



## 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:** 9 September 2025

**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***

*Pilane & Others v Premier of the North West Province & Others* (035/2024) [2025] ZASCA 126 (9 September 2025)

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Today the Supreme Court of Appeal (SCA) handed down judgment upholding with costs, including those of two counsel, an appeal against the decision of the North West Division of the High Court, Mahikeng (the high court).

The facts were briefly as follows: On 15 June 2016, the Premier appointed a Commission of Inquiry (the Commission) into the succession disputes and claims of the Bakgatla, Batlhako ba Leema, and Bapo I and II traditional communities. However, the focus of this appeal was on the succession disputes of the Bakgatla traditional community. On 20 August 2019, the Commission submitted a report of its findings which was followed by recommendations. The Premier then took certain decisions based on the recommendations made by the Commission. The appellants disagreed with these decisions and as a result brought a review application before the high court to review and set aside the decisions of the Premier. The high court, however, dismissed the review application and found that the Premier's decisions were not reviewable on the basis that he acted within the scope of his powers in making those decisions, as per the recommendations of the Commission.

Aggrieved by that outcome, the appellants appealed with leave of the high court to this Court. It raised the following issues on appeal: (a) Whether the Premier's decision in appointing Mr Tjie as administrator, was lawful? (b) Whether the Premier's decision to withdraw the certificate of recognition of Kgosi Pilane based on the resolution of a royal family outside South Africa was lawful? (c) Whether the Premier's designation and recognition of Mr Linchwe as interim-Kgosi was lawful?

(a) Regarding the legality of Mr Tjie's appointment as administrator, the SCA held that on a proper interpretation of s 10(3) of the North West Traditional Leadership and Governance Act 2 of 2005 (North West Act), the Premier could only appoint a person to assist the traditional council concerned to perform the functions assigned to it, on the recommendation of the Royal Family stating that the traditional council was unable to perform the functions assigned to it in terms of the Act in an efficient and effective manner. The SCA further found that, as a member of the executive, the Premier was constrained by the principle that he may perform no function beyond that which was conferred on him by law. He, however, exceeded the bounds of the law as he appointed Mr Tjie in the absence of a recommendation of the Royal Family in Moruleng. Additionally, instead of appointing Mr Tjie to capacitate or assist the Traditional Council, he effectively usurped its powers and dissolved or disbanded it. Accordingly, the Premier's decision to appoint Mr Tjie was inconsistent with the prescripts of s 10(3) of the North West Act, and ought to have been set aside on review by the high court. (b) In relation to the withdrawal of the certificate of recognition of Kgosi Pilane, the SCA found that the high court erred in its findings and held that the Premier was not authorised under s 14 of the North West Act to act upon a resolution purportedly taken by the Royal Family in Mochudi, Botswana, to withdraw Kgosi Pilane's recognition certificate. It further held that in terms of s 14 of the North West Act, only the Royal Family in Moruleng had the authority to remove Kgosi Pilane. (c) With regards to the recognition of the interim Kgosi the SCA held that, the Premier acted unlawfully in issuing Mr Linchwe with a certificate of recognition. Accordingly, the SCA held that the high court erred in not setting aside this decision on review. In addition, it held that this decision should have been set aside for the further reason that on Kgosi Pilane's reinstatement, there was no need for the appointment or recognition of an acting or interim-Kgosi as there was no vacancy that had to be filled. For all the above reasons, the appeal against the order of the high court was upheld.