



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
Date: 20 March 2015
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

Neutral citation: *Medirite v South African Pharmacy Council* (197/2014) [2015] ZASCA 27 (20 March 2015)

Pharmacies situated within the precincts of other business premises but run as separate businesses have become commonplace in this country. Since 2002, the appellant, operating under the brand name of *Medirite*, has conducted separate pharmacy businesses within Shoprite, Checkers and Checkers Hyper supermarkets.

The pharmaceutical industry is heavily regulated and all persons that are licensed to provide pharmacy services are obliged to conduct themselves in accordance with rules relating to good pharmacy practice prescribed by the first respondent, the South African Pharmacy Council. On 2 March 2012, the Council published an amendment to the good pharmacy practice rules which required pharmacies conducted in other businesses to clearly identify and demarcate their premises from any other business or practice by building a permanent, solid and closed-off wall extending from floor to ceiling, enclosing all areas of the pharmacy, and having a single point of entry and a single point of exit. Aggrieved by this amendment, the appellant applied to the high court for an order reviewing and setting aside the amendment. Its application was dismissed and the appellant duly appealed to the Supreme Court of Appeal.

It was common cause that the publication of the amendment had constituted an administrative action under the provisions of the Promotion of Administrative Justice Act 3 of 2000 and that the Council's decision in that regard was thus reviewable under that Act. The Council in opposing the review had failed to show that there was any information before it that demonstrated any existing mischief that needed to be addressed by way of a wall of the nature specified in the amendment or what considerations it took into account and why it had been felt necessary to introduce such a wall. The Council had also failed to indicate why it felt that a less onerous demarcation would not have sufficed in order for the pharmacy premises to be clearly identified. The Supreme Court of Appeal today held that the first

respondent's action in publishing the amendment containing the requirements for such a wall had been both irrational and unreasonable, and that it had used a sledgehammer to crack a nut. It therefore allowed the appeal and set aside the offending provisions of the amendment of its rules relating to good pharmacy practice published on 2 March 2012.

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