



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: 31 March 2023

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

Snowy Owl Properties 284 (Pty) Ltd v Celliers and Another (1295/2021) [2023] ZASCA 37 (31 March 2023)

Today, the Supreme Court of Appeal (SCA) upheld an appeal, with costs on an attorney and client scale, against the judgment of the KwaZulu-Natal Division of the High Court, Pietermaritzburg (the high court), which pertained to the contempt of court of the full court order of the KwaZulu-Natal Division of the High Court, Pietermaritzburg (the full court).

The appellant was Snowy Owl Properties 284 (Pty) Ltd, the registered owner of immovable property described as the remainder of the Farm Fagolweni No 16156 (Farm Fagolweni), situated in the Province of KwaZulu-Natal. The first respondent was Mr Norman Celliers (Mr Celliers), the chairman of the second respondent. The second respondent was Mziki Shareblock Limited (Mziki), a public shareblock company, which was the registered owner of immovable property described as Portion 1 of Farm Fagolweni. Mr Celliers was also a member of Mziki and a resident on the farm. Farm Fagolweni and Portion 1 of Farm Fagolweni are contiguous pieces of land.

The issue to be determined in the appeal was whether Mr Celliers and Mziki (the respondents) were in contempt of the order of the full court, dated 24 March 2019.

The SCA found that from the statements Mr Celliers made in the text message and communication to the members of Mziki, it was not difficult to conclude that the respondents were very deliberate in undermining the order of the full court. In particular, Mr Celliers' text message and the correspondence, which purported to discuss options relating to the legal opinion obtained, characterised the order of the full court as the appellant's intimidation tactics. The respondents refused to see the award and the court order for what they were.

Lastly, the SCA found that apart from the unequivocal admission of making the disparaging statements about sitting judges, the SCA could not make any findings in this regard. Further investigation and an opportunity had to be afforded to all the parties to substantiate on the allegations that the statements were made along racial lines. It sufficed to refer the matter for further steps to be considered by the relevant institutions. The allegations made by the appellant were serious and unbecoming if found to be true and deserved to be investigated and sanctioned by the relevant authorities including the Human Rights Commission and the National Prosecution Authority, if so advised.

Accordingly, the SCA held that the respondents had not discharged the evidentiary burden to establish a reasonable doubt, by disproving wilfulness and *mala fides*. The appellant had, thus, successfully proven the case of contempt of court.

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