



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 1 June 2015
STATUS Immediate

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

Miles Plant Hire v Commissioner SARS (20430/2014) [2015] ZASCA 98

MEDIA STATEMENT

Today, the Supreme Court of Appeal (SCA) dismissed an application for condonation by Miles Plant Hire (Pty) Ltd (Miles) and consequently confirmed the lapsing of its appeal against a final winding-up order granted by the Gauteng Division of the High Court, Pretoria. The SCA further awarded a punitive costs order *de bonis propriis* against the director of Miles, Ms Melanie Pandaram, for the costs of the Commissioner for the South African Revenue Service (SARS) incurred in respect of the application for condonation and in opposing the lapsed appeal.

The preliminary (and, in the end, determinative) issue before the SCA was whether condonation should be granted and the substance of the appeal heard, or whether it should be refused and the lapsing of the appeal confirmed regardless of the merits of the matter.

Miles was a company conducting plant hire and services in the construction and road industry. In 2013, SARS applied its winding up. This was granted by the Gauteng Division of the High Court, Pretoria. Before the SCA, Miles' appeal lapsed as a result of its failure to prosecute the appeal properly and timeously in accordance with the rules of the SCA. Miles consequently applied for condonation for these failures. The SCA held that there were flagrant breaches of its rules without any acceptable explanation therefor. It held that the cumulative effect of these factors coupled with SARS' interest in the finality of the matter and the evident prejudice to SARS and the body of creditors, was such that condonation should be refused irrespective of the prospects of success on appeal.

In addition, a punitive costs order *de bonis propriis* was ordered against Ms Pandaram, on the basis that she was responsible for the troubling manner in which the litigation had been conducted. She has shown a general lack of candour and has played loose and fast with the rules of our courts.

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