



**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 1 October 2020

STATUS Immediate

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

*Minister of Public Works v Roux Property Fund (Pty) Ltd (779/2019) [2020]
ZASCA 119 (1 October 2020)*

The SCA today upheld an appeal against a judgment of the Gauteng Division of the High Court, Pretoria, granting condonation to the respondent for its failure to give timeous notice of its intention to bring proceedings against the Minister of Public Works claiming damages of nearly R250 million.

The action was based on the alleged repudiation by the Department of Public Works of the lease of a centre city building in Pretoria to serve the SAPS. The lease was concluded in 2010 with two addenda being concluded thereafter extending the commencement of the lease and increasing the rental. When the Department of Public Works refused to take occupation of the premises on 1 April 2011 and refused to pay the rent, the respondent, the Roux Property Fund (Pty) Ltd, it defaulted on its obligation to Nedbank, which held a mortgage over the property. Nedbank foreclosed

on the mortgage and sued the respondent for the outstanding amount. As a result the building was sold.

Roux Property Fund commenced an action for damages against the Minister on 28 August 2014 without having given prior notice as required by s 3(1) of the Legal Proceedings against Certain Organs of State Act 40 of 2002. It sought condonation for this failure in an application commenced in May 2017. The high court granted condonation but gave leave to appeal to the SCA.

The SCA held that the evidence on behalf of the respondent by Mr Roux Shabangu failed to satisfy the court that the claim had not prescribed at the time the action was commenced; that there was good cause for the failure to give notice timeously as required by the Act and that the Department had not been prejudiced by the failure. In the result the appeal was upheld with costs and the action was dismissed.