



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: 18 June 2021

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

Hirt & Carter (Pty) Ltd v IT Arntsen N O and Others (Case no 277/2020) [2021] ZASCA 85 (18 June 2021)

Today the Supreme Court of Appeal (SCA) handed down judgment dismissing an appeal from the Western Cape Division of the High Court, Cape Town (high court).

Big Concerts International (Pty) Ltd (Big Concerts) organised Linkin Park concerts at two venues, Johannesburg and Cape Town. Alliance Safety CC t/a Alliance Safety Management (Alliance Safety) was responsible for the safety at the concert. Glaxosmithkline (Pty) Ltd (GSK) who owned the Lucozade energy drinks brand provided sponsorship and approached Hirt & Carter (Pty) Ltd (the appellant), a media company specialising in designing media and advertising campaigns, to assist with a campaign to advertise Lucozade at the two concerts.

At the Cape Town concert, held at the Cape Town Stadium on 7 November 2012, Mrs Florentia Loredana Popa tragically lost her life when scaffolding structures, to which advertising material was attached, collapsed causing open blunt force trauma to her head resulting in her untimely demise. Pursuant to this tragedy an inquest was held in terms of s 5(2) of the Inquests Act 58 of 1959 (the Act) and the Magistrate found, in terms of s 16(2)(d) thereof, that the death of the deceased was brought about by an act or omission on the part of the appellant, Vertex Scaffolding CC (Vertex) and Maxwell 137 CC t/a Bothma Signs (Bothma Signs), that prima facie amounts to an offence. The appellant took the finding of the Magistrate on review in the high court, before three judges. A full court dismissed the review application. It is against that finding that the appellant appealed.

Potterill AJA stressed that it is necessary that the fundamental distinction between an appeal and a review is not blurred as there is no right of appeal against an inquest finding. Addressing the appellants argument that the Magistrate committed a material error of law in finding that the appellant had an obligation to supervise the erection of the scaffolding and manage the safety aspect of the project, the SCA found that the Magistrate and the full court were correct in concluding that the death of the deceased was brought about by an act or omission that prima facie amounts to or involves an offence on the part of the appellant. The test at an inquest for determining whether an offence was committed requires only prima facie evidence. The Court's finding was premised on a finding of negligence on the part of the appellant and there was no discernible material error of law by the Magistrate of the kind on which a review might be founded.

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