



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY

From: The Registrar, Supreme Court of Appeal
Date: 29 September 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

Lebra Development (Pty) Ltd and Others v Bester and Others (237/2025) [2026] ZASCA 125 (29 September 2026)

Today the Supreme Court of Appeal (SCA) dismissed an appeal by Lebra Development (Pty) Ltd (Lebra) and four Others against a decision of the Gauteng Division of the High Court, Pretoria (the full court). The full court had refused to condone Lebra's failure to comply with the Uniform Rules of Court and to reinstate their appeal, which had lapsed.

The dispute arose from an application brought by Mr Ben Coetzee Bester and the trustees of the Bester Roodeplaat 44 Trust under s 163 of the Companies Act 71 of 2008. They complained of oppressive and unfairly prejudicial conduct in the management of Lebra. The high court substantially found in their favour. Among other things, it ordered the appointment of an independent chartered accountant to conduct a forensic audit of Lebra and to determine the fair value of its shares.

Lebra was granted leave to appeal that decision. Although it filed its notice of appeal in time, it did not apply to the Registrar for a hearing date within the period required by rule 49(6)(a) of the Uniform Rules of Court. As a result, the appeal lapsed. Lebra only applied for condonation and reinstatement in June 2023, more than a year after leave to appeal had been granted. Lebra explained that its former attorney believed that a practice directive of the Gauteng Division had replaced the requirements of the Uniform Rules. According to Lebra, it had relied on the attorney's advice that an application for an appeal date could only be made after the heads of argument had been prepared.

The SCA restated that a party asking for condonation must show good cause. The Court considers all the circumstances, including how late the step was, the explanation for the delay, the prospects of success, the importance of the case and any prejudice to the parties. Above all, the question is whether granting condonation would be in the interests of justice. Where there has been a delay, the party must give a full and satisfactory explanation covering the entire period of the delay.

The SCA held that Lebra had not provided such an explanation. Important periods of inactivity were left unexplained. In particular, there was no proper explanation for why its former attorney believed that the practice directive took priority over the Uniform Rules of Court, why he did not respond to the Registrar's request on CaseLines, or what steps were taken after Bester's attorneys warned that the appeal had not been properly prosecuted. The Court also held that the practice directive did not conflict with the Uniform Rules of Court. Lebra could have complied with both. The SCA further found that the prejudice relied upon by Lebra was not sufficient to justify overlooking its serious failure to comply with the rules.

Finally, the SCA emphasised that the decision whether to grant condonation involves the exercise of a judicial discretion. An appeal court will not interfere with that decision merely because it might have reached a different conclusion. It may interfere only where the lower court materially misdirected itself or exercised its discretion on an incorrect basis. The SCA found no such misdirection by the full court.

The appeal was accordingly dismissed with costs, including the costs of two counsel.

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