



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
JUDGMENT

Reportable

Case no: 182/2024

In the matter between:

PORTAPA (PTY) LIMITED T/A SUPABETS	FIRST APPELLANT
SUPAWORLD GAUTENG (PTY) LTD	SECOND APPELLANT
INTELLIGENT GAMING (PTY) LTD	THIRD APPELLANT

and

CASINO ASSOCIATION OF SOUTH AFRICA	FIRST RESPONDENT
THE GAUTENG GAMBLING BOARD	SECOND RESPONDENT

and

Case no: 215/2024

THE GAUTENG GAMBLING BOARD	APPELLANT
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and

CASINO ASSOCIATION OF SOUTH AFRICA	FIRST RESPONDENT
PORTAPA (PTY) LTD T/A SUPABETS	SECOND RESPONDENT
SUPAWORLD GAUTENG (PTY) LTD	THIRD RESPONDENT
INTELLIGENT GAMING (PTY) LTD	FOURTH RESPONDENT

Neutral citation: *Portapa (Pty) Limited t/a Supabets and Others v Casino Association of South Africa and Another, and The Gauteng Gambling Board v Casino Association of South Africa v Portaba (Pty) Ltd t/a Supabets and Others* (182/2024 & 215/2024) [2025] ZASCA 158 (21 October 2025)

Coram: DAMBUZA, MOTHLE and KOEN JJA

Heard: 26 August 2025

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email, publication on the Supreme Court of Appeal website and released to SAFLII. The date for hand-down of the judgment is deemed to be 11h00 on 21 October 2025.

Summary: Gambling Laws: Interpretation of 'sporting event' in s 55 of the Gauteng Gambling Act 4 of 1995 – limiting fixed-odds bets with bookmakers to 'sporting events' not in conflict with the provisions of s 4 of the National Gambling Act 7 of 2004 – 'sporting events' not including roulette games.

ORDER

On appeal from: Gauteng Division of the High Court, Johannesburg: (Crutchfield J, sitting as a court of first instance):

1 The appeals in case number 182/2024 and case number 215/2024 are dismissed with costs, including the costs of two counsel where employed.

2 The ‘cross-appeals’ arising from high court case number 9547/2018 are upheld with costs, including the costs of two counsel where employed.

3 The order of the high court in high court case number 9547/2018 is set aside and replaced with the following:

‘1 It is declared that it is unlawful, in terms of the Gauteng Gambling Act 4 of 1995, for bookmakers to offer fixed-odds bets on the outcome of a casino game, including the game of roulette.

2 It is declared that:

2.1 The second respondent (Supabets) is not permitted to offer fixed-odds bets on the game of roulette;

2.2 The second respondent’s conduct in offering fixed-odds bets on the outcome of roulette is unlawful and contravenes s 76(2) of the Gauteng Gambling Act 4 of 1995;

3 The decision of the first respondent as contained in its letter dated 2 March 2018 is reviewed and set aside insofar as it finds that the second respondent did not act contrary to the provisions of ss 39 and 76 of the Gauteng Gambling Act 4 of 1995;

4 The first and second respondents, jointly and severally, are directed to pay the costs of the application, including the costs of two counsel where employed.’

JUDGMENT

Dambuza JA (Mothle and Koen JJA concurring)

[1] The issue in this appeal is whether bookmakers that are licenced as such under the Gauteng Gambling Act 4 of 1995 (the Gauteng Act) may offer fixed-odds bets on the outcomes of roulette games. The Gauteng Division of the High Court, Johannesburg, per Crutchfield J (the high court), held that because roulette is a casino game and not a sporting event, bookmakers in the Gauteng Province may not offer betting on outcomes of live roulette games.

[2] The background against which the dispute arises is the following. The second respondent, the Gauteng Gambling Board (the Board), is a statutory body established in terms of s 3 of the Gauteng Act. Its powers and functions are set out in s 4 of that Act. They include overseeing and controlling gambling activities within the Gauteng Province, advising the relevant Member of the Executive in the province on matters relating to granting of gambling licences, and regulating gambling within the province. It has exclusive jurisdiction to investigate, consider and issue gambling licences within the Gauteng Province.¹

[3] On 9 January 2017, the Board approved the use of the Aardvark betting software in the Gauteng Province. The software is owned by the third appellant, Intelligent Gaming (Pty) Ltd (Intelligent Gaming). It enables bookmakers to offer and accept wagers to and from punters on the outcome of sports and lottery draw events and the electronic capturing of bets.

¹ In terms of s 30(a)(i) of the National Gambling Act 7 of 2004.

[4] On 11 April 2017, the Board approved Intelligent Gaming's request to offer on the Aardvark software, livestream feeds of roulette draw contingencies² to existing holders of bookmaker licences in Gauteng. On 14 June 2017 the first appellant, Portapa (Pty) Ltd, a licenced bookmaker which trades as Supabets (Supabets), made an application to the Board to install the Aardvark betting software at its betting shops in Gauteng. The Board gave a conditional approval to this application in terms of regulation 266 of the Gauteng Gambling Regulations published under the Gauteng Act on 20 June 2017.³ One of the conditions was that the approval could only be implemented once consent to all the contingencies and bet types were secured.

[5] Despite not having obtained the required consent for all contingencies and bet types, on 23 June 2017 Supabets began to offer fixed-odd bets dependant on streamed, live roulette contingencies. On 19 September 2017, the Board addressed a letter to all licenced bookmakers advising that the installation and upgrading of all gambling software could only be effected with its approval. It stressed that installations of the Aardvark system without its prior approval was unlawful conduct under Regulation 266 and Rule 14.080 of the Gauteng Gambling Rules and Regulations.

[6] At this stage the first respondent, the Casino Association of South Africa (CASA), a voluntary association whose members are casino licence holders in

²In the National Gambling Act, a contingency is defined in s 1 as an event the outcome of which is uncertain or unknown to any person until it happens.

³ The conditions attached to the approval were the following:

- 'The system Internal Control Procedures must be submitted prior to the inspection date.
- The procedure must include IT controls for the system and access matrix of the operations including controls of the passwords.
- The penetration and vulnerability test report should be submitted to the Board before 25th August 2017.
- The GGB approval 10199 may only be implemented on condition that the operator obtains approval for all contingencies and bet types prior to implementation.
- The Gauteng Gambling Board approval 10199 is subject to Aardvark Technologies Limited successfully complying with licencing requirements and licence being issued within 12 months. Failing which the approval will expire'.

South Africa, became aware that Supabets was offering fixed-odd bets on the outcome of livestreamed roulette. It lodged a complaint with the Board in respect of the conduct of the Supabets, asserting that in terms of the Gauteng Act, bookmakers who operate in the Gauteng Province require a casino licence in order to offer bets on roulette games, because roulette is a casino game. CASA urged the Board to take immediate steps to stop the offending conduct.

[7] On 29 November 2017, the second appellant, Supaworld Gauteng (Pty) Ltd (Supaworld) applied to the Board to offer fixed-odd bets on roulette games as contingencies on the Aardvark system. When it submitted this application, it was already offering the bets. It continued to do so while waiting for a response from the Board.

[8] By March 2018, the Board had still not responded to CASA's complaint. Correspondence from CASA to the Board, following up on the complaint, was met with the response that the Board was investigating the matter. On 9 March 2018, CASA approached the high court seeking a declarator: that it is unlawful for anyone, other than a holder of a casino licence, to offer fixed-odds bets on the outcome of a casino game, including the roulette game; that Supabets was not authorised and/or licenced to offer fixed-odd bets on the outcome of roulette; and that its conduct in doing so was unlawful. It also sought interdictory relief stopping Supabets (the first respondent in that application) from offering bets on outcomes of roulette games. It sought, in the alternative, that the Board (the second respondent in that application) be ordered to complete its investigations into its complaint within 60 days of the order that would be granted. The interdictory relief against Supabets, if granted, would endure pending the Board's decision.

[9] Three days after the launch of the high court application, the Board advised CASA of its decision on the complaint. Its decision, taken on 2 March 2018, was that Supabets had not acted unlawfully, but had merely ‘introduced a new contingency (betting on the outcome of roulette games) without the prior approval of the Board’. This conduct did not contravene the provisions of ss 39 and 76⁴ of the Gauteng Act as CASA had alleged, said the Board.

[10] Pursuant to the Board’s response, CASA amended its Notice of Motion to seek a review of the Board’s decision that Supabets had not acted unlawfully. It persisted in its prayer for a declarator that it was unlawful for persons other than casino licence holders to offer fixed-odds bets on the outcomes of casino games, including roulette and that Supabets was not entitled to offer fixed-odd bets on that contingency without a casino licence.

[11] On 29 June 2018, the Board approved Supaworld’s request to offer fixed-odds bets on outcomes of roulette games, using the Aardvark system. On 10 July 2018, Supabets also applied to offer fixed-odds bets on outcomes of roulette games on the Aardvark system. Three days after that application was made, on 13 July 2018, the Board approved it.

[12] CASA became aware of the approval decisions of the Board. This information was contained in correspondence from Supabets’ legal representatives dated 15 August 2018. In October 2018, CASA launched a second application in the high court for a review of the approval decisions taken by the

⁴ Section 39(1) of the Gauteng Act provides that: ‘no person shall conduct a casino without a casino licence’. And s 76 (1) of the same Act regulates the contingencies on which gambling may take place. It provides:

‘76 Events and contingencies on which gambling may take place

(1) No person shall gamble on the result of any event or contingency other than –
 (a) a casino game;
 (b) a bingo game;
 (c) the operation of a gaming machine; or
 (d) . . .
 (e) a sporting event’

Board on 29 June, 13 July 2018, and on 20 June 2017. In that application CASA maintained that the approvals granted to Intelligent Gaming were part of a broader scheme in which Supabets and Supaworld (the Supabets entities) would secure approvals to offer fixed-odd bets on roulette games as contingencies, using the Aadvark system to livestream roulette games. It sought orders that the decisions permitting the Supabets entities to install and use the Aadvark system at their premises and to offer bets on roulette, be reviewed.

[13] In the second application CASA contended that the approval decisions were unlawful, exposed it to unlawful competition and exposed members of the public to unlawful unregulated gambling. It argued that the decisions taken by the Board were premised on material errors of law, were not authorised by the empowering provision, resulted from a failure to take into account relevant considerations, and did not comply with mandatory legislative provisions, resulting in procedural unfairness. In essence, CASA's case centred around roulette being a casino game and the approvals having been made in contravention of ss 76(3) and 87 of the Gauteng Act which required the Supabets entities to be in possession of casino licences, in order to offer and/or accept bets on roulette games.

[14] The high court dismissed the first review application and granted the second one. It found that once CASA issued the second review, it should have abandoned the first one. In granting the second review, it set aside the approvals that had been granted by the Board. In this appeal the Board and Supabets entities' appeal against the decision of the high court, while CASA cross-appeals against the dismissal of the first review. Both the appeal and cross-appeal are with the leave of this Court.

[15] The appeal stands on two legs. First, the Board and the Supabets entities argue that there is a conflict between the provisions of the National Gambling Act 7 of 2004 (the National Gambling Act) and the Gauteng Act, with regard to the scope of bookmakers' contingencies. This, the argument goes, is because the National Gambling Act authorises bookmakers to accept bets on any contingency, while the Gauteng Act limits bookmakers to accepting bets only on sporting activities. The appellants contend that this restriction is improper and that the National Gambling Act should prevail. The second leg of the appeal is that 'sporting event' in the definition of the contingency in respect of which bookmakers may accept bets under the Gauteng Act, must be given a wide interpretation to include the offering and accepting of fixed-odd bets on roulette.

[16] CASA maintains that there is no conflict between the national and provincial gambling legislations. It argues that the wide interpretation advanced by the appellants is not sustainable on a correct interpretation of the definition of 'sporting event' provided in the Gauteng Act. Furthermore, CASA argues that the relief sought in its first review is different from that sought in the second. Consequently, the high court should not have dismissed its first review application.

[17] I consider first the question whether there is a conflict between the relevant provisions of the national and provincial Gambling Acts. The relevant provision in the National Gambling Act is s 4(1), which provides:

‘4. Bets and wagers-

(1) A person places or accepts a bet or wager when that person-

- (a) Being a player, stakes money or anything of value on a fixed-odds bet or an open bet, with a bookmaker on any contingency; or
- (b) Being a bookmaker-
 - (i) accepts a stake of money or anything of value on a fixed-odds bet, or an open bet, from a player on any contingency; or

- (ii) stakes money or anything of value on a fixed-odds bet, or an open bet, with another bookmaker on any contingency;
- (c) stakes or accepts a stake of money or anything of value with one or more other persons on any contingency; or
- (d) expressly or implicitly undertakes, promises or agrees to do anything contemplated in paragraph (a), (b) or (c).’ (emphasis supplied)

[18] Section 55 of the Gauteng Act, on the other hand, provides that:

‘A bookmaker’s licence shall, subject to any condition imposed under section 32, authorise the accepting, on the licenced premises concerned of fixed odds bets on sporting events’. (emphasis supplied)

The conflict, according to the Board and the Supabets entities, arises from the limitation of the contingency on which bets can be offered under the Gauteng Act, to ‘sporting events’, while the National Gambling Act allows fixed-odds betting on ‘any contingency’. They contend that this Court should find that there is a conflict between the two statutes and, for that reason, interpret ‘sporting event’ in s 55 of the Gauteng Act broadly, to mean ‘any contingency’.

[19] The issue requires a correct understanding of the interrelationship between the National Gambling Act and the provincial gambling statutes. In terms of the Constitution, gambling is a concurrent legislative competence of national government and the provinces.⁵ The conclusion by the high court, that the content and ambit of the national and provincial statutes fulfil different roles, is correct. Each province has its own gambling legislation and related rules and regulations. Generally, these must be consistent with the National Gambling Act on issues on which the National Gambling Act has primary competence. However, each province within the country has its own peculiarities and restrictions. It is for this

⁵ Section 146 of the Constitution read with Schedule 4 to the Constitution.

reason that the Constitutional Court has held that inconsistencies between the National and Provincial gambling legislation are not unconstitutional.

[20] In *Weare and another v Ndebele N O and others*⁶ (*Weare*) the Constitutional Court considered whether s 22(5) of the Kwazulu-Natal Regulation of Racing and Betting Ordinance 28 of 1957 (the Ordinance) constituted an irrational and arbitrary differentiation, contrary to the provisions of s 9 of the Constitution, for prohibiting juristic persons from holding bookmaker licences. In other provinces juristic persons were allowed to hold such licences. The applicants in that Court argued that the restriction of bookmaker licences to natural persons had become outdated, was no longer rationally linked to the goal of regulation, and served no legitimate government purpose. In rejecting that argument, the Constitutional Court held that the applicants had not shown that the policy choice made by the KwaZulu-Natal Provincial Legislature fell outside the bounds of legitimate legislative choice. It held that the provincial legislature of Kwazulu-Natal had the prerogative of selecting the means to achieve the objectives of its government.⁷ The Court held that:

‘Provinces have the right to regulate their own gambling industries. There can be no objection in this case to the KwaZulu-Natal legislative regime simply on the ground that it is different to that in other provinces. This is not to say that the situation in other provinces may not be referred to when challenging provincial legislation. But the fact that there are differences between the legal regimes in provinces does not in itself constitute a breach of section 9(1).⁸

[21] The national and provincial gambling statutes are complementary. They represent the national and provincial gambling policy framework. As the Constitutional Court held in *Weare*, the policy choice exercised by the Gauteng

⁶ *Weare and another v Ndebele N O and others* [2008] ZACC 20; 2009 (1) SA 600 (CC); 2009 (4) BCLR 370 (CC).

⁷ Para 58.

⁸ Para 70.

Provincial Legislature in this case, in restricting the contingency on which bookmakers may accept or offer bets, could only be validly challenged if it exceeded the bounds of legitimate legislative choice. The appellants made no such case.

[22] Furthermore, there is no conflict between the national and provincial statutes in this instance. In the relevant part, s 146 of the Constitution provides:

‘146 Conflicts between national and provincial legislation

- (1) This section applies to a conflict between national and provincial legislation falling within a functional area listed in Schedule 4.
- (2) National legislation that applies uniformly with regard to the country as a whole prevails over provincial legislation if any of the following conditions is met:
 - (a) The national legislation deals with a matter that cannot be regulated effectively by legislation enacted by the respective provinces individually.
 - (b) The national legislation deals with a matter that, to be dealt with effectively, requires uniformity across the nation, and the national legislation provides that uniformity by establishing-
 - (i) norms and standards
 - (ii) frameworks; or
 - (iii) national policies
 - (c) . . .
- (3) national legislation prevails over provincial legislation if the national legislation is aimed at preventing unreasonable legislation by the province that-
 - (a) is prejudicial to economic, health or security interests of another province or the country as a whole; or
 - (b) impedes the implementation of national economic policy.
- . . .
- (4) Provincial legislation prevails over national legislation if subsection (2) or (3) does not apply’

[23] Casinos, racing, gambling and wagering are listed in Schedule 4 to the Constitution as matters of concurrent national and provincial legislative competence, with the National Gambling Act establishing the framework for regulation and co-ordination of gambling activities.⁹ The National Gambling Act establishes norms and standards which apply generally throughout the country with regard to casinos, racing, gambling and wagering. The norms and standards guide the National Gambling Board in the exercise of its exclusive competence - the oversight role over the provincial authorities, particularly the monitoring of compliance with the provisions of the National Gambling Act.

[24] In terms of s 30(1)(a)(i) of the National Gambling Act, provincial licencing authorities have exclusive jurisdiction within their individual provinces, to investigate and consider applications for, and issue provincial licences. To this extent, as the Supabets entities contend, provincial gambling legislation controls gambling within provinces, and ensures that the industry contributes to the provincial economies, adheres to local and national standards, and addresses the social impacts of gambling within the provinces. The regionalisation of gambling regulation provides room to satisfy the unique demographic, economic and social factors in the different provinces. Within this context provincial regulatory authorities regulate the different gambling licencing modes. There is no evidence that, in the gambling industry, the National Gambling Act fulfils any of the conditions set out in s 146 (2) or (3) of the Constitution. Provincial legislation therefore prevails.

[25] In addition, the National Gambling Act and the Gauteng Act can be read harmoniously. As counsel for CASA submitted, s 4 of the National Gambling Act is not a contingency prescription provision. It merely describes how bets and

⁹ See the preamble to the National Gambling Act.

wagers are made and/or accepted. This is plain from the text of the provision. Regarding bookmakers, s 4(b) provides that a bet or a wager is made when a bookmaker accepts a stake of money or anything of value on a fixed-odds bet, or an open bet, from a player on any contingency for which they are licenced. The broadly framed text in s 4 of the National Gambling Act text provides flexibility to cover any contingency that the individual provincial legislative authorities may choose to provide. There is therefore no conflict between s 4(b) of the National Gambling Act and s 55 of the Gauteng Act.

[26] The next issue to be determined is whether roulette is a sporting event on which bookmakers may accept bets, as envisaged in s 55 of the Gauteng Act. To recap, s 55 stipulates that a bookmaker's licence shall authorise the accepting of fixed-odds bets on sporting events. 'Sporting event' is defined in the Gauteng Act as:

'any ball-game, race (including a race involving vehicles or animals) or other athletic or sporting contest, competition or game, including a beauty contest, usually attended by the public'.

The Supabets entities contend that roulette is a game and is therefore included in the definition of a sporting event. They argue that 'game', in the definition of sporting event, should be interpreted broadly, in line with the development of the concept of electronic games in the gambling industry and also so as to be consistent with s 22 of the Constitution — the right to freedom of trade, occupation and profession. They discount CASA's interpretation as unduly restrictive and stagnant because of its focus on a 'physical sporting encounter'. The argument is that the 'game' should be interpreted broadly so as to make gambling accessible, in conformity with the objects of gambling legislation. CASA insists that on a plain reading of the text of the definition of 'sporting event', the adjectives 'athletic or sporting' describe contest, competition or game.

Therefore, contest, competition or game must be an athletic sporting event (excluding beauty contests).

[27] Insofar as the argument for a broad, constitutionally compliant interpretation of ‘game’ is concerned, the appellants’ argument is unsustainable. I have concluded that the national statute does not prevail over the provincial legislation and that s 4 of the National Gambling Act and s 55 of the Gauteng Act must be read harmoniously. Fidelity must therefore be accorded to the text and purpose of s 55 of the Gauteng Act and the relevant definitions. The broad interpretation advanced by the Supabets entities disregards this well-established principle of interpretation of legal documents.

[28] A sensible reading of ‘sporting event’ in s 1 of the Gauteng Act, is that it is: either a ball-game, or a race (including a race involving vehicles or animals), or *other athletic or sporting contest, athletic or sporting competition or athletic or sporting game*, including a beauty contest, usually attended by the public. The phrase ‘other athletic or sporting’ describes the contest, competition or game. ‘Game’ is not a stand-alone noun. It is qualified by the words ‘sporting or athletic’, such that the complete expression is an ‘athletic or sporting game’. The high court was correct in its conclusion that roulette is not a game as envisaged in the definition of ‘sporting activity’ in the Gauteng Act. It is also relevant that roulette is not a game that is usually attended by the public.

[29] Nothing prevents bookmakers from using technology or electronic means to provide betting and wagering facilities within their defined scope of contingency. The fact that provincial legislatures in other regions permit bookmakers in those regions to offer or accept fixed-odds bets on any contingency, is not a proper basis for the interpretation that the Board and the Supabets entities propose. Section 55 of the Gauteng Act and the relevant

definitions were enacted to ensure that that gambling activities in the Gauteng Province are effectively regulated, taking into account the unique socio-economic circumstances and demographics of that province.

[30] A further significant factor is that roulette is a casino game and should be played in a casino. This is apparent from the following definitions in s 1 of the Gauteng Act. Casino game is defined as:

‘ . . . any game, irrespective of whether or not the result thereof is determined by chance or a measure of skill, played with playing cards, dice a gaming machine or any other device used to determine win or loss in the outcome of a wager for money or other valuable consideration, and includes, without derogating from the generality of the foregoing, chemin de fer, baccarat, bingo, keno, twenty-one, poker and roulette, or any other game whose rules closely resemble that of the foregoing’.(emphasis added).

Being a casino game, roulette must be played in casino premises. In s 1 of the Gauteng Act ‘casino’ is defined as ‘premises where casino games are played or available to be played for money or other valuable consideration gambled on the possibility of winning a prize’.

[31] The Gauteng Act is a carefully constructed scheme for regulating gambling within the Gauteng Province. It is intended to limit the right to freedom of trade within the gambling industry. There is no constitutional challenge to any of the provisions of the Gauteng Act. Section 76 of that Act stipulates events and contingencies on which gambling may take place. It provides:

- ‘(1) No person may gamble on the result of any event or contingency other than-
- (a) a casino game;
 - (b) a bingo game;
 - (c) the operating of a gaming machine; or
 - (d) . . .
 - (e) A sporting event.’

(2) No person may gamble on the result of any event or contingency contemplated in subsection (1) with any person other than the holder of a licence who is authenticated by such licence to gamble on the event or contingency concerned.’

[32] Licences in relation to each of the contingencies set out in s 76(1) are regulated in Chapters 4 to 11 (excluding Chapter 7)¹⁰ of the Gauteng Act. Chapter 4 deals with casino licences, and chapter 5 deals with Bingo, Gaming machine, and additional gaming machine licences. Route operator licences are regulated in Chapter 6, Totalizator and pool licences are provided for in Chapter 8, and Chapter 9 regulates bookmaker licences. Section 39 in Chapter 9 prohibits the conduct of a casino without a casino licence. It mirrors similar prohibitions in Chapters 4 to 8. The case advanced by the Board and the Supabets entities seeks to dismantle this deliberate construct in the Act and to allow bookmakers to ride on the coattails of licencees under all these Chapters, without the required licences.

[33] The fact that the Supabets entities currently offer bets on roulette games streamed from Lithuania illustrates this point. Whereas, in South Africa, roulette games must be offered in licenced casinos, the Board has no control over roulette streamed from Lithuania, or anywhere else outside the Gauteng Province. This is at odds with the objectives of the Gauteng Act.

[34] The fact that the Lithuanian casino from which the roulette games are streamed may be in possession of a licence as required under the laws of that country, as the Supabets entities argued, is irrelevant. For entities conducting gambling businesses in Gauteng, the requirement of a casino licence in order to offer roulette games, means a Gauteng casino licence. As submitted on behalf of CASA the gambling occurs in Gauteng. Without a Gauteng casino licence, the

¹⁰ Chapter 7, which dealt with Lotteries was repealed in 1996.

Supabets entities are conducting a gambling activity without the necessary licence, which is prohibited under s 7(a) of the National Gambling Act. That section prohibits the conduct of gambling activity if the outcome of that activity depends directly or indirectly, partly or entirely on a contingency related to an event or activity that is itself unlawful.

[35] The final issue to consider is whether CASA ought to have discontinued its first review once it issued the second review application. I do not think so. Indeed, CASA sought a declarator that the conduct of accepting bets dependent on the outcome of roulette as a contingency, without a licence, was unlawful. The first review was a challenge to this conduct in general, and in particular to Supabets' engagement in it, and, importantly, the Board's decision dismissing the complaint on the grounds that Supabets did not engage in unlawful conduct. CASA also sought an interdict to stop the conduct. The second review related to the approval decisions.

[36] It is true that the approval decisions intervened to legitimise the previously unlawful conduct by Supabets. But this does not detract from fact that Supabets' unlawful conduct extended beyond accepting bets on the outcome of roulette without a licence to offer that contingency. The unlawfulness of that conduct and the dismissal of CASA's related complaint are beyond dispute. Against this background in the first review CASA sought orders that: Supabets' conduct, in offering bets on the outcome of roulette without a casino licence, be reviewed and declared unlawful, the Board complete its investigation into the complaint lodged, and that pending the finalisation of that (first) review, Supabets be interdicted from offering roulette as a contingency on which fixed-odd bets could be offered.

[37] The withdrawal of the first application would leave intact the Board's decision that Supabets' conduct in offering bets on the outcome of a roulette prior to the Board's approval was lawful. Therefore, although the underlying questions of law were the same in both applications, the second review did not subsume all the issues in the first review. Only the prayers for a mandamus for finalisation of the complaint investigation fell away. The review of the Board's decision on the lawfulness of Supabets' conduct in offering the bets prior to the approvals and the general declarator, remained live issues. CASA was therefore entitled to proceed with both applications, although the declarators it sought in the first application in relation to the conduct of the Superbets entities specifically, were subsumed by the challenge to the approval decisions in the second review.

[38] The following order is therefore issued:

1 The appeals in case number 182/2024 and case number 215/2024 are dismissed with costs, including the costs of two counsel where employed.

2 The 'cross-appeals' arising from high court case number 9547/2018 are upheld with costs, including the costs of two counsel where employed.

3 The order of the high court in high court case number 9547/2018 is set aside and replaced with the following:

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2 It is declared that:

2.1 The second respondent (Supabets) is not permitted to offer fixed-odds bets on the game of roulette;

2.2 The second respondent's conduct in offering fixed-odds bets on the outcome of roulette is unlawful and contravenes s 76(2) of the Gauteng Gambling Act 4 of 1995;

3 The decision of the first respondent as contained in its letter dated 2 March 2018 is reviewed and set aside insofar as it finds that the second respondent did not act contrary to the provisions of ss 39 and 76 of the Gauteng Gambling Act 4 of 1995;

4 The first and second respondents, jointly and severally, are directed to pay the costs of the application, including the costs of two counsel where employed.'

N DAMBUZA
JUDGE OF APPEAL

Appearances

For the appellant in case

number 182/2024:

B Roux SC

Instructed by:

Michael Werner Attorney,

E G Cooper Majiedt Inc, Bloemfontein

For the appellant in case

number 215/2024:

JG Rautenbach SC

Instructed by:

Motlatsi Seleke Attorneys,

Symington De Kok Inc, Bloemfontein

For the first respondent in both
case numbers 182 and 215/2024

N Ferreira with B Mtukushe

Instructed by:

Edward Nathan Sonnenberg

Lovius Block Inc, Bloemfontein.