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This is so because a business plan cannot be invoked if the company is already insolvent - Merchant West Working Capital Solutions (Pty) Ltd v Advanced technologies and Engineering Company Ltd 13/12406 10 May 2013 (GSJ) [2013] ZAGPJHC 109 and Redpath Mining South Africa (Pty) Ltd v Marsden NO and Others 18486/2013 14 June 2013 (GSJ) [2013] ZAGPJHC 148.

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18 (13/12406) [2013] ZAGPJHC 109 (10 May 2013). Hereinafter referred to as ‘Merchant West’. 20 Ibid at para 20 fn 10. 21.

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South Africa: South Gauteng High Court, Johannesburg ...
7 Temmers Building Encroachments 109-111. See also Boggenpoel 2013 THRHR 319, where it is argued that court orders that cause the transfer of the affected land to the encroacher would have difficulty in complying with s 25(1) of the Constitution of the Republic of South Africa, 1996 (hereafter the Constitution).