



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

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Status: Immediate

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The Minister of Trade and Industry & Another v Murendi Properties and Building Supplies (Pty) Ltd (1293/2019) [2021] ZASCA 53 (28 April 2021)

Today the Supreme Court of Appeal (SCA) handed down judgment dismissing the appeal against the Gauteng Division of the High Court, Pretoria (the high court).

The issue before the SCA was whether the respondent, Murendi Properties and Building Supplies (Pty) Ltd (Murendi), had met all the qualifying requirements for the payment of a grant awarded to it in terms of the Black Industrialist Scheme (the BIS) issued under the Black Industrialists Policy (the policy).

In November 2015, the DTI issued the Black Industrialist Scheme (the BIS) for qualifying applicants, in terms of the Black Industrialists Policy (the policy). The policy sought to facilitate the inclusion and participation of black industrialists in manufacturing activities, by, among other things, enabling them to have access to finance. Murendi applied for a grant in terms of the BIS. On 19 February 2017, Murendi was granted the final approval of the project and a grant of R 14 210 953 was awarded to it.

On 9 February 2018, Murendi was notified that it could be in a claim payment under the approved grant agreement. One of the conditions for making a claim is that all claims must be accompanied by a valid BBBEE certificate. On 20 April 2018, after two failed attempts at submitting a valid BBBEE certificate, Murendi provided a new BBBEE certificate from Muthelo (Pty) Ltd, (Muthelo), a SANAS-accredited agency. On 20 November 2018, Muthelo informed Murendi of its intention to recall the BBBEE certificate. As a result, the DTI refused to pay Murendi's claim. The DTI contended that the certificate issued by Muthelo had been reviewed by SANAS and did not contain sufficient information. Furthermore, the DTI argued

that Murendi lacked a BBBEE certificate as a result of Muthelo's decision to recall Murendi's BBBEE certificate.

The SCA held that the sole purpose of the certificate was to confirm to the DTI that Murendi had maintained at least a level four BBBEE status, which the Muthelo certificate did. Murendi had substantially satisfied the objects of the policy, which was to empower and assist financially Black Industrialists that have a potential to become major industrialists in line with the prescripts of the BIS. Furthermore, the respondent maintained the 100% black ownership and management profile, which was the most important part of the mandatory conditions. As a result, SCA held that the Murendi had substantially complied with the mandatory requirements of the BIS. Therefore, the SCA dismissed the appeal.

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