



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 28 March 2013

Status: Immediate

MASHIKE and ROSS NNO v SENWESBEL

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.

The Supreme Court of Appeal today upheld the decision and order of Rabie J in the North Gauteng High Court, Pretoria, dismissing an application based on a contravention of s 38 of the Companies Act 61 of 1973. The appellants had applied for an order that the acquisition of certain shares in Senwes Ltd by its holding company, Senwesbel Ltd was invalid in that the shares were purchased with the financial assistance of Senwes in contravention of s 38(1). The shares were originally held by some 3 500 shareholders of Senwes. They were all acquired by Senwesbel pursuant to offers made to the shareholders and accepted by them. Because these vendors were not parties to the litigation, the Supreme Court of

Appeal held that they should have been joined in the litigation because they had a direct and substantial interest in the matter. The appeal was for this reason dismissed. The Supreme Court of Appeal also dealt with an application that certain other issues be referred for the hearing of evidence but dismissed it as well. The appellants were ordered to pay the costs of the appeal including the costs of two counsel.