



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

MP FINANCE GROUP v CSARS

FROM: The Registrar, Supreme Court of Appeal

Date: 31 May 2007

Status: Immediate

Pyramid scheme swindlers must pay tax on their takings. This is the conclusion reached by the Supreme Court of Appeal. The case before it involved an illegal and fraudulent scheme operated by Marietjie Prinsloo through various corporations in the tax years 2000 to 2002 in Gauteng and neighbouring provinces.

All the corporations went insolvent and very many so-called investors received either much less than their promised huge returns or nothing at all. When the Commissioner for the SA Revenue Services demanded that the scheme's operators pay tax on what they received, the liquidators of the scheme objected. When their objection was disallowed they appealed to the Tax Court and when the appeal failed they appealed to the Supreme Court of Appeal. The liquidators argued that what was paid to the scheme were not 'amounts received' with the meaning of 'gross income' as defined in the tax law. This was so, they said, because what is received in terms an illegal contract or scheme is, in law, immediately repayable to the payer. The SCA held that, although that argument correctly stated the position as between the investors and the scheme, it overlooked the position as between the scheme and the revenue. The

scheme made its money by illegal means. That was its income. The operators took the money for their own benefit, not with the intention to comply with supposed contracts with the investors. The scheme never had that contractual intention in any of the tax years. The appeal was dismissed.