



## **SUPREME COURT OF APPEAL SOUTH AFRICA**

MEDIA SUMMARY – JUDGEMENT DELIVERED IN THE SUPREME COURT OF APPEAL

**FROM** The Registrar, Supreme Court of Appeal

**DATE** 25 March 2020

**STATUS** Immediate

*Please note that the media summary is for the benefit of the media and does not form part of the judgement of the Supreme Court of Appeal.*

**CARATCO (PTY) LTD**

**v**

**INDEPENDENT ADVISORY SERVICES (PTY) LTD**

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The Supreme Court of Appeal (SCA) today dismissed an application for leave to appeal by Caratco (Pty) Ltd against an order of the high court requiring it to pay IAS (Pty) Ltd the amount of R2 280 000 plus costs on an attorney and client scale. Caratco was ordered to pay the costs of the application.

IAS is a firm specialising in the business rescue of companies that are financially distressed. It claimed payment of the amount based on an agreement with Caratco for payment of a ‘success fee’ for implementing the business rescue of Galaxy

Jewellers (Pty) Ltd (Galaxy). Caratco is a 'related entity' and part of the Galaxy group of Companies. It is also a creditor of Galaxy.

Caratco denied that it had concluded the agreement and also pleaded that if the agreement was concluded that it was illegal because it did not comply with the relevant provisions of the Companies Act of 2008 and also that the agreement was contrary to public policy because the payment of the success fee to one creditor, namely Caratco, was to the prejudice of the other creditors.

After hearing oral arguments from both parties the SCA upheld the finding of the high court that IAS had established the agreement with Caratco. It also found that Caratco's arguments regarding its illegality and public policy complaints was devoid of any factual or legal merit. The SCA thus rejected Caratco's application on the grounds that it neither had any reasonable prospect of success, nor was there any other compelling reason to entertain the merits of the appeal.