



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

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National Director of Public Prosecutions v Bacela and Another (1072/2023) [2026] ZASCA 33 (23 March 2026)

Today, the Supreme Court of Appeal (the SCA) upheld an appeal by the National Director of Public Prosecutions (the NDPP) against an order of majority of the Full Court of the North West Division of the High Court, Mahikeng (the Full Court). That court had dismissed the NDPP's appeal against an order of a single Judge (the High Court), dismissing the NDPP's application for forfeiture of property in terms of the Prevention of Organised Crime Act 121 of 1998 (POCA).

The sole reason for the High Court's dismissal of the forfeiture application was that the application was not served by the Sheriff as required in terms of s 48(3) of POCA, which requires the application to be 'served in the manner in which a summons whereby civil proceedings in the High Court are commenced, is served.' The NDPP had, instead, served the application on the respondents' attorney's office, which the respondents had nominated in their notice of intention to defend as the address at which they would accept service in forfeiture proceedings.

The NDPP contended that this was proper and effective service in terms of rule 4(1)(aA) of the Uniform Rules of Court. This rule permits service on an attorney who already represents a party in the proceedings. The respondents contended that rule 4(1)(aA) applies only to interlocutory applications. Since a forfeiture application is not an interlocutory application, but a standalone application, rule 4(1)(aA) did not apply. Both the High Court and the Full Court agreed with the respondents.

On appeal, the SCA (Makgoka ADP, with Matojane and Goosen JJA concurring), rejected the respondents' formalistic interpretation of s 48(3) of POCA. It held that the purpose of the provision had been fulfilled since the application came to the attention of the respondents, who, in response, delivered a comprehensive answering affidavit in opposition to the forfeiture application. Therefore, the lower courts were required to adopt a purposive interpretation of the provision. It accordingly upheld the NDPP's appeal, set aside the order of the majority of the Full Court and remitted the matter to the High Court for the determination of the merits of the forfeiture application.

ENDS