
PROPER SERVICE AS A REQUIREMENT FOR LIQUIDATION

It is a feather in an attorney's cap when his manner of operations, together with his work ethics, is tested in court of law and passes the test with flying colours.

Arno Janse van Vuuren, one of our directors, stands tall after a successful liquidation application in the High Court of Pretoria in which the Judge ordered that this specific judgement must be reported in all relevant publications. This can be seen as a second feather in our cap!

In ***Tayfin Financial Accountant (Pty) Ltd v Aniza Noormahomed N.O.*** we have obtained instruction from our client to bring a liquidation application after FK Noormahomed Holding Trust failed to settle our client's outstanding account for services rendered.

All prescribed legal action has been followed thoroughly: a summons has been issued for the outstanding amount. Although the defendants/respondents gave notice of their intention to defend our action, their attorneys cited Mrs. Noormahomed in her personal capacity on the document. In this legal document, as well as all their other legal documents, their attorneys placed on record that the defendants/respondents will receive all legal documents at an address in Laudium. In the absence of any further action to defend their case in court, we applied for judgement against Mrs. Noormahomed and her co-trustee in their capacity as trustees of said trust. Judgement has been granted. We attempted unsuccessfully to claim the outstanding money with further legal actions. This included an attempt to send the sheriff to attach assets at the address that was given in the defendants/respondents court documents. In the absence of the defendants/respondents was the sheriff unable to attach enough assets in order to comply with the judgement. That is why we applied for the liquidation order.

It was the defendants/respondents' legal argument that the address where the sheriff served the warrant of execution was the personal address of Mrs. Noormahomed and not that of the registered address of the said trust. They were further of the opinion that we knew this because we referred to the correct business address of the Trust in our affidavit in court.

The judge did not agree with this argument. It was confirmed that the address where the sheriff attached the assets is the same address that was given by the defendants/respondents in their own legal documents where they will receive any legal documents. This indirectly confirmed the address where any attachment can take place. A further argument before the court was that the warrant of execution was wrongly issued, was rejected. The court was of opinion that we acted accordingly with the information we had, with special reference to the use of the given address for services of court documents on the defendants/respondents. The sheriff's written confirmation that there were not enough assets to attach and comply with the court order, gave us a prescribed foundation for the liquidation application.

Hence we were able to collect the claimed amount, together with fees and legal cost from the defendants/respondents.

It is of utmost importance to safeguard and promote our clients interest to the best of our ability and we are extremely thrilled to be victorious on our client's behalf.

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