

THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal

DATE 4 March 2015

STATUS Immediate

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

PriceWaterhouseCoopers Inc & others v National Potato Co-operative Ltd & another (451/12)
[2014] ZASCA 2 (4 March 2015)

The SCA today delivered judgment in the above appeal emanating from the North Gauteng High Court, Pretoria. The high court was engaged in hearing the matter for 295 court days, over a period of more than five years, while the SCA had to deal with it on four previous occasions. This has resulted in an appeal record of some 85 000 pages. The SCA sat for 5 days hearing argument in the appeal.

The second to fifth appellants, who were the auditors of the National Potato Co-operative Ltd (NPC) during the period 1984 to 1997, were sued by the latter for the payment of damages allegedly caused by their breaches of contract in negligently performing the audits. The high court upheld the claim in part and granted judgment against the second to fifth appellants in amounts totalling R62 884 905.45, together with interest thereon at the rate of 15,5 per cent per annum calculated from 15 December 2000. Costs orders were also made in favour of the respondents. The litigation had been funded by an Australian litigation funder, which stood to be the primary, and possibly the only, beneficiary of the action. [Judgment, paras 9-12].

The appeal was upheld on three grounds. First, the court held that NPC had not proved that the financial difficulties that NPC suffered were occasioned by reckless mismanagement of its affairs, an allegation that was fundamental to the success of its claims. Second it held that NPC had not shown that it suffered any loss for which the appellants were liable. Lastly it held that the claims were in large measure prescribed. The appeal accordingly succeeded and the judgment and orders of the high court were set aside, together with costs orders in favour of the appellants.

In the course of its judgment the SCA held that the relationship between NPC and its auditors was contractual and set out the duties owed by the auditors to their client. It also dealt with issues of hearsay evidence and the importance of expert witnesses being independent and impartial.

The SCA judgment stressed the need for careful judicial control of litigation to prevent it assuming unmanageable proportions.

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