

**REPUBLIC OF SOUTH AFRICA
SUPREME COURT OF APPEAL
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JUDGMENTS RESERVED

Ingonyama Trust v Ethekwini Municipality (149/11)

Appealed from KZD

Date heard: 8 November 2011

Mthiyane JA, Ponnann JA, Bosielo JA, Theron JA, Petse AJA

Property – whether respondent’s application to have land held by appellant declared rateable in respondent’s area should have been granted – contention that trust land not rateable because it is exempted in terms of Rating of State Property Act 79 of 1984, s 3(3) (prior to its repeal).

Northern Metropolitan Local Council v Company Unique Finance (Pty) Ltd & others (36/11)

Appealed from GSJ. 2011 (1) SA 440 (GSJ)

Date heard: 21 February 2012

Mpati P, Cloete JA, Snyders JA, Bosielo JA, Ndita AJA

Contract – Authority – whether respondents justified in acting on resolution of appellant without enquiry from appellant – whether appellant estopped from denying authority of third respondent to conclude agreement.

Shaukat Alli Moosa & another v Mahomed Rafik Osman Siddi Akoo NO (134/11)

Appealed from GNP

Date heard: 9 March 2012

Nugent JA, Cachalia JA, Bosielo JA, Majiedt JA, Petse AJA

Trust law – whether co-trustee, authorised by other trustees, have capacity to institute proceedings purportedly on behalf of trust without joining other trustees – whether trustees actually have power to authorise respondent by delegation to institute proceedings on behalf of trust – whether trustees did in fact authorise respondent to institute proceedings on behalf of trust – whether respondent discharged onus by adducing sufficient evidence entitling him to judgment on merits.

Commissioner for the South African Revenue Service v Tradehold Ltd (132/11)

Appealed from Tax Court (Cape Town)

Date heard: 12 March 2012

Nugent JA, Cachalia JA, Malan JA, Tshiqi JA, Boruchowitz AJA

Tax – income tax assessment – Income Tax Act 58 of 1962 – whether Commissioner correctly included taxable capital gain in Tradehold's income for the 2003 year of assessment on basis there was a deemed disposal by Tradehold of its shares in Tradegro Holdings Ltd.

South African Commercial Catering & Allied Workers Union & another v Growthpoint Properties Ltd & another (46/11)

Appealed from KZD. [2011] 1 All SA 537 (KZD)

Date heard: 13 March 2012

Navsa JA, Nugent JA, Bosielo JA, Majiedt JA, Wallis JA

Delict - interdict - nuisance - whether interpretation of Labour Relations Act 1995, s 67(2)(b) and (6) as incorporated in s 69(7) means that such picketers do not commit a delict in form of nuisance against landlord of shopping centre - whether such landlord entitled to institute civil proceedings to limit rights of pickets - whether these sections reasonably limit landlord's right to property, to trade and to a healthy environment.

City of Tshwane v BDG International (Pty) Ltd (335/11)

Appealed from GNP

Date heard: 15 March 2012

Navsa JA, Mhlantla JA, Tshiqi JA, Petse AJA, Ndita AJA

Interdict - suspension of interdict - whether interdict could be suspended as its suspension amounted to condonation of crime and allowed to continue.

CASES ENROLLED FOR HEARING

Irwing 514 CC v Mngani Property 4 (Pty) Ltd (428/11 and 297/11)

Appealed from GSJ

Date to be heard: 30 April 2012

Mpati P, Snyders JA, Majiedt JA

Contract - purchase and sale - whether notice of default furnished by appellant sufficient and adequate to found appellant's cancellation of sale agreement - whether an order that amount of respondent's claim must be paid into an attorney's trust account pending outcome of appellant's counterclaim was correctly made.

Andries Visser and another v Ereka Kotze (519/11)

Appealed from WCC

Date to be heard: 30 April 2012

Heher JA, Van Heerden JA, Mhlantla JA, Leach JA, Ndita AJA

Contract - suretyship - Magistrates' Court - whether respondent satisfied requirements of Magistrates' Court sub-rule 14(3)(c) and in particular sufficiently disclosed nature and grounds of defence of duress in opposing affidavit - whether respondent satisfied all elements of defence of duress - whether threats were of imminent or unavoidable evil, unlawful and induced respondent to enter into contract.

British American Tobacco South Africa (Pty) Ltd v Minister of Health & another (463/11)

Appealed from GNP

Date to be heard: 30 April 2012

Mthiyane DP, Farlam JA, Malan JA, Tshiqi JA, McLaren AJA

Tobacco Products Control Act 83 of 1993, s 3(1)(a), interpretation of - whether section should be interpreted as extending to one-to-one communications between tobacco manufacturers, importers, wholesalers and retailers, on the one hand, and consenting adult tobacco consumers, on the other hand - if so,

whether interpretation limits right of freedom of expression contained in s 16 of Constitution and whether such limitation justified in terms of s 36(1) of Constitution.

Vito Roberto Palazzolo v The Minister of Justice and Constitutional Development and others (405/11)

Appealed from WCC – postponed sine die

Date to be heard: 30 April 2012

Navsa JA, Brand JA, Cachalia JA, Wallis JA, Southwood AJA

Exercise of discretion – whether court below correctly exercised its discretion to refuse declaratory orders sought in paras 6.1 to 6.4 and the final interdict sought in para 6.5 of notice of motion in supplementary application brought by appellant.

Midstream Home Owners Association & others v Shoprite Checkers (Pty) Ltd & others (424/11)

Heritage Hill Home Owners Association v Shoprite Checkers & others (435/11)

Appealed from GNP

Date to be heard: 2 May 2012

Mthiyane DP, Nugent JA, Ponnar JA, Malan JA, Ndita AJA

Property law – whether decision taken by second respondent to revoke line of no access applicable to first respondent – whether decision may be open to attack in future review application – whether appellants entitled to final, alternatively interim interdict.

The Commissioner for the South African Revenue Service v Stellenbosch Farmers' Winery Ltd (504/11)

Stellenbosch Farmers' Winery Ltd v South African Revenue Service (511/11)

Appealed from Tax Court, Cape Town

Date to be heard: 2 May 2012

Brand JA, Van Heerden JA, Tshiqi JA, Kroon AJA, Boruchowitz AJA

Contract – discharge of burden of proving party to distribution and termination agreements – termination of distribution agreement – taxable supply within meaning of Value-Added Tax Act 89 of 1991, s7.

Lekup Prop Co No 4 (Pty) Ltd v John Colin Wright (286/11)

Appealed from GSJ

Date to be heard: 2 May 2012

Cloete JA, Cachalia JA, Snyders JA, leach JA, Petse AJA

Agreement of sale – whether court a quo correct in finding that unfulfilled condition should be deemed to have been fulfilled against appellant by applying doctrine of fictional fulfilment and that agreement of sale of property did not lapse and was of full force and effect.

King Sabata Dalindyebo Municipality and others v Kwalindile Community and others (537/11)

Appealed from LCC

Date to be heard: 3 May 2012

Mpati P, Cloete JA, Van Heerden JA, Mhlantla JA, Kroon AJA

Property – land claims – Restitution of Land Rights Act 22 of 1994 – whether court erred and misdirected itself in ordering that Remainder of Erf 912 Mthatha

shall not be restored to any claimant or prospective claimant – whether judge a quo exceeded his powers and erred in seeking to impose obligations set out in pars (iii), (iv) and (v) of order – whether paragraphs vague.

Cross appeal confined to those aspects of matter that relate to section 34 proceedings.

Tecmed Africa v Minister of Health (495/11)

Appealed from GNP

Date to be heard: 3 May 2012

Navsa JA, Ponnann JA, Snyders JA, Boruchowitz AJA, Ndita AJA

Administrative law – nature and conditions attached to licence issued – whether machine lawfully imported based on licence and which licence applicable.

Member of the Executive Council for Education: Mpumalanga v Onica Skosana obo Solomon Skosana (523/11)

Appealed from GNP

Date to be heard: 3 May 2012

Nugent JA, Heher JA, Cachalia JA, McLaren AJA, Petse AJA

Delict – whether respondent proved negligence on part of appellant's employees and more specifically foreseeability of harm to respondent's son – whether such negligence caused or contributed to injuries suffered.

Elementone Limited v Modern Media Promotions and others (406/11)

Appealed from GSJ

Date to be heard: 4 May 2012 – **withdrawn**

Mthiyane DP, Brand JA, Cloete JA, Majiedt JA, Boruchowitz AJA

Administrative law – entitlement of appellant to records of private bodies in terms of Promotion of Access to Information Act 2 of 2000, s 50(1) – whether appellant's application for disputed documents is time-barred – whether appellant has shown that it requires disputed documents for exercise or protection of any rights in terms of s 50(1) – whether appellant's application constitutes an abuse of process in that it was brought for an ulterior purpose.

Corporate Money Managers (Pty) Ltd & others v Kufa Trading Enterprise CC (457/11)

Appealed from GNP

Date to be heard: 4 May 2012

Farlam JA, Navsa JA, Ponnann JA, Tshiqi JA, Kroon AJA

Contract – whether it should be found that two advances made by second appellant to respondent totalling R8 381 000 are void, alternatively voidable on account of corruption and bribery committed by representatives of respondent and second appellant – whether loan agreement appended to answering affidavit in fact governed relationship between second appellant and respondent – whether loan agreement not tainted by corruption so as to render same void, alternatively voidable – if not, whether loan agreement did establish joint venture between second appellant and respondent (notwithstanding express terms to contrary), postponing second appellant's claim for repayment to completion of project to which joint venture allegedly pertains.

Minister of Minerals and Energy v Agri South Africa and Centre for Applied Legal Studies as amicus curiae (458/11)

Appealed from GNP. 2012 (1) SA 171 (GNP); [2011] 3 All SA 296 (GNP)

Date to be heard: 4 May 2012

Nugent JA, Heher JA, Mhlantla JA, Leach JA, Wallis JA

Expropriation of mineral rights – Mineral and Petroleum Resources Development Act 28 of 2002 – did State through enactment of Act expropriate Sebenza's common law mining rights – what is just and equitable compensation in circumstances.

K L Moseki v The State (556/11)

Appealed from NWM

Date to be heard: 7 May 2012

Mpati P, Boruchowitz AJA, Petse AJA

Criminal law – appeal against conviction on count of theft – application *in limine* to argue grounds on appeal for which leave not granted – whether appellant guilty on grounds of common purpose.

Dirk Samuel Botha v Iveco South Africa (Pty) Ltd (430/11)

Appealed from FB

Date to be heard: 7 May 2012

Mthiyane DP, Cloete JA, Cachalia JA, Tshiqi JA, Ndita AJA

Prescription – whether plaintiff's claim against defendant had prescribed – date when debt became due – whether liability acknowledged by defendant – whether running of prescription postponed.

The Commissioner for the South African Revenue Service v De Beers Consolidated Mines Limited (503/11)

Appealed from Tax Court, Cape Town

Date to be heard: 7 May 2012

Navsa JA, Van Heerden JA, Leach JA, McLaren AJA, Southwood AJA

Issues on appeal and cross-appeal:

Tax – DBCM's alleged obligation to pay VAT on services rendered to it by NMR as 'imported services' – DBCM's claimed entitlement to deduct as 'input tax' VAT paid by it on local services rendered to it by WWB, Deloitte, HSBC and ENF – possible apportionment of imported services and input tax.

Shaun Gungudoo and another v Hannover Reinsurance Group Africa (Pty) Ltd and another (585/11)

Appealed from GSJ. 2012 (1) SA 125 (GSJ)

Date to be heard: 8 May 2012

Mthiyane DP, Nugent JA, Cachalia JA, Mhlantla JA, Ndita AJA

Sequestration – whether respondent failed to comply with peremptory provisions of Insolvency Act 24 of 1936 – whether court a quo could have finally sequestered appellants' joint estate where application not served on appellants' employees prior to granting of provisional order – whether respondents entitled to rely on new causes of action raised for first time in their replying affidavit – whether claims advanced by respondents in replying affidavit disputed by appellants on bona fide and reasonable grounds.

The MEC for Education, KwaZulu-Natal v Simphiwe Shange (529/11)

Appealed from KZD

Date to be heard: 8 May 2012

Farlam JA, Navsa JA, Heher JA, Snyders JA, Petse AJA

Civil procedure – appeal against granting of condonation of failure to give notice in terms of the Institution of Legal Proceedings Against Certain Organs of State Act 40 of 2002, s 3(4)(b) – whether amendment of age of majority in terms of Children’s Act 38 of 2005, s 17 affects period within which respondent may bring his claim – whether respondent’s claim has prescribed.

The Gap Inc v Salt of the Earth Creations (Pty) Ltd and others (695/11)

Appealed from GNP

Date to be heard: 8 May 2012

Cloete JA, Ponnann JA, Malan JA, Wallis JA, Kroon AJA

Trade Marks Act 194 of 1993 – whether appellant has demonstrated bona fide use for its registered trade mark for purposes of s 27(1).

Body Corporate of the Pinewood Park scheme no 202 v Dellis (Pty) Ltd (498/11)

Appealed from KZP

Date to be heard: 9 May 2012

Mpati P, Brand JA, Mhlantla JA, Tshiqi JA, Boruchowitz AJA

Arbitration – Arbitration Act 42 of 1965 read together with prescribed Management Rule 71 – whether party may refer an existing dispute to court for determination – whether compulsory, statutory arbitration restricts adjudication by courts.

F Mohammed and another v The State (125/11)

Appealed from WCC

Date to be heard: 9 May 2012

Heher JA, Snyders JA, Wallis JA, McLaren AJA, Southwood AJA

Criminal law – appeal against conviction – Drug and Drug Trafficking Act 140 of 1992 - whether court erred in convicting appellants on counts 47 and 48 while knowing that ss 20, 21(1)(c) and (d) had been declared unconstitutional – whether appellants had been afforded a fair trial.

H C Keyser v The State (634/11)

Appealed from GSJ

Date to be heard: 9 May 2012

Heher JA, Snyders JA, Wallis JA, McLaren AJA, Southwood AJA

Criminal law – Drug and Drug Trafficking Act 140 of 1992 – appeal against conviction and sentence – whether State correctly relied on presumptions contained in s 21 – whether appellant has been prejudiced by general reference to s 21 in the proper conduct of case – whether conviction was only reasonable inference to be drawn from cumulative facts – whether sentence of 20 years’ imprisonment appropriate.

M K Kgantsi v The State (732/11)

Appealed from NWM

Date to be heard: 9 May 2012

Van Heerden JA, Majiedt JA, Petse AJA

Murder – whether trial court erred in finding no reasonable prospects of success against sentences imposed – whether trial court erred by invoking provisions of Criminal Law Amendment Act 105 of 1997, ss 51(1) and 51(2) where indictment did not state that appellant was charged in terms of said provisions.

S J Mkhize v The State (741/11)

Appealed from NWM

Date to be heard: 9 May 2012

Van Heerden JA, Majiedt JA, Petse AJA

Criminal law – appeal against sentence – theft of motor vehicle – whether sentence of 10 years shockingly inappropriate in circumstances of case – whether trial court erred in law and or fact in imposing sentence – whether trial court failed to take into account personal circumstances of accused.

Mark Minnies & others v The State (881/11)

Appealed from WCC

Date to be heard: 10 May 2012

Mthiyane DP, Leach JA, Tshiqi JA, Petse AJA, Ndita AJA

Criminal law – appeal against conviction in contravention of South African Reserve Bank Act 90 of 1989, s 34(1)(b), read with Prevention of Counterfeiting of Currency Act 16 of 1965, s 2 – meaning to be accorded to ‘utter’ and ‘tender’ in terms of provisions in question, specifically with reference to element of misrepresentation or deceit – nature of physical act performed – whether physical act performed otherwise satisfies elements of offence charged.

C L Carstens NO & others v B M Carstens NO (409/11)

Appealed from ECP

Date to be heard: 10 May 2012

Brand JA, Cloete JA, Heher JA

Trust – determining quantum of accrual of estate of spouse in terms of Act 88 of 1984, s 4 – whether assets held in separate trust should be considered in implementation of accrual system to marriage.

City of Cape Town v Faizel Hendricks (633/11)

Appealed from WCC

Date to be heard: 10 May 2012

Nugent JA, Van Heerden JA, Snyders JA, Mhlantla JA, Southwood AJA

C Raubenheimer v G Raubenheimer and others (560/11)

Appealed from GNP

Date to be heard: 11 May 2012

Mpati P, Nugent JA, Cachalia JA, Leach JA, Wallis JA

Wills – interpretation – validity of will – whether will void as being vague – whether will valid as there was non-compliance with formalities.

Dr R Raath v J J G Nel (473/11)

Appealed from GNP

Date to be heard: 11 May 2012

Farlam JA, Ponnar JA, Malan JA, Majiedt JA, Kroon AJA

Damages – future hospital and medical expenses, loss of income and quantum of general damages – extent to which appellant’s negligence caused respondent’s damages – whether findings with regard to those three heads of damages involved material misdirections.

J D De Vries NO & others v The Road Accident Fund (453/11)

Appealed from WCC

Date to be heard: 11 May 2012

Navsa JA, Brand JA, Mhlantla JA

Quantum of damages – Assessment of Damages Act 9 of 1969 – application of s 1 in circumstances where deceased parents left their entire estate to testamentary trust with trust fund thereafter comprising both insurance money and non-insurance money received from estates from which combined funds surviving children were supported – whether factual assumptions on which appellants' actuary calculated claims should be accepted as correct.

M M Ngwenyama v M F Mayelane & another (Trustee of the Woman's Legal Centre Trust as Amicus Curiae) (474/11)

Appealed from GNP. [2012] 4 All SA 211 (GNP)

Date to be heard: 14 May 2012

Mthiyane DP, Ponnann JA, Ndita AJA

Recognition of Customary Marriages Act 120 of 1998 – whether husband's failure to comply with provisions of s 7(6) impacts upon validity of second and polygamous customary marriage entered into after commencement of Act – whether such non-compliance on its own renders second customary marriage void *ab initio*.

Mangangeni Westmead Returners Community Trust & others v Minister of Rural Development & Others (361/11)

Appealed from KZD

Date to be heard: 14 May 2012

Farlam JA, Navsa JA, Majiedt JA, Southwood AJA, Petse AJA

Jurisdiction – whether land claims court has exclusive jurisdiction to hear dispute dealing with power to manage and control funds of trust which are proceeds of claim in terms of Restitution of Land Rights Act 22 of 1994.

Svetlov Ivanov v Northwest Gambling Board (312/11)

Appealed from NWM

Date to be heard: 14 May 2012

Cloete JA, Heher JA, Mhlantla JA, Malan JA, McLaren AJA

Search and seizure – search warrant – declaration of invalidity of search warrant – restoration of property seized – whether bona fide search though excluded from warrant can become a spoliation.

South Africa Congo Oil Company (Pty) Ltd v Identiguard International (Pty) Ltd (710/11)

Appealed from GSJ

Date to be heard: 15 May 2012

Mpati P, Cachalia JA, Leach JA, Kroon AJA, Boruchowitz AJA

Uniform Rules of Court – writ of execution, validity of – validity of sheriff's process in absence of compliance with requirement to attach debt under rule 45(12)(a) and need to comply with rule 45(8) when effecting an attachment of a debt – immunity of debt from attachment under Foreign States Immunities Act 87 of 1981 – entitlement of appellant to place further evidence before court in form of a further affidavit.

Bridon International GMBH v International Trade Administration Commission and others (538/11)

Appealed from GNP

Date to be heard: 15 May 2012

Brand JA, Cloete JA, Mhlantla JA, Wallis JA, Southwood AJA

Privilege – common law principles – balance between public interest in disclosing documents in record of proceedings in judicial review application and on the other

hand public interest that some of documents should not be disclosed – extent to which appellant may prevent fourth respondent from having access to its confidential documents which form part of record prepared by first respondent in review proceedings instituted by fourth respondent.

Cipla Medpro (Pty) Ltd v Aventis Pharma SA (138/10 and 139/10)

Appealed from Commissioner of Patents

Date to be heard: 15 May 2012

Nugent JA, Heher JA, Snyders JA, Tshiqi JA, McLaren AJA

Patents – appeal against order in interim interdict application – setting aside of order in application brought by appellant in terms of Patents Act 57 of 1978 for setting aside of amendment of South African Patent Number 93/8936.

Craig William Grigor v The State (607/11)

Appealed from GNP

Date to be heard: 16 May 2012

Van Heerden JA, Snyders JA, Tshiqi JA

Criminal law - appeal against dismissal of appeal against conviction and sentence – whether State adequately proved its case – whether accused's version rightly rejected – whether sentence imposed by trial court and confirmed on appeal shockingly inappropriate.

Siybonga Mooi v The State (Bail Appeal) (162/11)

Appealed from WCC

Date to be heard: 16 May 2012

Navsa JA, Van Heerden JA, Snyders JA

J K Sithole v The State (868/11)

Appealed from GNP

Date to be heard: 17 May 2012

Mthiyane DP, Kroon AJA, Southwood AJA

Law of evidence – appeal against conviction – whether trial court misdirected itself in evaluating evidence by separating defence and state's case – whether trial court correctly evaluated evidence of single witness – whether trial court correct in finding that appellant's version not reasonably possibly true.

Investec Employee Benefits Ltd v S J Marais and others (580/11)

Appealed from GNP

Date to be heard: 17 May 2012

Farlam JA, Cloete JA, Malan JA, Wallis JA, McLaren AJA

Prescription Act 68 of 1969 – Pension Funds Adjudicator – whether first respondent's claim has prescribed – whether first respondent submitted proper complaint to third respondent as required by Pension Funds Act 24 of 1956 – whether condonation rightly granted for late submission of complaint.

Andreas Argyros v J P Koorts NO and others (481/11)

Appealed from GNP

Date to be heard: 17 May 2012

Navsa JA, Ponnann JA, Leach JA, Petse AJA, Ndita AJA

Estate – whether presumption that heirs must collate has been dispensed with in terms of clause 7 of the Last Will and Testament of deceased – whether appellant has to repay loan advanced to him by deceased.

Sterklewies (Pty) Ltd t/a Harrismith Feedlot v M E Msimanga & others (456/11)

Appealed from LCC

Date to be heard: 18 May 2012

Mthiyane DP, Farlam JA, Wallis JA, Kroon AJA, Boruchowitz AJA

Eviction – Extension of Security of Tenure Act 62 of 1997 – whether appellant has succeeded in proving term of agreement between parties whereby respondents only allowed to stay on farm as long as they are employed by appellant.

Michael Hattingh & Others v Lawrence Edward Juta (440/11)

Appealed from LCC

Date to be heard: 18 May 2012

Navsa JA, Nugent JA, Leach JA

Eviction – right to family life – whether Extension of Security of Tenure Act, 62 of 1997 allows an occupier to have adult children reside with her where proof of culture of family had not been established.

Phithela Mapule v The State (817/11)

Appealed from LT

Date to be heard: 18 May 2012

Brand JA, Snyders JA, Mhlantla JA, Southwood AJA, Petse AJA

Criminal law – appeal against conviction of rape.

Greater Tenbosch Land Claims Committee & others v Regional Land Claims Commissioner for Mpumalanga & Gauteng provinces & others (899/10)

Appealed from LCC

Date to be heard: 21 May 2012

Mpati P, Farlam JA, Mhlantla JA, Majiedt JA, McLaren AJA

Land claims – whether court a quo correctly applied law regarding responsibility for investigation of land claims and compilation of reports and information or evidence for adjudication of such claims in terms of Restitution of Land Rights Act 22 of 1994, s 14 and the Rules of the Land Claims Court, rules 38 and 39 – whether court correctly applied law and legal principles in its cost order.

J G S Seyffert and another v Firstrand Bank Ltd t/a First National Bank (577/11)

Appealed from GSJ. 2010 (6) SA 429 (GSJ)

Date to be heard: 21 May 2012

Cloete JA, Malan JA, Leach JA, Wallis JA, Ndita AJA

National Credit Act 34 of 2005 – home loan agreement – whether court had to exercise its discretion and having regard to affidavits filed have applied provision of s 85 and referred matter directly to debt counsellor with request to evaluate appellants' circumstances and make recommendation to court – whether court should have declared appellants over-indebted and should have made order as contemplated in s 87 – whether court should have referred matter to magistrates' court to proceed with debt review.

David Kekana v The State (581/11)

Appealed from GSJ

Date to be heard: 21 May 2012

Ponnan JA, Tshiqi JA, Kroon AJA

Criminal law – appeal against conviction and sentence – convicted of an attempt to contravene Riotous Assemblies Act 17 of 1956, s 18(2)(a) – whether trial court’s credibility findings correct – whether appellant’s version reasonably possibly true – whether respondent proved appellant’s guilt beyond reasonable doubt.

Mohammed Cassimjee v The Minister of Finance (455/11)

Appealed from KZD

Date to be heard: 22 May 2012

Mthiyane DP, Brand JA, Cachalia JA, Southwood AJA, Boruchowitz AJA

Procedure – exercise of discretion – whether court correctly exercised its discretion to dismiss appellant’s action for want of prosecution – whether court correctly exercised its discretion in refusing to set aside respondent’s Notice of Objection to appellant’s proposed amendment to particulars of claim even though notice admittedly did not comply with provisions of Rule 28(3) – Constitution of the Republic of South Africa, 1996, s 34 which guarantees right to fair public hearing, will be raised as provision to be taken into account in determining applicability of pre-constitutional cases, in which claims have been dismissed for want of prosecution, thereby effectively closing doors of court on litigant.

Distell Limited v The Commissioner for the South African Revenue Service (526/11)

Appealed from GNP

Date to be heard: 22 May 2012

Navsa JA, Heher JA, Van Heerden JA

Excise duty – Customs and Excise Act 91 of 1964 – tariff classification – whether products in issue fermented or distilled.

Chamber of Mines of South Africa v The Compensation Commissioner for Occupational Diseases & others (448/11)

Appealed from GNP

Date to be heard: 22 May 2012

Nugent JA, Ponnan JA, Snyders JA, Tshiqi JA, Kroon AJA

Occupational Diseases in Mines and Works Act 78 of 1973, s 62 – interpretation of – nature and extent of powers conferred on Compensation Commissioner for Occupational Diseases to raise levies.

APPEALS DISPOSED OF WITHOUT WRITTEN JUDGMENT IN 2012

D P Lekgau v The State (18/12) – 22 February 2012

Eugene Ralph Morgan v The State (680/11) – 24 February 2012

Beaufort West Minerals (Pty) Ltd v Eybers and others (275/12) – 6 March 2012

Michael George Burgess and others v Wonderhoek Farms (Edms) Bpk (449/11) – 16 March 2012