



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT
OF APPEAL

FROM: The Registrar, Supreme Court of Appeal
DATE: 1 October 2020
STATUS: Immediate

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

Former Way Trade & Invest (Pty) Ltd v Bright Idea Projects 66 (Pty) Ltd (1341/2018)
[2020] ZASCA 118 (1 October 2020)

The Supreme Court of Appeal (the SCA) today confirmed an order by two judges of the SCA refusing Former Way Trade & Invest (Pty) Ltd (Former Way) leave to appeal against its conviction from premises owned by Bright Idea Projects 66 (Pty) Ltd (All Fuels).

The eviction proceedings arose as a result of the termination of a franchise agreement which had been ceded to Former Way. The franchise agreement allowed Former Way to operate a fuel retail business (Premier Service Station) from premises in Pietermaritzburg. When the franchise agreement ended on 31 December 2017, Former Way refused to vacate the property. It claimed that it was entitled to receive a new agreement allowing it to operate the business until 2020 and at its option for a further five years thereafter. It also referred a dispute with All Fuels to arbitration in terms of the Petroleum Products Act, 120 of 1977.

The high court found that Former Way had not established that a new franchise agreement had been concluded. It refused to stay the proceedings and ordered Former Way to vacate the property. The high court refused leave to appeal.

Former Way brought an application to the SCA for leave to appeal, which two judges refused. Former Way's application for reconsideration of that decision was referred to the court.

The SCA held that there was no reasonable prospect of Former Way disturbing the high court's finding that it had failed to establish that a new franchise agreement had been concluded. It therefore had no right of continued occupation of the premises and its refusal to vacate the property was unlawful. The SCA also held that a referral to arbitration in terms of s 12B of the Petroleum Products Act did not oust the court's jurisdiction to adjudicate the dispute. It found that the high court had correctly exercised its discretion to refuse the stay of proceedings. Former Way was ordered to pay the costs of the application for leave to appeal and the costs of the reconsideration application.