



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 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

The National Director of Public Prosecutions v Tariomix (Pty) Ltd and Others (Case no 756/2023) [2025] ZASCA 31 (31 March 2025)

Today the Supreme Court of Appeal (SCA) dismissed, with costs, an application for condonation and reinstatement of an appeal, against the order of the Gauteng Division of the High Court, Pretoria (the high court).

On 5 March 2021, the Financial Intelligence Centre issued a directive to ABSA Bank Limited and to Nedbank Limited in terms of the Financial Intelligence Centre Act 38 of 2001, to freeze the funds that were kept in the bank accounts held in the names of the first respondent, Tariomix (Pty) Ltd (Tariomix), the second respondent, Mr LP Liebenberg, and the third respondent, Ms MP Kleynhans. The appellant, the National Director of Public Prosecutions, brought an *ex parte* application in terms of s 38 of the Prevention of Organised Crime Act 121 of 1998, seeking the preservation of the funds kept in the bank accounts of the respondents on the basis that the funds were the proceeds of unlawful activities or an instrumentality of an offence.

On 18 March 2021, the high court granted the preservation of property order and on 19 April 2021, the respondents launched a reconsideration application of the preservation order. Upon reconsideration of the preservation order, the high court set it aside with costs. Tariomix was subsequently placed under provisional winding-up and joint provisional liquidators were appointed during March 2023. Tariomix was placed under final winding-up during April 2024. The appeal is with leave of the high court. Subsequent to filing a notice of appeal, the appellant failed to file the record within the prescribed time periods and the appeal consequently lapsed. As a result thereof, the *curator bonis* appointed paid the money over to the liquidators of Tariomix. The funds are currently kept by the liquidators in their estate bank account and preserved for the benefit of the creditors of Tariomix.

The questions before the SCA were whether the appellant had provided a satisfactory explanation for its failure to comply with the rules of the SCA and whether there were any prospects of success on appeal.

The SCA held that the explanation provided by the respondent for the delay in filing the record of appeal and thereby causing the appeal to lapse, falls far short of a full, complete and satisfactory explanation. In considering whether the appellant had shown any prospects of success on appeal, the SCA found it had not established any prospects of success, let alone strong prospects of success, in the appeal that might otherwise have trumped its unsatisfactory explanation for the delay.

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