



**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:** 29 January 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*

*Equistock Properties 8 (Pty) Ltd and Another v Oosthuizen and Others (738/2023 and 739/2023) [2025] ZASCA 06 (29 January 2025)*

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Today the Supreme Court of Appeal (SCA) handed down judgment in which it dismissed the appellants appeal against an order of the Limpopo Division of the High Court, Polokwane (the high court) in which it firstly, dismissed an application (the application) by the first appellant, Equistock 8 (Pty) Ltd (Equistock): (a) directing the fourth, fifth, sixth and seventh respondents to pay rentals in respect of their occupation of Equistock's properties into Equistock's banking account; and (b) interdicting those respondents from paying any such rentals to the first, second or third respondent, or negotiating with those respondents concerning the rental or renting of Equistock's properties. Secondly, granting a personal punitive costs order against Hendrik Coetzee (Mr Coetzee), who had deposed to the founding affidavit of Equistock in the application. The appeal was with the leave of the high court.

Equistock was registered as a company in South Africa in 1999. On 20 January 2000, Willem Oosthuizen, Karen Oosthuizen (collectively, the Oosthuizens), and her father, Mr Coetzee Senior (the deceased) were appointed as directors of Equistock. Mr Coetzee is the son of the deceased and the brother of Karen Oosthuizen. Prior to his death, the Oosthuizens concluded an oral arrangement with the deceased, in terms of which the deceased, through his entities, AP Coetzee Trust and Passer Domesticus Trust, would loan money to Laduma Biscuits (Pty) Ltd (Laduma), a company owned by the Oosthuizens. As security for the repayment of these loans, the AP Coetzee Trust held the Oosthuizens' shareholding in Equistock. It was agreed that once the loans were paid up, the shares would be transferred to Karen Oosthuizen, to be held in a separate trust account or any entity nominated by the Oosthuizens.

Equistock purchased two commercial properties in 2000 and 2002. It was agreed that Laduma would manage these properties on behalf of Equistock. This involved collecting rental, paying all related expenses, and essentially acting as the property manager of the two properties. Equistock's role was limited to ownership of the properties. This arrangement extended from 2000 to 2013, with the deceased having minimal involvement in Laduma's operations or the management of the properties. In 2013, the Oosthuizens discovered that they had overpaid the deceased by R358 709.18. Consequently, they instituted an action in the Gauteng Division of the High Court, Pretoria (the Pretoria high court), against the deceased and the trusts, claiming the transfer to them of their shareholding in Equistock, which was held as security, as well as the repayment of the amount they allegedly overpaid (the pending action).

In 2014, the deceased attempted to remove the Oosthuizens as directors and appoint new ones. The Oosthuizens challenged this by launching an urgent interim interdict to interdict the deceased from doing so. This led to an order, being granted by agreement on 3 September 2013, that maintained the existing power structure. Significantly, the status quo that existed prior to 2013 remained in place until the deceased passed away on 21 September 2018 and is still in place. Therefore, Laduma continued to manage Equistock, as it did prior to the order of 3 September 2013. Following the death of the deceased, a family feud erupted over control of Equistock. Mr Coetzee attempted to seize control by claiming to be the sole shareholder and appointing new directors. However, the high court dismissed his claims, finding no evidence to support his assertions and ordered him to pay costs, effectively upholding the existing management structure.

The core issues for determination by the SCA were, first, whether the application for the interdict was authorised by Equistock, and second, whether a case for the interdictory relief was made out.

In respect of the first issue, the SCA found that Mr Coetzee was not a legitimate director or shareholder of Equistock. The SCA highlighted the invalidity of two key resolutions. First, Mr Coetzee, falsely claiming to be the sole shareholder, unilaterally held a special shareholders meeting on 17 May 2021. This meeting was deemed invalid as he did not own the shares, which were held by the AP Coetzee Trust. Building upon this invalid meeting, a subsequent resolution on 21 May 2021, purported to appoint new directors, including Mr Coetzee and his wife. However, this resolution was also deemed invalid as it stemmed from the fraudulent May 17<sup>th</sup> meeting and lacked proper notice to all directors, in terms of s 74 of the Companies Act 71 of 2008, which included the Oosthuizens. The SCA concluded that Equistock did not authorise the application for the interdict.

In respect of the second issue, the SCA found that a case for an interdict had not been established. The SCA questioned Equistock's right to collect rental income, given the long-standing arrangement with Laduma for management of the two properties. The SCA found that there was no evidence of injury or the imminent threat of injury to Equistock. Furthermore, the SCA found that the existence of an alternative remedy (the pending action in the Pretoria high court) further weakened the case for an interdict.

The SCA upheld the high court's punitive costs order against Mr Coetzee, finding that he launched the proceedings without proper authority and that his actions were driven by personal motives.

As a result, the SCA dismissed the appeal and ordered Mr Coetzee to pay the costs of the appeal, including the costs of two counsel, where so employed.

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