

Supreme Court of Appeal of South Africa

MEDIA STATEMENT

From: The Registrar, Supreme Court of Appeal

Date: 11 March 2011

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.

On 11 March 2007 the SCA delivered judgment in *Transnet v The MV Cleopatra Dream* (Case no 163/10).

The vessel had suffered a catastrophic power failure while preparing to leave Saldanha Bay carrying a cargo of iron ore. She drifted out of control towards shallow water. The pilot, who had not yet left the vessel called for assistance and tugs were dispatched by the port authorities. The vessel was then taken in tow and brought safely to an anchorage. Transnet caused the ship and her cargo to be arrested as security for a claim for R10 million as a salvage reward.

The claim was dismissed in the Western Cape Court. The judge found that Transnet's services were not rendered voluntarily but under a statutory duty to provide towage, tugs and related services within the port and under a common law duty to keep the harbour safe.

On appeal the SCA agreed with those findings. It rejected a submission that public authorities were entitled to claim a salvage reward in terms of the Salvage Convention

in despite of domestic law. In terms of South African common law a public authority is only entitled to claim a reward if its conduct exceeds what is normally required in order to carry out its duties. As the salvage fell within the ordinary scope of Transnet's duties as port authority and required neither out of the ordinary skill nor courage the claim had rightly been dismissed and the appeal failed.

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