

REPUBLIC OF SOUTH AFRICA
SUPREME COURT OF APPEAL
BULLETIN 2007
NO 3

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1. BULLETINS
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5. APPEALS DISPOSED OF WITHOUT WRITTEN REASONS

1. **BULLETINS**

Number 1, 2006 – As at 8 December 2005
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2. **JUDGMENTS RESERVED**

Minister of Safety and Security and Others v SH Bennet and Others
(302/2006)

Date heard: 3 May 2007

Farlam JA, Nugent JA, Cloete JA, Ponnann JA, Mlambo JA

Catchwords

Criminal Procedure – search and seizure – Criminal Procedure Act 51 of 1977, ss 20 and 21, interpretation of – whether privileged documents seized intentionally – whether inadvertent seizure of privileged documents would cause search and seizure processes to be unlawful

Appealed from TPD. 2006 (1) SACR 523 (T)

Anand Nepaul v Citibank NA and Others (210/2006)

Date heard: 10 May 2007

Scott JA, Nugent JA, Heher JA, Maya JA, Hancke AJA

Catchwords

Attorneys – attachment of trust account – appeal against dismissal of application for setting aside of attachment in execution of judgment – whether appeal moot and should be dismissed in terms of Act 59 of 1959, s 21A – whether appellant entitled to order setting aside attachment

Appealed from DCLD

MEC, Department of Social Development, ECP v NR Fani (549/2005)

Date heard: 22 May 2007

Farlam JA, Heher JA, Ponnann JA, Combrinck JA, Cachalia JA

Catchwords

Administrative Law – PAJA 3 of 200, s 6 and Social Assistance Act 59 of 1992 - whether court a quo competent to make order directing appellant to reconsider respondent's application social grant, after application had been considered and refused

Appealed from Bisho High Court

3. CASES TO BE HEARD**Lombard Insurance Co. Ltd v City of Cape Town (441/2006)**

Date to be heard: 15 August 2007

Howie P, Mthiyane JA, Cloete JA, Combrinck JA, Mhlantla AJA

Catchwords

Contract – interpretation – institutional guarantee – guarantee issued by appellant to respondent in respect of civil engineering contract concluded between two parties as joint venture partners and respondent's predecessor in title – whether contract into by only one of parties

Appealed from CPD

Republican Press (Pty) Ltd v CEPPWAWU and Another (218/2006)

Date to be heard: 15 August 2007

Farlam JA, Nugent, Jafta JA, Mlambo JA, Maya JA

Catchwords

Labour law – whether there is a right of appeal to SCA from Labour Court – if so, the test, with regard to threshold that applicant for leave must achieve to be granted leave – whether Labour Court precluded from granting reinstatement order that is retrospective for more than one year in cases of unfair dismissal and 24 months in cases of automatically unfair dismissals

Appealed from LC. (2006) 27 ILJ 335 (LC)

SA Breweries Limited v Shoprite Holdings Limited (476/2006)

Date to be heard: 16 August 2007

Scott, JA, Lewis JA, Van Heerden JA, Malan AJA, Kgomo AJA

Catchwords

Arbitration – validity of expert determination - interpretation of expert determination of several accounting disputes – whether respondent succeeded in court *a quo* on basis other than permissible in light of founding papers

Appealed from CPD

Executive Officer of the Financial Services Board v Fedbond Participation Mortgage Bond Managers (Pty) Ltd and Another (264/2006)

Date to be heard: 16 August 2007

Navsa JA, Nugent JA, Jafta JA, Combrinck JA, Cachalia JA

Catchwords

Insolvency – Financial Institution (Protection of Funds) Act 28 of 2001, s 5 – whether court a quo correctly exercised its discretion under section

Appealed from TPD

J Blignaut v The State (588/2006)

Date to be heard: 16 August 2007

Mthiyane JA, Heher JA, Ponnann JA**Catchwords**

Criminal law – sentence – robbery of R5000 – 15 years imprisonment in terms of Criminal Law Amendment Act 105 of 1997, s 51(2)(a) – whether court a quo erred in finding no substantial and compelling circumstances justifying imposition of lesser sentence

Appealed from ECD

Commercial Auto Glass (Pty) Ltd v Bayerische Motoren Werke Aktiengesellschaft (331/2006)

Date to be heard: 17 August 2007

Harms ADP, Cloete JA, Heher JA, Cachalia JA, Hurt AJA

Catchwords

Trade Marks Act 194 of 1993 - trade mark infringement – passing off - whether seller of spare parts for motor vehicles entitled to employ trade marks of vehicle manufacturer to describe make and model for which it sells parts – whether use bona fide and fair – whether illustrations of non-infringing behaviour listed in section 34 apply to allegations of infringement in terms of section 35

Appealed from TPD

CSARS v The Baking Tin (Pty) Ltd (431/2006)

Date to be heard: 17 August 2007

Scott JA, Brand JA, Lewis JA, Maya JA, Mhlantla AJA

Catchwords

Customs and Excise – Customs and Excise Act 91 of 1964, section 47(9)(e), interpretation of – tariff heading under which aluminium foil containers imported by respondent should be classified

Appealed from CPD. [2007] All SA 477 (C)

O Dissel v The State (598/2006)

Date to be heard: 17 August 2007

Farlam JA, Van Heerden JA, Kgomo AJA

Catchwords

Criminal law – conviction and sentence – murder – 15 years imprisonment – whether State had proved beyond reasonable doubt that appellant had not acted in self defence when he stabbed deceased – whether substantial and compelling circumstances exist which justify imposition of lesser sentence than prescribed minimum sentence

Appealed from ECD

DS Barnett and Others v The Minister of Land Affairs and Others (304/2006)

Date to be heard: 20 August 2007

Howie P, Brand JA, Jafta JA, Maya JA, Hurt AJA

Catchwords

PIE – whether respondent's claim for eviction prescribed – whether occupation of land to be classified as debt in terms of Prescription Act or whether illegal occupation a continuing wrong – whether respondents proved requirements for granting order for eviction – whether respondents complied with provisions of PIE and Unlawful Occupation of Land Act 1998

Appealed from TkH

J van Zyl and Others v The Government of the Republic of South Africa (170/2006)

Date to be heard: 20 – 21 August 2007

Harms ADP, Heher JA, Combrinck JA, Cachalia JA, Mhlantla AJA

Catchwords

Diplomatic protection – dispute between appellants and Government of Kingdom of Lesotho concerning expropriation of mining leases in Lesotho without compensation - whether government complied with constitutional principle of legality in responding to appellants' request for diplomatic protection – whether appellants' request for diplomatic protection met jurisdictional prerequisites for lawful diplomatic protection under international law

Appealed from TPD. [2005] 4 All SA 96 (T)

M Scott-Crossley v The State (677/2006)

Date to be heard: 20 August 2007

Mthiyane JA, Cloete JA, Ponnann JA

Catchwords

Criminal law – conviction and sentence – appellant convicted of murder for throwing farm worker into lion camp – sentenced to life imprisonment – whether court *a quo* correct in finding appellant guilty of murder – whether court erred in refusing to make special entry of irregularity in terms of Criminal Procedure Act, s 217(1) – whether trial judge correct in ordering that trial of accused 1 be separated from that of accused 2 and appellant

Appealed from TPD

PJ van der Walt and Another v EJ van der Merwe and Others (424/2006)

Date to be heard: 21 August 2007

Navsa JA, Mthiyane JA, Brand JA, Mlambo JA, Malan AJA

Catchwords

Corporate law – liability of partners – appeal against costs order – Close Corporation Act 69 of 1984, s 64(1) and 65 – whether appellants liable to respondents as a partnership in which they would have been partners – whether appellants responsible for debts of close corporation in terms of provisions of Act

Appealed from TPD

Z Mabuza and Others v The State (174/2001)

Date to be heard: 22 August 2007

Nugent JA, Cachalia JA, Hurt AJA

Catchwords

Criminal law – conviction and sentence – robbery (15 years imprisonment) and rape of minor (life imprisonment) – whether appellants had fair trial – whether their rights to legal representation properly explained – whether court *a quo* erred in finding there to be no substantial and compelling factors regarding imposition of sentence

Appealed from WLD

RAR Kebble and Others v The Minister of Water Affairs and Forestry (530/2006)

Date to be heard: 23 August 2007

Harms ADP, Lewis JA, Van Heerden, Jafta JA, Kgomo AJA

Catchwords

Company law - contempt of court – whether respondent established grounds of urgency for urgent application – whether nature of order against company one *ad pecuniam solvendam* or *ad factum praestandum* – whether resignation, *en masse*, of entire board of directors of public company in face of contempt application against company and themselves, absolves them from liability

Appealed from WLD

Fortis Bank (Nederland) NV v Orient Denizcilik Turizm Sanayi Ve Ticaret AS (242/2006)

Date to be heard: 23 August 2007

Scott JA, Farlam JA, Heher JA, Combrinck JA, Hurt AJA

Catchwords

Admiralty – Admiralty Jurisdiction Regulation Act 105 of 1983, s 11 – ranking of claims against Fund created by Act – whether respondent’s claim classifies as “maritime claims” in terms of Act

Appealed from DCLD

BID Industrial Holdings (Pty) Ltd v JFR Strang and Others (615/2006)

Date to be heard: 24 August 2007

Howie P, Nugent JA, Ponnar JA, Maya JA, Malan AJA

Catchwords

Jurisdiction – Supreme Court Act 59 of 1959, s 19(1)(c), interpretation of – appellant instituted application for arrest of respondents to found or confirm jurisdiction in a delictual action to be instituted – whether appellant made out *prima facie* case in delict – whether main application constituted abuse of process – whether s 19(1)(c) inconsistent with Constitution

Appealed from WLD

CSARS v Brummeria Renaissance (Pty) Ltd and Others (391/2006)

Date to be heard: 24 August 2007

Scott JA, Cloete JA, Van Heerden JA, Kgomo AJA, Mhlantla AJA

Catchwords

Income Tax – Income Tax Act of 1962, s 1 and 79(1), interpretation of – whether fact that respondents had benefit of interest-free loans granted by occupiers of housing units in consideration for use and occupation resulted in “amounts” having been “received by” or having “accrued to” respondents for the purposes of definition of “gross income” – whether appellant precluded from assessing 1st respondent in certain years of assessment by virtue of provisions of s 79(1)

Appealed from Tax Court

Exdev (Pty) Ltd v Yeoman Properties 1007 (Pty) Ltd and others (314/2006)

Date to be heard: 24 August 2007

Navsa JA, Lewis JA, Mlambo JA

Catchwords

Sale of land – Alienation of Land Act 68 of 1981 – validity of contract silent on method of payment - whether such sale void for non-compliance with formalities prescribed by Act 68 of 1981 – whether contract subject to seller cancellation by seller where seller induced to sell by estate agent’s misrepresentation regarding another estate agent

Appealed from TPD

NV Gasa v Road Accident Fund (579/2006)**Date to be heard:** 27 August 2007**Howie P, Van Heerden JA, Jafta JA, Maya JA, Kgomo AJA****Catchwords**

Family law – Fund – right to claim loss of support – customary marriages – whether prior civil marriage of deceased spouse to third party rendered appellant's right to support in terms of customary marriage nugatory – whether *boni mores* of society recognise that appellant belonged to class of dependent entitled to protection of dependent's action

Appealed from DCLD**NDPP and Another v J Mahomed (596/2005)****Date to be heard:** 27 August 2007**Farlam JA, Nugent JA, Cloete JA, Ponnann JA, Mlambo JA****Catchwords**

Search warrants – NPA Act 32 of 1998, s 29 – whether fatal non-disclosure in application for search warrants – whether defective because of failure to provide adequate safeguards to protect attorney-client privilege – whether terms of warrants unjustifiably broad – whether case made out in terms of s 29(5)(c) for need, in regard to investigation, for search and seizure – whether reasonable grounds existed to believe that anything referred to in sub-section (1) was or was suspected to be on premises to be searched

Appealed from WLD. 2006 (1) SACR 495 (W); [2006] All SA 127 (W)**Hack Stupel & Ross Attorneys v L Kgang (560/2006)****Date to be heard:** 28 August 2007**Harms ADP, Navsa JA, Mthiyane JA, Hurt AJA, Kgomo AJA****Catchwords**

Sale in execution – damages – whether amount of damages proved – whether respondent can rely on a cause of action raised for first time in his affidavit – whether respondent succeeded in proving that he suffered damages – whether agreement entered into between parties in terms whereof appellant agreed not to proceed with sale in execution of respondent's property – whether appellant acted unlawfully and negligently in selling respondent's immovable property in execution

Appealed from TPD**NDPP v Jacob G Zuma & Another (639/2006)****Date to be heard:** 28 August 2007**Farlam JA, Nugent JA, Cloete JA, Ponnann JA, Mlambo JA****Catchwords**

Search and seizure – National Prosecuting Authority Act, 38 of 1998, s 29 - warrant – privilege - whether sufficient evidence placed before judge in chambers to warrant search warrant – whether fraudulent non-disclosure of benefits of income could be 'complicated offences' in sense contemplated in proclamation defining 'specified offences' issued in terms of s 7

Appealed from DCLD. 2006 (1) SACR 468 (D); [2006] All SA 91 (D)**S Wessels v BC Pretorius (418/2006)****Date to be heard:** 28 August 2007**Scott JA, Heher JA, Van Heerden JA****Catchwords**

Delict – motor vehicle accident – whether appellant personally liable for damages sustained in accident his son caused by driving his motor vehicle with his consent – whether appellant personally liable due to breach of legal duty to forbid his son to drive motor vehicle

Appealed from BPD

Tetra Mobile Radio (Pty) Ltd v The Member of the Executive Council of the Department of Works and Others (482/2006)

Date to be heard: 29 August 2007

Howie P, Mthiyane JA, Lewis JA, Heher JA, Van Heerden JA

Catchwords

PAIA – Kwazulu–Natal Procurement Act 3 of 2001 – access to information – whether appellant entitled to documentation for purposes of prosecuting internal appeal against award of tender to third respondent – whether documentation sought confidential – whether, as Schedule of PAIA was not amended as contemplated by s 86(1), any legislation which permits access to a record of a public body still applies – whether court erred in finding appellant bound by PAIA and not procedure set out in Procurement Act

Appealed from NPD

Thint (Pty) Ltd v NDPP (671/2006)

Date to be heard: 29 August 2007

Farlam JA, Nugent JA, Cloete JA, Ponnann JA, Mlambo JA

Catchwords

Search and seizure – jurisdiction for granting of warrants – National Prosecuting Authority Act 38 of 1998 – privileged information

Appealed from TPD

MTN Service Provider (Pty) Ltd v Afrocall (Pty) Ltd (370/2006)

Date to be heard: 29 August 2007

Brand JA, Combrinck JA, Kgomo AJA

Catchwords

Security for costs – Companies Act 61 of 1973, s 13 read with Uniform Rule 47(1) of High Court Rules – whether court erroneously refused application for order for security for costs – whether order unjustifiable and not based on any substantial reason

Appealed from TPD

Transnet Pension Fund v J Kuit and Others (396/2006)

Date to be heard: 30 August 2007

Harms ADP, Navsa JA, Brand JA, Combrinck JA, Cachalia JA

Catchwords

Pension Funds – appeal against judgment declaring that computation of respondents' benefits in a pension fund contrary to rules of the Fund – what was formula as determined by actuary for purposes of formula in rules – whether, in event that formula determined by actuary for calculation of respondents' benefits prescribed or recommended application of reduction factor, appellant obliged or entitled to depart from formula or recommendation – whether respondents' correct remedy a review

Appealed from WLD

Progress Office Machines CC v SARS and Others (532/2006)**Date to be heard:** 30 August 2007**Scott JA, Lewis JA, Heher JA, Malan AJA, Mhlantla AJA****Catchwords**

Anti-dumping duties – lapsing of duties 5 years from imposition – whether 5 year period to be calculated, in case where duties retrospectively imposed, from date of retrospective imposition or from date of publication of Government Notice

Appealed from DCLD**M Pakane and others v The State (43/2007)****Date to be heard:** 30 August 2007**Mthiyane JA, Maya JA, Hurt AJA****Catchwords**

Criminal law – conviction – whether 2nd appellant acted in private defence – whether 1st and 3rd appellants accessories after fact due to failure to report shooting incident

Appealed from TKH**Vari-Deals 101 (Pty) Ltd t/a Vari-Deals and Others v Sunsmart Products (Pty) Ltd (503/2006)****Date to be heard:** 3 September 2007**Harms ADP, Nugent JA, Ponnann JA, Combrinck JA, Hurt AJA****Catchwords**

Patents and designs – design: whether registered design invalid in light of prior art cited – whether alleged infringing article infringes registered design – patent: whether alleged infringing product contains all essential integers of claim 1 of patent – whether patent invalid in light of prior art relied upon

Appealed from TPD**Trustees of Bus Industry Restructuring Fund v Break Through Investments CC and others (397/2006)****Date to be heard:** 3 September 2007**Scott JA, Brand JA, Lewis JA, Jafta JA, Malan AJA****Catchwords**

Contract – interpretation – proper interpretation of contractual provision – correctness of order as to costs granted by court

Appealed from NPD. 2006 (3) SA 43 (N)**I Schwartz NO v SE Pike and Others (668/2006)****Date to be heard:** 3 September 2007**Mthiyane JA, Heher JA, Van Heerden JA****Catchwords**

Close corporation – member's interest – whether Association Agreement required necessary steps be taken in order to attempt to reach agreement for appointment of chartered accountant to value member's interest – whether calculation produced by chartered accountant appointed in terms of Association Agreement final and binding on respondents

Appealed from TPD**Ngozwane v Tafira (155/2007)****Date to be heard:** 4 September 2007

Howie P, Navsa JA, Nugent JA, Ponnann JA, Mlantla AJA

Catchwords

Refugees – illegal immigrants – appointment system – whether appointment system implemented by Department of Home Affairs invalid

Appealed from TPD

Redbridge Assets Ltd v TW van den Heever NO and Others (240/2006)

Date to be heard: 4 September 2007 – **withdrawn 24 July**

Farlam JA, Heher JA, Van Heerden JA, Maya JA, Hurt AJA

Catchwords

Companies – application for liquidation of company – Companies Act 61 of 1973, s 360 – whether appellant had *locus standi* to bring application – whether appellant made out case for relief sought

Appealed from WLD

M Naidoo v The State (433/2006)

Date to be heard: 4 September 2007

Brand JA, Lewis JA, Combrinck JA

Catchwords

Criminal law – conviction and sentence – attempted murder – 5 years imprisonment – whether conduct admitted by accused constitutes attempted murder – whether sentence appropriate since abusive relationship apparent motive for offence

Appealed from NPD

Earthlife Africa 9 (Cape Town Branch) v ESKOM Holdings Ltd (426/2006)

Date to be heard: 6 September 2007

Howie P, Navsa JA, Cloete JA, Cachalia JA, Kgomo AJA

Catchwords

PAIA, ss 43(2) and 44(1), interpretation of – nature of onus on State seeking to rely on exemption provision in Act to refuse access to information to records requested – whether respondent discharged onus to justify refusal to grant access to minutes of board meeting of management – whether court erred in granting of costs

Appealed from WLD. [2006] 2 All SA 632 (W)

A Mngibiso v The State (75/2007)

Date to be heard: 6 September 2007

Brand JA, Mlambo JA, Malan AJA

Catchwords

Criminal law – conviction – defrauding insurance company by pretending to be driver of motor vehicle involved in accident – whether accused made representation inducing complainant to act to its actual or potential prejudice

Appealed from TPD

Gasant Abarder v Astral Operations Limited t/a Country Fair and Others (697/2006)

Date to be heard: 7 September 2007

Harms ADP, Heher JA, Mlambo JA, Cachalia JA, Kgomo AJA

Catchwords

Magistrates Court – appealability of Magistrate’s orders – appellant, witness subpoenaed to testify in civil trial, raised valid objection to testifying – whether order made obliging him to testify after enquiry in terms of Magistrate’s Courts Act, s 51 appealable

Appealed from CPD. 2007 (2) SA 184 (C)

RAF v TV Ngubane (585/2006)

Date to be heard: 7 September 2007

Scott JA, Mthiyane JA, Jafta JA, Combrinck JA, Mhlantla AJA

Catchwords

RAF – Regulation 2(3) of regulations promulgated under RAF Act 56 of 1996, s 26, interpretation of – whether competent for claims handler employed by appellant to undertake liability for payment of compensation in respect of claim not lodged within period of two years – whether agreement to undertake such liability *ultra vires* act and regulations

Appealed from DCLD

Stalwo (Pty) Ltd v Wary Holdings (Pty) Ltd and Another (377/2006)

Date to be heard: 7 September 2007

Farlam JA, Lewis JA, Maya JA

Catchwords

Land – Alienation of Land Act, s 2, interpretation of – whether section complied with – interpretation of ‘agricultural land’ in terms of Subdivision of Agricultural Land Act 70 of 1970

Appealed from SECLD

Raol Investments (Pty) Ltd t/a Thekwini Toyota v Z Madlala (461/2006)

Date to be heard: 10 September 2007

Scott JA, Farlam JA, Nugent JA, Jafta JA, Maya JA

Catchwords

Labour law – unfair dismissal – Labour Relations Act, s 187(1)(f) – whether dismissal of respondent discriminatory and therefore unfair in terms of section – whether dismissal substantively unfair in terms of s 188

Appealed from LAC

Webtrade Inv No 45 (Pty) Ltd and Others v A van der Schyff and Sons t/a Complete Construction (589/2006)

Date to be heard: 10 September 2007

Navsa JA, Brand JA, Lewis JA, Ponnann JA, Malan AJA

Catchwords

Land – spoliation – whether, in bringing an urgent application in form of spoliation application it was incumbent upon respondent to follow procedural requirements of PIE 19 of 1998, s 5 – whether provisions of Act applicable to 2nd and 3rd respondents who contended they took occupation of property in contravention of builder’s lien **Appealed from WLD. 2006 (5) SA 327 (W)**

NZ Mngomezulu and Another v NDPP and Another (338/2006)

Date to be heard: 10 September 2007

Cloete JA, Van Heerden JA, Combrinck JA

Catchwords

Procedure – whether appellants entitled to unedited affidavit placed before designated judge in terms of Interception and Monitoring Prohibition Act 127 of 1992, s 3

Appealed from WLD

CSARS v Airworld and Another (672/2006)

Date to be heard: 11 September 2007

Howie P, Farlam JA, Lewis JA, Combrinck JA, Hurt AJA

Catchwords

Income tax – Income Tax Act 58 of 1962, s 64C – whether respondents liable under assessments raised by appellant for payment of secondary tax on companies on basis that advances made deemed to be dividends in terms of section

Appealed from Cape Tax Court

Quipmor Close Corporation v JD Michau NO and Others (528/2006)

Date to be heard: 11 September 2007

Harms ADP, Mthiyane JA, Brand JA, Cloete JA, Maya JA

Catchwords

Principal and surety – whether appellant could, at its option demand payment from principal debtor of advances made to it together with penalties at daily rate - whether agreement a money lending transaction – whether appellant entitled to recover finance charges not disclosed in instrument of debt

Appealed from DCLD

Takalani Fhetani v The State (158/2007)

Date to be heard: 11 September 2007

Nugent JA, Jafta JA, Mhlantla AJA

Catchwords

Criminal procedure – sentence – minimum sentences – whether court imposed sentence on appellant exceeding maximum sentence set in Sexual Offences Act 23 of 1957 – whether aggravating circumstances present - whether seriousness of crime and intended deterrent effect of sentence overemphasized

Appealed from Venda

John Alistair Legh v Nungu Trading 353 (Pty) Ltd and Another (3/2007)

Date to be heard: 13 September 2007

Howie P, Heher JA, Ponnar JA, Mlambo JA, Malan AJA

Catchwords

Companies – Companies Act – insolvency – whether s 20 of Insolvency Act which divests an insolvent of his property and vests it in trustee is applicable to liquidation and winding up of a company

Appealed from WLD

GA Strydom and Another v BJ Liebenberg (293/2006)

Date to be heard: 13 September 2007

Scott JA, Cachalia JA, Kgomo AJA

Catchwords

Rei vindicatio – whether respondent owner of wild stock in question – whether appellants in position of wild stock – application of “Parol Evidence” rule on outsiders

Appealed from TPD

M van Niekerk and Others v GA van Niekerk and Others (460/2006)**Date to be heard:** 14 September 2007**Harms ADP, Scott JA, Mthiyane JA, Van Heerden JA, Kgomo AJA****Catchwords**

Anton Piller order – nature of test to be applied upon return date – whether requirements for granting of Anton Piller order complied with – whether leave to intervene may be granted subsequent to granting of *ex parte* order – upon what terms and according to what criteria such leave should be granted – whether intervening parties established basis upon which leave to intervene should have been granted – whether leave to file further affidavits should have been granted

Appealed from SECLD**Just Names Properties 11CC and Another v NJ Fourie and Others (324/2006)****Date to be heard:** 14 September 2007**Brand JA, Heher JA, Mhlantla AJA****Catchwords**

Land – Alienation of Land Act 68 of 1981, s 2(1) – whether written agreement for sale of immovable property invalid

Appealed from TPD**Daytona Stud (Pty) Ltd and Others v S van Wyk obo W van Wyk (517/2006)****Date to be heard:** 17 September 2007**Harms ADP, Lewis JA, Cachalia JA, Malan AJA, Mhlantla AJA****Catchwords**

Delict – damages – COIDA 130 of 1993, s 43(1)(a) – minor injured while working in terms of contract of service – whether minor incapable in law of concluding contract of employment and therefore not an “employee” in terms of Act – whether minor negligent – whether negligence contributed to, or was cause of injury suffered

Appealed from CPD**AA van Niekerk and Another v ME Favel and Another (627/2006)****Date to be heard:** 17 September 2007**Scott JA, Navsa JA, Cloete JA, Hurt AJA, Kgomo AJA****Catchwords**

Contract – sale of land – Alienation of Land Act 68 of 1981, s 19, interpretation of – whether section complied with – whether respondents entitled to cancel agreement – from which date 30 day period to be calculated – whether letter of demand had to be sent to *domicilium* as well as to last known address – whether provisions of PIE, s 4 complied with

Appealed from WLD. 2006 (4) SA 548 (W)**Minister of Local Government, Housing and Traditional Affairs (KZN) v Umlambo Trading 29 CC and Others (487/2006)****Date to be heard:** 18 September 2007**Howie P, Van Heerden JA, Jafta JA, Mlambo JA, Cachalia JA****Catchwords**

Whether subpoenas issued in terms of Local Government and Municipal Systems Act 3 of 2000, s 106(2) substantively or procedurally valid

Appealed from DCLD

Kwazulu CMS Monitoring Systems (Pty) Ltd v KZN Gambling Board and Others (470/2006)

Date to be heard: 20 September 2007

Navsa JA, Jafta JA, Cachalia JA, Malan AJA, Mhlantla AJA

Catchwords

Contract – Regulation 156(8) of the Regulations promulgated under the KZN Gambling Act 10 of 1996, interpretation of – whether 1st respondent lacked *locus standi* to conclude contract with appellant for provision of central electronic monitoring system

Appealed from NPD

JG Zuma & Others v NDPP (232/2007)

Date to be heard: 21 September 2007

Farlam JA, Nugent JA, Cloete JA, Ponnann JA, Mlambo JA

Catchwords

International law – International Co-operation in Criminal Matters Act 75 of 1996, s 2(2) – respondent sought order in terms of section requesting Republic of Mauritius for transmission of 14 documents in their possession, which respondent asserts it requires for investigation of criminal case against appellants – whether respondent established necessary jurisdictional facts for issuing of request in terms of section – whether letter of request and subsequent search vitiated by improper or unlawful conduct on part of respondent's officials

Appealed from NPD

4. JUDGMENTS MARKED NOT REPORTABLE

(Available from library)

Mongezi Memani v The State (450/2004)

- delivered 10 March 2005

Salome van Emmenes v Petrus Nicolaas Booyse (306/2004)

- delivered 29 March 2005

Bashee Motors (Pty) Ltd v Z Ntoyabo (105/2004)

- delivered 29 March 2005

JJ Venter v The State (147/2004)

- delivered 30 March 2005

Storegate Africa (Pty) Ltd v Airlink Cargo International (Pty) Ltd (071/2004)

- delivered 30 March 2005

I Sehoole NO and Another v Y Chablal (140/2004)

- delivered 31 March 2005

Welcome Ncube v The State (284/2004)

- delivered 31 March 2005

Normkow Administrators (Pty) Ltd v Fedsure Health Medical Scheme (400/04)

- delivered 23 May 2005

PJ Theart v The State (058/2004)

- delivered 23 May 2005

A Kriel v Die Staat (390/2004)
- delivered 25 May 2005

PJL Fourie v The State (364/04)
- delivered 18 August 2005

United National Public Servants Association of South Africa v SJ Digomo NO and
41 Others (441/04)
- delivered 2 September 2005

Elaine Claire Lawrence v The State (357/2004)
- delivered 15 September 2005

M Makhathini v The State (598/2004)
- delivered 19 September 2005

Pinkster Protestante Kerk and Another v Herlewingsentrum and Another
(273/2004)
- 22 September 2005

NDPP v OH Nel and Others (424/2004)
- delivered 22 September 2005

Timothy Nelson v The State (017/2005)
- delivered 22 September 2005

JM Sindane v The State (388/2004)
- delivered 28 September 2005

ABN-Amro Bank NV v Hyundai Corporation (375/2004)
- delivered 28 September 2005

Inventive Labour Structuring (Pty) Ltd v Dennis Corfe (031/2005)
- delivered 17 November 2005

MI Petersen v The State (205/2005)
- delivered 17 November 2005

Baynes Fashions (Pty) Ltd t/a Gerani v Hyprop Investments (Pty) Ltd (556/2004)
- delivered 29 November 2005

Dabalorivhuwa Patriotic Front and Another v Government Employees Pension
Fund and Another (553/2004)
- delivered 30 November 2005

Mmako v S (354/2004)
- delivered 30 November 2005

The Maize Board v TA Hart (248/2005)
- delivered 7 March 2006

Oos Vrystaat Kaap Bedryfs Bpk v IFJ van Aswegen (54/2005)
- delivered 17 March 2006

Sentraal-Suid Koöperasie Bpk v Bessemer Staalkonstruksie (Edms) Bpk
(516/2004)
- delivered 20 March 2006

R Heslop v The State (216/2005)
- delivered 20 March 2006

NP Nonyane v The State (256/2005)
- delivered 20 March 2006

RA Burris (Pty) Ltd v E Moumtzis (192/2005)
- delivered 23 March 2006

City of Johannesburg v Debbie Investments CC
- delivered 23 March 2006

SDP Muller v The State (236/2005)
- delivered 7 March 2006

DA de Swardt v The House of Trucks (Pty) Ltd (143/2005)
- delivered 27 March 2006

The State v Saeed (432/2005)
- delivered 29 March 2006

Muholi v The State (450/2005)
- delivered 29 March 2006

5. CASES DISMISSED WITHOUT WRITTEN REASONS

Satish Buldeo v Ranjith Choonilall NO and Another (072/2004)
- 17 March 2005

Daniel Johannes Coetzee v Rupert Day (468/2004)
- 5 September 2005

Dr J Breytenbach and Another v Municipality of Rustenburg (40/2005)
- 14 November 2005

ED Pretorius and Others v M de Clercq (492/2005)
- 23 August 2006

Henoch Arendse v The State (651/2005)
- 11 September 2006

Mdingi v The State (523/2003)
- 19 September 2006

MEC, Department of Social Development ECP v NR Fani (549/2006)
- 22 May 2007