



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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Federation Internationale de Football Association v Kgotso Leslie Sedibe & Another
(303/2020) [2021] ZASCA 113 (08 September 2021)

Today the Supreme Court of Appeal (SCA) handed down judgment upholding, with costs, an appeal against a decision of the Gauteng Division of the High Court, Pretoria (the high court).

The issue before the SCA was whether the first respondent, Mr Kgotso Leslie Sedibe (Sedibe), was entitled to the order granted by the high court, attaching all the trademarks of the appellant, the Federation Internationale de Football Association (FIFA), to found jurisdiction in order to review a decision by FIFA's Adjudicatory Chamber of its Ethics Committee.

Sedibe, a former Chief Executive Officer (CEO) of the second respondent, the South African Football Association (SAFA), was suspended from participating in football for a period of five years and ordered to pay a substantial fine, following findings of match-fixing against him by FIFA. During August 2018, professedly intending to launch an application for the review and setting aside of the aforesaid decision by the Adjudicatory Chamber of FIFA's Ethics Committee, Sedibe approached the high court for, and was granted, an order attaching all the trademarks of FIFA to found jurisdiction in order to review the decision of the Adjudicatory Chamber of its Ethics Committee. The high court also granted an order authorising Sedibe to serve the review application upon FIFA, at its business address in Switzerland by email at its email addresses.

FIFA submitted that South African Courts have no jurisdiction over FIFA to set aside decisions taken in Switzerland by its internal disciplinary bodies that are domiciled in Switzerland and are subject to judicial control by Swiss Courts. FIFA contended that South African Courts have never recognised the attachment of assets to found jurisdiction in relation to an application for review of decisions taken outside of South Africa by foreign adjudicatory tribunals. Furthermore, FIFA contended that the order by the high court, authorising service on it by email, was unlawful. In that regard, it pointed out that in terms of the laws of Switzerland, where its headquarters are located, international service of court process can only be effected by Swiss Government officials.

In respect of the issue of attachment, the SCA held that it was clear that the right of an *incola* to attach the property of a *peregrinus* to found or confirm jurisdiction does not apply to all cases but is limited to: (a) actions in *personam* in contract, quasi contract, delict, quasi-delict or other like causes to give, do or make good on something for an opponent, that is, in cases sounding in money; and (b) actions *in rem* for movables. The SCA held further that there was no authority that justified attachment in relation to an administrative decision of the kind in question. Furthermore, the SCA held that FIFA's complaint about the method of service authorised by Van der Westhuizen J, namely that it was in contravention of Swiss law, appears justified and that the provisions of Swiss law referred to were not contested.

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