



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 9 December 2020

STATUS Immediate

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

Knoop and Another NNO v Gupta (116/2020) [2020] ZASCA 163
(9 December 2020)

The SCA today upheld an appeal by the business rescue practitioners (BRPs) of two companies owned by the Gupta family, consisting of the three Gupta brothers and the respondent, Mrs Chetali Gupta, the wife of Mr Atul Gupta. The companies were Islandsite Investments One Hundred and Eighty (Pty) Ltd (Islandsite) and Confident Concept (Pty) Ltd (Confident Concept), both of which had been placed in business rescue on 16 February 2018. Disputes arose between the BRPs and Mrs Gupta, represented by various employees of companies owned or controlled by the Guptas, and in November 2018 Mrs Gupta applied for the removal of the BRPs. The full court of the Gauteng Division of the High Court, Pretoria, upheld her claim and ordered the removal of the BRPs. It gave leave to appeal against that order, but at the same time ordered that its removal order could be executed upon. An appeal against that order was upheld after argument on 6 November 2020. (See *Knoop and Another NNO v Gupta (No 1)* [2020] ZASCA 149.)

In the main appeal the court analysed the allegations by Ms Ragavan, on behalf of Mrs Gupta, against the BRPs. It held that these allegations were, with one exception, not proved and none of them provided grounds for the removal of the BRPs. The SCA analysed the reasons given by the full court for ordering the removal of the BRPs. It held that none of the grounds relied on by the full court had been raised in the affidavits on behalf of Mrs Gupta and on that ground alone the appeal had to succeed. However, after considering each of these grounds, it held that none of them were established on the facts and that accordingly none of them provided grounds for removing the BRPs.

In the circumstances, the appeal was upheld with costs, including the costs consequent upon the employment of two counsel, and the order of the high court was altered to one dismissing the application with costs, including the costs of two counsel.