



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

GUARDRISK INSURANCE COMPANY LTD v CAFÉ CHAMELEON CC **(Case no 632/2020) [2020] ZASCA 173 (17 December 2020)**

From: The Registrar, Supreme Court of Appeal

Date: 17 December 2020

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgment of the Supreme Court of Appeal

The Supreme Court of Appeal (SCA) today, in a unanimous judgment, dismissed an appeal by Guardrisk Insurance Company against a judgment of the Western Cape High Court upholding an insurance claim by Café Chameleon arising from the Covid-19 pandemic. It ordered Guardrisk to pay the costs of the appeal, including the costs of three counsel.

Café Chameleon operates a restaurant business in Cape Town. On 27 March it was forced to close its business following the lockdown announced by the President. It suffered huge losses, as did many other businesses. It claimed these from Guardrisk, with whom it had an insurance policy. The policy covered Café Chameleon for ‘loss . . . resulting in interruption of the business due to notifiable

disease occurring within 50 km of the premises’. It defined a notifiable disease as any ‘illness sustained by any person from any human infectious or human contagious disease, an outbreak of which the competent local authority has stipulated shall be notified to them’.

When the lockdown was announced, Cape Town accounted for 25 percent of the reported cases nationwide and was thus predominant cause for the government’s imposition of the lockdown.

Guardrisk argued that the Café Chameleon’s losses were not due to the occurrence of Covid-19 within 50 km of the business but because of the lockdown. And further that the purpose of the lockdown was to curb the spread of the disease throughout the country; it was not aimed specifically at dealing with the outbreak in Cape Town.

The SCA, however dismissed the argument. It accepted Café Chameleon’s submission that its business interruption was caused by both the occurrence of the Covid-19 within the 50 km radius and the government lockdown. And also said that a fair reading of the policy provided cover for both the outbreak of the disease and the government’s national response, which included a lockdown in Cape Town.