



**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

MEDIA SUMMARY OF JUDGMENT DELEIVERED IN THE HIGH COURT

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgment of the Western Cape High Court

Lee v Van Rooyen N.O. and Others (Case No 2025-242944) [2026] ZAWCHC ... (... October 2026)

The Western Cape Division of the High Court dismissed, with costs, an application brought by Anton Lee ('the applicant'), a creditor of Mirror Trading International (Pty) Ltd (In liquidation) ('MTI'). The applicant sought the removal of MTI's liquidators in terms of section 379 of the Companies Act 61 of 1973 ('the 1973 Act') ('the removal relief'), as well as interdictory relief directing the liquidators to perform certain duties ('the interdictory relief') and alternative relief which would impose supervisory conditions on the proceedings instituted by the liquidators in the United Kingdom ('UK') ('the oversight relief').

MTI presented itself as an internet-based cryptocurrency company that pooled members' Bitcoin for foreign-exchange trading. It claimed that trading profits were a result of software code developed by co-founder Johann Steynberg and promised members a share of those profits, together with referral-based rewards for recruiting new investors. In reality, MTI operated as an illegal Ponzi scheme whereby returns paid to earlier members came from Bitcoin deposited by newer members, not from genuine trading profits. It attracted hundreds of thousands of individuals over a period of 20 months, who were lured into depositing their bitcoin. The scheme collapsed when deposits from new investors were no longer sufficient to fund the returns promised to existing members.

In a previous application, the applicant sought the winding-up of MTI on the basis that it was unable to pay its debts within the meaning of sections 339 and 340 of the 1973 Act. A provisional order for the winding-up of MTI was granted by this court on 29 December 2020 and provisional liquidators were subsequently appointed. On 30 June 2021, a final liquidation order was granted.

On 26 April 2023, upon application by the liquidators, this court declared MTI's business model to be an illegal and unlawful scheme and declared the trading and investment agreements concluded between MTI and its investors to be unlawful and void *ab initio* (*Bester NO and Others v Mirror Trading International (Pty) Ltd (in liquidation) t/a MTI and Others* [2023] ZAWCHC 83; [2023] 3 All SA 101 (WCC); 2024 (1) SA 112 (WCC)). On 9 November 2023, upon a second application by the liquidators, this court handed down directions regarding the winding-up of MTI (unreported judgment by Maher AJ in *Bester NO and Others v The Master of the High Court, Cape Town and Others* (1372/2022) delivered on 9 November 2023). In

terms of that judgment, creditors who lost funds to the scheme would have a claim against MTI's estate equal to the value of their investment, and the liquidators would have a claim against those who made a profit. Because MTI's scheme drew in investors globally, the liquidators have instituted claims for the recovery of the bitcoin disposed of by MTI in both domestic and foreign jurisdictions.

As preliminary issues, the court found that the applicant's founding and replying affidavits fell short of the standard expected of him in motion proceedings. Specifically, his papers did not set out the necessary facts upon which he is relying to make out his case and relied too heavily on conclusions, annexures, and speculation. He also failed to respond properly to the averments made by the liquidators in his reply.

Removal relief

Regarding the removal relief, the applicant alleged that the liquidators had breached their fiduciary duties by using estate assets, belonging to the creditors, imprudently on litigation. In this regard, he is concerned that the estate's available funds had declined significantly and that adverse costs orders were granted against MTI's estate in proceedings launched in the UK. He is also concerned that some claims have allegedly been brought too late, resulting in a prescription defence being raised by some respondents in the UK proceedings, and that the liquidators have advanced contradictory pleadings, acted without transparency, and misled the court. Accordingly, the applicant claims that the liquidators have not litigated with due caution to ensure that they are not unnecessarily jeopardising estate funds.

In seeking this relief, the applicant relied on s 379 of the 1973 Act. Section 379(1) lists the grounds on which the Master of the High Court may remove a liquidator, while s 379(2) permits a court to do so, on application by the Master or another interested person, for any other good cause shown. Although the applicant did not identify the specific ground on which he relied, his complaints appeared to invoke the failure to perform satisfactorily statutory duties (s 379(1)(b)), the liquidators' unsuitability for office (s 379(1)(e)), or that there is generally good cause (s 379(2)).

The liquidators aver that the recovery litigation was part of their legal duty to recover assets and that the claims instituted in the UK were potentially worth far more than the litigation costs. The proceeds recovered from these proceedings would be used to fund a liquidation dividend to the creditors. They further explained that MTI's records were incomplete and required extensive technical and forensic work. New liquidators would need years to get up to speed with this process and to familiarise themselves with the large volume of documents.

The court found that the applicant had not established proper grounds for the removal of the liquidators. His allegations were not supported by primary facts, and he instead relied on conclusions and inferences. Furthermore, the applicant's reliance on the prescription defence was unfounded. This court was not permitted to determine whether claims before courts in other jurisdictions had prescribed. Such issues are fact-specific and must be decided before the courts in which there were properly raised. In any event, the date on which the applicant alleged prescription had commenced running was found to be incorrect.

The evidence showed that the liquidators had generally fulfilled their duties, kept creditors informed through regular circulars, and retained the support of most creditors in their recovery efforts. The court found that the UK litigation costs were proportionate to the anticipated

recoveries and that replacing the liquidators at this advanced stage would delay liquidation, duplicate work, increase costs, and prejudice creditors' interests.

Interdictory relief

In terms of the interdictory relief, the applicant sought relief in the form of an updated liquidation and distribution account, an explanation for the reduction in the estate's value, and orders directing the liquidators to account for the UK litigation expenditure and the adverse costs orders made.

The court found that the applicant did not set out, in his founding affidavit, why he sought this relief or why he specifically would be entitled to such relief, and held that he did not establish the legal requirements for the requested interdicts.

Specifically, the applicant did not set out what clear right he relied upon, failed to set out primary facts upon which an actual or apprehended injury could be established, and failed to establish the absence of a satisfactory injury.

Oversight relief

Oversight of the liquidation primarily belongs to the Master of the High Court, and the applicant had already lodged a complaint to the Master in terms of s 381 of the 1973 Act. That provision directs the Master to take cognizance of liquidators' conduct if either the Master has reason to believe that they are not fulfilling their duties or a complaint by a creditor, regarding the liquidators' conduct, is made to them.

Since the applicant had triggered the Master's oversight jurisdiction in terms of this provision, his actions, in seeking oversight relief from this court before the s 381 application has concluded, would require this court prematurely to interfere with and usurp the functions of the Master. Should the applicant be unsatisfied with the outcome of the s 381 application, he is entitled to take the Master on review.

Abuse of process

The court agreed with the liquidators that the applicant's application was an abuse of process rather than a good faith attempt to protect creditors. His targeting of the UK recovery proceedings despite not being a party thereto, failure to answer the liquidators' allegations of an ulterior motive, unsupported attacks on the liquidators' conduct, and improper use of urgent court processes indicated an aim to obstruct the liquidators' statutory recovery duties and halt the UK litigation.

The court further found that in bringing the application as one of urgency, the applicant failed to comply with the procedural rules, and this justified a punitive costs order being made against him. The court, however, declined to order costs *de bonis propriis* against his attorney.

The court accordingly dismissed the application with costs on an attorney and client scale.

Ends