

SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

FROM: The Registrar, Supreme Court of Appeal

DATE: 1 April 2010

STATUS: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

MOLOTLEGI v MOKWALASE(222/09) [2010] ZASCA (1 April 2010)

The Supreme Court of Appeal upheld the appeal by the appellants Kgosi Leruo Molotlegi of the Royal Bafokeng Nation and the Royal Bafokeng Administration from a judgment of the Mmabatho High Court (Mogoeng JP), which had granted judgment in favour of the respondent, Mr Mosoko Mokwalase. Mr Mokwalase, was a team leader of the VIP Protection Team of the Royal Bafokeng Nation. At a protocol and security meeting attended, inter alia, by Kgosi Molotlegi, Mr Mokwalase and members of the protocol and security, Kgosi Molotlegi said to Mr Mokwalase: 'Mokwalase, you are fired. I don't want to see you again on my premises. You can excuse yourself.'

Mr Mokwalase issued summons against Kgosi Molotlegi and the Royal Bafokeng Administration alleging that he was defamed by the utterances. The court below ordered separation of issues in terms of rule 33(4). When the trial resumed before Mogoeng JP, the learned Judge President found that the words uttered were defamatory per se without any evidence of the special circumstances surrounding the utterances referred to above to prove the innuendo relied upon by Mr Mokwalase being led.

The Supreme Court of Appeal found that the learned Judge President erred in finding that the words per se, without any evidence of the special circumstances, were defamatory. The SCA set aside the judgment of the court below and referred the

matter back to the court below for trial. Given the peculiar circumstances of this matter and the role played by the appellants in having the wrong issue decided by the court below, there, being no blame to attribute to Mr Mokwalase, the SCA found that it would be unfair and unjust to mult him with any costs.

Accordingly the appeal was granted but the appellants were ordered to pay the costs.