



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

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MINISTER OF AGRICULTURE AND LAND AFFAIRS v C J RANCE (PTY) LTD

The Supreme Court of Appeal (SCA) today upheld an appeal by the Minister of Agriculture and Land Affairs against a decision of the North Gauteng High Court, Pretoria, allowing the respondent to institute action against the Minister beyond the six month period prescribed in terms of the Institution of Legal Proceedings Against Certain Organs of State Act 40 of 2002.

The respondent instituted action after a fire originating on land allegedly nominally owned and/or controlled by the Minister destroyed a standing crop of trees, depriving the respondent, a sawmill company, of its source of supply of fine logs. The respondent, C J Rance (Pty) Ltd, contended that as a result it sustained a loss of profits.

In granting condonation, the high court found in favour of the company on the basis that it had met the statutory requirements for condonation. Firstly, it found that there had been good cause shown for the delay as the company took all the necessary steps to identify the owner of the land and secondly, that the state had failed to show that it was prejudiced by the delay.

The SCA held that an applicant for condonation is required to set out fully the explanation for the delay which must cover the entire period of the delay. The explanation must be reasonable. In the present case the affidavit of the chief deponent in support of the company's case lacked the necessary detail to qualify as a full and detailed explanation for the delay. Furthermore, the SCA held that the onus is on an applicant seeking condonation to show that the state was not unreasonably prejudiced by its failure to give timeous notice. The court a quo's finding that the respondent failed to show prejudice by the delay was a material misdirection as it reversed the onus. Consequently the appeal against the granting of condonation was upheld with costs.

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