



CONSTITUTIONAL COURT OF SOUTH AFRICA

PFE International Inc. (BVI) and Others v Industrial Development Corporation of South Africa Ltd

CCT 129/11

Date of Hearing: 14 August 2012
Date of Judgment: 20 September 2012

MEDIA SUMMARY

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.

Today the Constitutional Court delivered a judgment dismissing an appeal against the judgment and order of the Supreme Court of Appeal (SCA).

Upon a refusal by the Industrial Development Corporation (IDC) to hand certain documents over to them, the applicants launched an application in the High Court for an order directing the IDC to produce the requested documents. The applicants claimed that they were entitled to those documents in terms of the Promotion of Access to Information Act (PAIA). The IDC opposed the claim on the basis that the request for information was governed by the Uniform Rules of Court (Rules), as the applicants sought these documents for the purposes of a civil trial where proceedings had already commenced. The IDC argued that PAIA did not apply in those circumstances.

The High Court found in favour of the applicants and ordered the IDC to furnish them with the requested documents under the provisions of PAIA. On appeal, the SCA overturned the High Court's judgment. The SCA held that PAIA did not apply to the matter because PAIA specifically excludes its application to court proceedings which have already commenced on the basis that access to that information is governed by the Rules.

In the Constitutional Court, the applicants argued that the SCA interpreted PAIA incorrectly. They contended that because a trial date had not been set at the time the

request was made, the Rules did not apply to request for documents and therefore the operation of PAIA was not excluded.

The Constitutional Court held that PAIA provides three conditions which must be met before a finding of its non-applicability can be made. Since the parties agreed that the first two conditions were met, the only issue for determination by the Constitutional Court was whether the Rules constituted “another law” as contemplated in PAIA. The Constitutional Court considered the relevant Rule as interpreted by the SCA and concluded that on the wider meaning given to it, access to the documents sought by the applicants may be determined under the relevant rule. The Constitutional Court thus found that PAIA was not applicable in the circumstances and dismissed the appeal with costs.