the other assets which must be restored upon discharge from liquidation.

[15] The liquidators also sought to place reliance on regulation 24 read with Annexure CM104.2 of the Regulations in terms of the Act, which provides that, when an appointment is provisional, and the application is dismissed, the liquidator is entitled to 'fees to be taxed by the Taxing Master with due regard to the special circumstances of the case'.

[16] Furthermore, the liquidators relied on *In re Insolvent Estate Paruk*,[6] *Rose v Kemp*[7] and *Van Eck v Meyer*[8] as well as *Blackman: Commentary on the Companies Act*.[9]

A liquidator in any winding-up shall proceed forthwith to recover and reduce into possession all the assets and property of the company, movable and immovable, shall apply the same so far as they extend in satisfaction of the costs of the winding-up and the claims of creditors, and shall distribute the balance among those who are entitled thereto.'

[6] *In re Insolvent Estate Paruk* (1913) 34 NPD 424.

[7] *Rose v Kemp* 1914 WLD 14.

[8] *Van Eck v Meyer* [1964] 4 All SA 137 (GW); 1964 (4) SA 609 (GW).

[9] M S Blackman *et al Blackman's Commentary on the Companies Act* 2011 (RS 8) 14-324. The full passage reads: 'Where after the appointment of a provisional liquidator the liquidation proceedings are withdrawn, the provisional liquidator is entitled to deduct his expenses and remuneration. But he is not entitled to sell assets solely for the purpose of paying himself. He has no lien on any assets or books or papers for his remuneration.'

[17] In *Paruk*, a provisional trustee who had been appointed prior to a sequestration petition being withdrawn, drew an account for his administration of the insolvent estate, in which he reflected that rentals had been collected on the insolvent property, and against these rentals, he charged the expenses of the administration of the estate. The court upheld what the liquidator had done. It held: '…such expenses [ie the liquidators' remuneration and disbursements] must be charged against the rents which were the only moneys in the trustee's hands'.[10]

[18] The court a quo held that *Paruk* was not authority for the proposition relied upon by the liquidators. It found that *Paruk* did not hold that liquidators may retain or withhold a 'self-determined fee' from company assets. On a proper interpretation of *Paruk*, the liquidators could 'reflect' the fees in the estate account, but were not permitted 'to draw' the remuneration until reflected in a taxed and confirmed account.[11]

[19] The liquidators contended that the court a quo's interpretation of *Paruk* does not accord with the view expressed by Blackman that a provisional liquidator is entitled to retain sufficient assets of the company to cover his or her expenses and remuneration. The liquidators stated that they have not drawn the remuneration prior to the confirmation of the estate account and that the disputed funds are being held in Bowmans' trust account.

[20] In *Van Eck*, an order of provisional sequestration had been set aside and the former provisional trustee (the plaintiff) handed all assets back to the defendant. The plaintiff then sued the defendant for his reasonable remuneration as erstwhile provisional trustee. The court held that the plaintiff had a claim for reasonable remuneration and that he had not lost that claim by returning the defendant's assets to him.[12] The court held further that *the trustee had no choice but to return all the assets to the former insolvent upon the revocation of the order*.[13] (Emphasis added.)

[21] The liquidators also relied on *Rose* where the court held that when a provisional sequestration order is discharged, it was the former provisional trustee's duty to

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[10] *Paruk*, supra at 428.
[11] See also *Strydom NO v The Master of the High Court* [2010] ZAGPPHC 164; 2010 (6) SA 630 (GNP) para 27.
[12] *Van Eck*, supra at 612C.
[13] Ibid at 612A-D; see also *Paruk*, supra in which case this issue was dealt with similarly.

account to the former insolvent and that the property of the insolvent, which vested in the former provisional trustee, as a matter of law, vested in the former insolvent. The court, however, held that the disputed amount which had been deducted by the provisional trustee did not vest in the former insolvent on discharge but that 'there arises a right in the insolvent to claim an account of the amount due.'

[22] As set out above, the companies, on the other hand, contended that as on the discharge of the companies from liquidation, the liquidators are divested of their powers and must therefore restore control of all the assets of the company to the directors. They are not entitled to deduct their remuneration from the assets of the companies before handing back such assets.

[23] The companies also relied on Regulation 24 and Annexure CM101 and CM104 to the Regulations.[14] They submitted that Annxeure CM104 did not support the liquidators' contentions. They contended that it supported their case. Annexure CM101 provides general directions on the form and contents of liquidators' accounts. Item 5 of CM101.5 reads:

'The account of payments may provisionally be credited with the amount claimed in respect of the liquidator's remuneration, but no such remuneration or part thereof shall, except by permission of the Master... or the Court, be drawn until the account in which it appears has been confirmed'.[15]

[24] At common law, a trustee in an insolvent estate may not claim or draw his or her remuneration before the estate account reflecting this remuneration has been taxed and confirmed. This common law principle is equally applicable to liquidators,[16] and, as demonstrated below, it is bolstered by the provisions of the Act and Regulations.

[25] In assessing whether the authorities cited by the liquidators support the contention that they are entitled to retain the disputed funds, reference can be made

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[14] Note 4 above.

[15] In *TLE (Pty) Ltd v The Master of the High Court*, the court held that insofar as CM 101.5 provides that liquidators may, with the Master's permission, draw their remuneration before the Taxing Master has confirmed the estate account reflecting such remuneration, this would be *ultra vires* the Act.

[16] *Strydom*, supra paras 27-32. See also *Howat Motors (Pty) Ltd*, supra where the court held that the position of a provisional liquidator was no different to that of a provisional trustee as the provisions in the Insolvency Act 24 of 1936 and the provisions in the previous 1926 Companies Act relating to provisional liquidators shared the same purpose.

to *Strydom NO v The Master of the High Court,*[17] where Tuchten J held that '[u]nder the common law, a trustee cannot *claim or draw* his remuneration until the account in the estate showing the amount thereof has been confirmed. This common-law principle is by no means repugnant with the provisions of the Insolvency Act 24 of 1936, and is thus an applicable principle of our insolvency law today.'[18] (Emphasis added.)

[26] There are certain administrative processes applicable to an estate account. They are contained in, inter alia, ss 403, 406 and 407 of the Act. Section 403 obliges every liquidator (which includes a co-liquidator and a provisional liquidator unless the context otherwise indicates), to frame and lodge accounts with the Master containing an account of receipts and payments and a plan of distribution. Under s 406, the estate account must lie for inspection for a period of at least 14 days at the office of the Master. Notice that the account is lying for inspection must be given in the Government Gazette. The account is open to objection. Section 407 provides for objections to be made and considered. The Master also has the power, even if objections are not made, to direct the liquidator to amend his account or give any other directions he thinks fit. Once the account has lain for inspection and the period for objections has passed, without objections or, if an objection has been lodged, dealt with or withdrawn, the Master must, under s 408, confirm the account. Such confirmation has the effect of a final judgment save in limited circumstances.

[27] It was submitted on behalf of the liquidators that these sections do not apply to provisional liquidators because a provisional liquidator does not liquidate or distribute the assets of a company in liquidation. In dealing with such a submission, Tuchten J stated in *Strydom:*

'This is no doubt the general position, but it is not always so . . . the submission does not seem to me to explain why the provisional liquidator's account, whatever it contains, should not lie for inspection and be open to objection under the Companies Act. The applicant submits that his provisional account will lie for inspection as an attachment to the liquidator's

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[17] *Strydom*, supra.

[18] Tuchten J in *Strydom*, supra para 27, citing Bertelsmann et al *Mars: The Law of Insolvency in South Africa* (9 ed) at 310 and 13; *Meskin: Insolvency Law* (service issue 34) para 4.21; *Abbott v Bryant* 20 CTR 943; *R v Macleod* 1935 EDL 284; *Elliot Brothers (East London) (Pty) Ltd v The Master and Another NO* [1988] 1 All SA 53 (E); 1988 (4) SA 183 (E) at 192I.

account. But by then, if the applicant gets his way, the fees dealt with in the provisional account will have been paid out, to the potentially irreversible prejudice of creditors. To use the language of the definition of liquidator in s 1 of the Companies Act, I do not see that the context of these sections indicates that provisional liquidators are to be excluded from their reach.'[19]

[28] In *AMS Marketing Co v Holzman and Another*[20] it was held that once the company is discharged from liquidation, a liquidator is divested of all his powers and '[t]here are no grounds upon which he may retain *any* assets of the company and any books, records, and documents which came into existence must remain with the company when he vacates his office.' (Emphasis added.)

[29] Contrary to the liquidators' contention that they were entitled to retain sufficient funds to cover their remuneration, *Van Eck* says the very opposite. The court held that the trustee had no option but to return all of the assets to the insolvent upon discharge of the sequestration order. *Paruk*, like *Van Eck*, held that where a sequestration application is withdrawn (or discharged), the trustee may reflect a claim for his remuneration in the estate account. *Paruk* is not authority for the liquidators' submission that pending taxation and confirmation, they may retain a 'self-determined' fee from the companies' assets, and only restore those assets which are in excess of their proposed fee.

[30] Reliance on *Paruk* and *Rose* is misplaced for the additional reasons that follow. First, these cases precede the Act and the Regulations, its immediate predecessor and the Insolvency Act. Second, they deal with a trustee in insolvency proceedings. Unlike an insolvent, whose assets vest in the trustee once a sequestration order is made and the trustee appointed,[21] a company being wound up is not divested of its assets. This only occurs if an order is made in terms of s 361 of the Act, which provides that the court may order that 'all or any part of the property. . . belonging to the company. . . shall vest in the liquidator in his official capacity, and thereupon the property. . . shall vest accordingly'. No such order was made in the present case and

[19] *Strydom*, supra para 29.
[20] *AMS Marketing* supra at 270A-C.
[21] Section 20(1) of the Insolvency Act 24 of 1926 provides that the effect of a sequestration order is to divest the insolvent of their estate and to vest it in the Master until a trustee is appointed, and in the trustee once they are appointed.

all the assets, including funds in bank accounts, remain the property of the companies. Thus, once the liquidators' powers end, they have a claim for their taxed or agreed remuneration, but no right at common law or under the Act or Regulations to retain control over the assets of the company to secure their claim.

[31] A liquidator conducts the affairs of a company as if they are an officer of the company. The liquidators conceded that they did not made out a case for an anti-dissipation interdict. They relied solely upon a statutory right as a necessary incident of the liquidators' entitlement to remuneration in terms of s 384(3). Although the liquidators also conceded that they would not be entitled to hold the funds under a lien, their conduct, in effect, has the characteristics of a lien and is not permitted – as is clear from *Howat Motors* where Galgut J held:

'...the fact that the books are the books of the company and that he [the liquidator] was acting only as an officer of the company is also an answer to the submission that the respondent has a lien. His position can be compared with that of the manager or managing director of the company. It surely could not be said that such a manager or managing director has a lien on the books of the company in respect of emoluments due to him by the company and not paid.'[22]

[32] To summarise, the liquidators may reflect their fees in their account, but upon discharge of the order, all assets, including funds which would cover their fees, must be returned to the companies. The provisions of the Act and the Regulations do not permit the liquidators to retain the disputed funds. These are assets of the companies. The liquidators are not permitted to draw their remuneration until the estate account has been taxed and confirmed. Their interpretation of the commentary in Blackman on this point is also flawed. If one has regard to the full passage in Blackman,[23] it accords with the general principles referred to in *Howat, AMS Marketing and Strydom* i.e 'a liquidator is entitled to deduct his expenses and remuneration. But he is not entitled to sell assets solely for the purpose of paying himself. He has no lien on any assets or books or papers for his remuneration.' The implication is that the liquidators are not entitled to 'sell' or 'retain' or 'transfer' the disputed funds to cover their remuneration. The liquidators' distinction between their remuneration, on the one hand, and other assets of the companies, on the other, is ill-conceived.[24] There is thus no lawful basis

[22] *Howat Motors*, supra at 673B-C.
[23] *Blackman* supra Note 8
[24] *Howat*, supra and *AMS Marketing*, supra are clear on this point.

upon which the liquidators are entitled to retain fees and/or transfer such funds to Bowmans, in trust, for their reasonable remuneration.

[33] The decision to which I have come is dispositive of the appeal. It is not strictly necessary to deal in detail with the dispute between the parties as to whether Bowmans was acting as a stakeholder. Suffice it to say that the liquidators' version that they transferred the monies to Bowmans in anticipation of the appeal being upheld and their fear of not being paid, contradicts the allegation that Bowmans was acting as a stakeholder. This position was also only belatedly raised by the liquidators many months after the monies had been transferred to Bowmans. Nor is it plain how a tripartite agreement came to be formed between the liquidators, acting both in their own interests and on behalf of the companies, and Bowmans. The court a quo dealt comprehensively with this issue and the reasoning in the judgment cannot be faulted.

[34] In regard to the appeal against the finding in relation to the companies' striking-out applications, the court a quo correctly found that the offending allegations contained in the liquidators' affidavits fell to be struck-out. The reasons advanced by the court a quo also cannot be faulted.

[35] In relation to the costs of the counter-applications and the joinder applications, in their founding affidavits the companies did not admit liability to pay the liquidators their reasonable remuneration. As a consequence, the liquidators sought a declaratory order to that effect in counter-applications. They later sought to join the Minister on the basis that, if it was held that the companies were not liable to the liquidators, the Minister would be liable. The companies' equivocal acknowledgements in their answering affidavits in the joinder applications did not help. By the time of the hearing, it became clear that there was an acknowledgement by the companies that they were liable for the fees of the liquidators. The costs of the dismissal of the counter-applications should thus not have been awarded against the liquidators. I did not understand counsel for the companies to contend otherwise. Counsel for the liquidators did not seek to overturn the costs order in respect of the joinder applications.

[36] The following order is made:

1. Save to the limited extent related to the costs order in the counter-application in the court below, reflected in 2 below, the appeal is dismissed with costs, such costs to include the costs consequent upon the employment of two counsel.
2. The order of the court below is amended to read as follows:
   'The relief sought by Recycling and Economic Development Initiative of South Africa NPC and Kusaga Taka Consulting (Pty) Ltd in prayer 3 of their Notices of Motion respectively, is granted with costs. The Counter Applications are dismissed. The Joinder Applications are dismissed with costs. The costs are to include the costs attendant upon two counsel

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WEINER AJA

ACTING JUDGE OF APPEAL

APPEARANCES

For the appellants:	B Manca SC with C Morgan
Instructed by:	Edward Nathan Sonnenbergs Incorporated, Cape Town
	Lovius Block Attorneys, Bloemfontein
For the respondents:	J Dickerson SC with K Reynolds and L Kelly
Instructed by:	Cliffe Dekker Hofmeyr Incorporated, Cape Town
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