



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 12 April 2021

STATUS Immediate

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

MT Pretty Scene; Galsworthy Ltd v Pretty Scene Shipping SA and Another
(Case No 684/2019) [2021] ZASCA 38 (12 April 2021)

The SCA today upheld an appeal by Galsworthy Ltd against a judgment of the Full Court of the KwaZulu-Natal Division of the High Court in which that court had dismissed an appeal by Galsworthy against a judgment of the high court setting aside its arrest of the *MT Pretty Scene* and simultaneously upheld an appeal by the owners of the vessel, Pretty Scene Shipping SA, against the refusal of the high court to set aside a second arrest of the vessel. It also ordered Galsworthy to furnish security in excess of US\$ 6 million for a possible claim for damages arising out of the two arrests.

The initial arrest had been set aside on procedural grounds based on an alleged defect in the summons issued at the same time as the warrant for the arrest of the vessel. The SCA considered the history of admiralty arrests and held that the correct approach to the contents of a summons in admiralty insofar as details of the claim were concerned had been misconceived. The Admiralty Rules require only a clear and concise statement of the claim, not a detailed

pleading. Accordingly, the procedural grounds for setting the arrest aside were not well-founded.

The SCA went on to consider certain objections to the arrest of the *MT Pretty Scene* as an associated ship in relation to another vessel, the *Jin Kang*. Galsworthy's claims arose from a breach of a charterparty concluded in relation to the *Jin Kang*. These claims had been resolved by way of two arbitration awards issued by London arbitrators. The attempt to arrest the *MT Pretty Scene* was directed at enforcing payment of the two awards. The question of association fell to be determined on a proper interpretation of sections 3(6) and (7) of the Admiralty Jurisdiction Regulation Act 105 of 1983 (the AJRA). The SCA held that the defaulting charterer of the *Jin Kang* was deemed under s 3(7)(c) of the AJRA to be the owner of that vessel when the maritime claims arose. The claims under the arbitration awards arose for the purposes of an associated ship arrest when the underlying claim under the charterparty arose, not when the awards were made. As the charterer was also the sole shareholder of the company owning the *MT Pretty Scene* the court held that the two vessels were associated ships.

In the result the SCA upheld both appeals and held that both arrests were properly made. It set aside the order that Galsworthy provide security for a claim against it by the owners of the *MT Pretty Scene*.