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: 25 August 2026

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

Kalagadi Manganese (Pty) Limited & Others v Industrial Development Corporation of SA Limited & Others (1019/2024) [2026] ZASCA 111 (25 August 2026)

Today, the Supreme Court of Appeal (SCA) struck from the roll an application by Kalagadi Manganese (Pty) Ltd (Kalagadi) and its co-applicants for reconsideration of the refusal of leave to appeal against orders of the Gauteng Division of the High Court, Johannesburg.

The orders concerned the authority of the Industrial Development Corporation of South Africa Limited (IDC) to institute business rescue proceedings against Kalagadi. The IDC instituted the proceedings in 2020 after Kalagadi defaulted on its indebtedness. Kalagadi challenged the IDC's authority to institute the proceedings and that of an IDC official to depose to supporting affidavits. The high court permitted the IDC to introduce further evidence concerning its authority, dismissed Kalagadi's challenge with costs, and refused leave to appeal.

Kalagadi thereafter applied to the SCA for reconsideration under section 17(2)(*f*) of the Superior Courts Act 10 of 2013 (Superior Courts Act). The President of the SCA referred the application to the SCA.

The majority held that section 17(2)(*f*) of the Superior Courts Act sets an exceptionally high threshold, requiring an applicant to establish that the refusal of leave to appeal would result in a grave failure of justice or bring the administration of justice into disrepute. It is not intended to afford litigants a further opportunity to pursue an appeal after leave has been refused.

The majority found that the high court had properly exercised its discretion in admitting further evidence on the IDC's authority. The evidence established that the IDC board had decided to pursue business rescue, while subsequent resolutions authorising and ratifying steps taken by its officials and attorneys confirmed and, where necessary, regularised the implementation of that decision. The majority rejected the contentions that the board had impermissibly delegated its statutory powers or that the proceedings had become stale. The delay was largely attributable to interlocutory disputes, and the applicants had not demonstrated prejudice arising from it.

The majority concluded that the applicants had not established the threshold for reconsideration under section 17(2)(*f*) of the Superior Courts Act.

The minority agreed that there were no exceptional circumstances warranting reconsideration but differed on the appropriate order. It held that the application should be dismissed, rather than struck from the roll, to bring finality to the matter and avoid the possibility of re-enrolment in a differently phrased form on the same factual matrix.

The SCA accordingly struck the matter from the roll and ordered the applicants to pay, jointly and severally, the IDC's costs of opposing the application.

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