

**REPUBLIC OF SOUTH AFRICA
SUPREME COURT OF APPEAL
BULLETIN 2013
NO 4**

CASES ENROLLED FOR HEARING

National Commissioner South African Police Service, NDPP v Southern African Human Rights Litigation Centre & Zimbabwe Exiles Forum (485/12)

Appealed from GNP

Date to be heard: 1 November 2013

Navsa ADP, Brand, Ponnann, Tshiqi, Theron JJA

Application for leave to appeal against the whole of the judgment and orders of the court below referred for oral argument – Whether there are reasonable prospects of success on appeal – Statutory interpretation – Interpretation and application of sections 4(1) and 4(3) of the Implementation of the Rome Statute of the International Criminal Court Act 27 of 2002 in light of international law, both conventional and customary, and South Africa's obligations thereunder – Whether the Act requires that a suspected offender be present within the territory of the Republic as a prerequisite for the initiation of an investigation into the crimes allegedly committed.

Legea SRL v Giovanni Acanfora (75/13)

Appealed from GNP

Date to be heard: 1 November 2013

Lewis, Maya, Leach, Willis JJA, Zondi AJA

Trademark law – whether or not s 34(1)(a) of the Trade Marks Act 194 of 1993 is applicable where a football team wore a foreign sponsor's alleged trademark which is identical to the respondent's South African registered mark, during the Soccer World Cup 2010 – whether the appellant had a direct and substantial interest in the interdict application and should have been permitted to intervene in those proceedings – whether the judgment was erroneously granted in absence of the appellant and should be rescinded.

ABSA Bank Limited v Daniel Joseph Hanley (08/13)

Appealed from GNP

Date to be heard: 1 November 2013

Malan, Wallis, Petse, Saldulker JJA, Van der Merwe AJA

Banking law – whether the bank is liable to reverse a debit on a foreign currency investment account in circumstances where it implemented an apparently fraudulent instruction later discovered to have been a result of the fraud of a third party – whether the customer owed a duty to the bank not to be negligent in the formulation and conveying of instructions – whether it was because of the customer's negligent conduct in trusting third parties to act as his intermediaries with the bank which caused the loss of funds.

Alexander Anatole Theodor Mettenheimer & another v Zonquasdrif Vineyards CC & others (965/12)

Appealed from WCC

Date to be heard: 4 November 2013

Brand, Theron, Pillay, Petse JJA, Meyer AJA

Intellectual Property Law – trade mark – whether the first respondent has infringed the first appellant's trade mark – whether first respondent's name is objectionable in terms of section 20(2) of the Close Corporations Act 69 of 1984 – whether there is any basis upon

which to interfere with the court a quo's decision in respect of the costs of the first respondent's counter application.

The Standard Bank of South Africa Ltd & others v 3MFuture Africa (Pty) Ltd (047/2013)

Appealed from GNP

Date to be heard: 4 November 2013

Nugent, Lewis, Bosielo, Shongwe JJA, Swain AJA

Patent Law – Interpretation of claims 17 to 19 of a patent – whether or not these claims were infringed by the appellants through the operation of the MTN Mobile Money banking system operated by the appellants – whether the claims within the patent are invalid on the basis that they are not new and are obvious within the meaning of s 25(1) of the Patents Act – whether each of the claims is a method of doing business and thus not an invention for the purposes of the Patents Act in terms of s 25(2) of the Act.

Ekurhuleni Metropolitan Municipality & another v Various Occupiers, Eden Park Extension 5 (873/12)

Appealed from GSJ

Date to be heard: 4 November 2013

Ponnan, Malan, Madjiet, Willis, Saldulker JJA

Eviction – Prevention of Illegal Eviction From And Unlawful Occupation Of Land Act 19 of 1998 (PIE) – whether it would be just and equitable in the context of s 4(6) of PIE to evict the respondents from housing development in Eden Park – whether appellants failed to show that they had properly identified who was an unlawful occupier – whether the proposed alternative accommodation at Tsakane Extension 22 is suitable - whether the appellants failed to show that the allocation of state-subsidised ('RDP') housing at Eden Park 5 was non-arbitrary and reasonable – interpretation of s 4 of PIE in the context of s 26(3) of the Constitution.

Renier van Rensburg Inc v Road Accident Fund & others (109/13)

Appealed from GSJ

Date to be heard: 5 November 2013

Navsa ADP, Malan, Shongwe, Petse JJA, Swain AJA

Interpretation of the Contingency Fees Act 66 of 1997 – proximity within which a contingency fee agreement is to be concluded in relation to the final disposal of the matter – whether the court is entitled to cap an attorney's fees to 25 per cent of taxed and/or agreed fees.

Nedbank Ltd & another v Pro crops 60 (Pty) Ltd (108/13)

Appealed from GNP

Date to be heard: 5 November 2013

Brand, Maya, Bosielo, Leach JJA, Van der Merwe AJA

Contract – whether strict compliance with performance guarantees required by law; alternatively by the terms of the guarantee – whether respondent complied with letter of guarantee making demand for payment.

Golden Arrow Bus Services (Pty) Ltd v City of Cape Town & others (418/13)

Appealed from WCC

Date to be heard: 5 November 2013

Lewis, Cachalia, Madjiet, Willis, Saldulker JJA

Labour Law – interpretation of provisions of the National Land Transport Act 5 of 2009 and regulations – whether GABS is entitled to have the disputes between itself and the respondent referred to mediation and, potentially, arbitration – whether the respondent had negotiated with GABS in accordance with ss 41 and 46 of the Act or had instead made unilateral decisions in breach thereof – whether the City's counter-application needs to be considered and whether this court may do so in the absence of a cross-appeal.

EB Steam Company (Pty) Ltd v Eskom Holdings SOC Ltd (979/12)

Appealed from GSJ

Date to be heard: 6 November 2013

Mthiyane AP, Cachalia, Wallis, Pillay, Willis JJA

Company Law – whether the respondent served the winding-up application in accordance with the provisions of s 346(4A)(a)(ii) of the Companies Act 61 of 1973.

Solidarity obo Mrs R M Barnard v South African Police Service (165/13)

Appealed from LAC

Date to be heard: 6 November 2013

Navsa ADP, Ponnann, Tshiqi, Theron JJA, Zondi AJA

Labour law – legitimacy of refusal to promote individual on the basis of mechanical application of strict demographic quotas under an employment equity plan – the extent to which considerations other than race ought to be taken into account in the application of affirmative action measures, particularly in circumstances where the adversely affected employee forms part of a ‘designated group’ of employees under the Employment Equity Act 55 of 1998 – whether it was competent and, in the circumstances fair for the labour court to evaluate the Employment Equity Plan – whether the Employment Equity Plan was fairly applied.

Northern Estate and Trust Administrator (Pty) Ltd v Agricultural and Rural Development Corporation (117/13)

Appealed from GNP

Date to be heard: 6 November 2013

Lewis, Maya, Leach JJA, Swain, Meyer AJJA

Only issue to be determined on appeal is whether there was an express or tacit cancellation of a sale agreement.

Orange Brand Services Ltd v Account Works Software (Pty) Ltd (970/12)

Appealed from GNP

Date to be heard: 7 November 2013

Nugent, Tshiqi, Theron, Madjiet JJA, Swain AJA

Intellectual Property Law - appeal against order of court a quo, dismissing appeal against decision of Registrar of Trade Mark dismissing the appellant’s opposition to the registration of the respondent’s trade mark application.

Reward Ventures 01 CC v Roland Guy Walker & another (946/12)

Appealed from GSJ

Date to be heard: 7 November 2013

Maya, Bosielo, Wallis, Petse JJA, Meyer AJA

Application for review of an arbitration award – Whether award by an arbitrator was final; whether award liable to be set aside – Whether arbitrator was guilty of a gross irregularity in conducting arbitration proceedings, with specific regard to his failure to expressly dismiss a counterclaim, which the court a quo held to have constituted a failure to effectively dispose of all the issues before him, precluding the award from being final – Whether the respondent has established any grounds for the setting aside of the arbitration award in terms of s 33 of the Arbitration Act 42 of 1965 – Whether court exceeded the grounds in relation to which the respondents were given leave to appeal by the court of first instance.

Cronimet Chrome Mining SA (Pty) Ltd & others v Brodsky Trading 224 CC (851/12)

Appealed from GNP

Date to be heard: 7 November 2013

Cachalia, Malan, Pillay JJA, Van der Merwe, Zondi AJJA

Whether there was compliance with sections 26 and 34A of the Estate Agency Affairs Act 112 of 1976, which prohibit the recovery by an estate agent of commission where no valid

fidelity fund certificate has been issued to them – court below finding that there was substantial compliance entitling the recovery of commission.

City of Cape Town Municipality v South African Local Authorities & another (175/13)

Appealed from WCC

Date to be heard: 8 November 2013

Mthiyane AP, Bosielo, Wallis, Pillay JJA, Zondi AJA

Section 30P of the Pension Funds Act 24 of 1956 – whether court was correct in confirming a finding by an adjudicator that she did not have jurisdiction to investigate a complaint.

Country Cloud Trading CC v MEC, Department of Infrastructure Development (751/12)

Appealed from GSJ

Date to be heard: 8 November 2013

Brand, Leach, Tshiqi, Theron, Saldulker JJA

Contract – whether the court below should have enquired into the award of a contract by the respondent to Ilima Projects (Pty) Ltd – whether it was wrongful for the respondent to cancel the agreement thereby causing loss to the appellant who had lent money to Ilima.

Democratic Alliance v The Kouga Municipality & others (151/13)

Appealed from ECP

Date to be heard: 8 November 2013

Ponnan, Shongwe, Willis JJA, Van der Merwe, Meyer AJJA

Review – whether the municipal council consulted with the municipal manager, as required by s 56(1)(a) of the Municipal Systems Act 32 of 2000, in appointing managers – whether the appointments are of no force and effect by virtue of the provisions of s 66(3) of the Municipal Systems Act 32 of 2000 – whether the court below properly exercised its discretion to withhold relief.

Thunder Cats Investments 92 (Pty) Ltd & another v Nkonjane Economic Prospecting and Investment (Pty) Ltd & others (847/12)

Appealed from GSJ

Date to be heard: 11 November 2013

Navsa ADP, Malan, Shongwe, Wallis JJA, Meyer AJA

Insolvency – whether the court a quo correctly exercised its discretion to wind up the First respondent on the basis that it was just and equitable to do so – shareholder agreement precluding any shareholder from seeking the winding up of a company on the basis of deadlock – whether punitive costs order justified in dismissing an application for recusal.

Kievits Kroon Country Estate (Pty) Ltd v Johanna Mmoledi & others (875/12)

Appealed from LAC

Date to be heard: 11 November 2013

Brand, Cachalia, Leach, Willis JJA, Zondi AJA

Labour Law – whether decision of the second respondent, a CCMA commissioner, was reviewable – principles to be applied when an employer considers an application for unpaid leave for purposes unrelated to employment – whether the dismissal of the first respondent was substantively unfair.

Public Investment Corporation Ltd v Kagiso Gerald Bodigelo (128/13)

Appealed from GNP

Date to be heard: 11 November 2013

Lewis, Tshiqi, Madjiet, Pillay JJA, Swain AJA

Contract – Respondent was appointed to boards of companies to which he rendered services – whether appellant was obliged to pay over to the respondent moneys which four companies had paid to him.

Phillippe Francois Georges Lenferna v Marie Lourdes Christine Lenferna (120/13)

Appealed from GSJ

Date to be heard: 12 November 2013

Navsa ADP, Leach, Petse, Saldulker JJA, Zondi AJA

Conflict of Laws – enquiry into *lex domicilii matrimonii* – South Africa or Mauritius – determining patrimonial consequences of marriage – impact on patrimonial consequences – division of assets.

Kingswood Golf Estate (Pty) Ltd v Jonathan Mark Witts-Hewinson & another (223/13)

Appealed from WCC

Date to be heard: 12 November 2013

Brand, Ponnar, Cachalia, Bosielo, Shongwe JJA

Contract – whether a deed of sale concluded between the parties is void and therefore unenforceable in terms of s 2 of the Alienation of Land Act 68 of 1981 – if not, whether the court a quo erred in ordering the appellant to construct a clubhouse within two years of its order.

BB Maseti v The State (353/13)

Appealed from ECG

Date to be heard: 12 November 2013

Maya, Tshiqi, Madjiet, Wallis, Pillay JJA

Criminal Law - Appeal against convictions on charges under the Sexual Offences Act 32 of 2007 – assessment of evidence of single witness and whether state discharged the onus.

Vincent Olebogang Magano v The State (849/12)

Appealed from GNP

Date to be heard: 12 November 2013

Maya, Tshiqi, Madjiet, Wallis, Pillay JJA

Criminal Procedure – sentence – whether the sentence of life imprisonment for murder imposed on the appellant was appropriate given the fact that he was a first offender and pleaded guilty to the murder of a woman with whom he had been in a sexual relationship.

Michael Alexander Cowan v Craig Maclean Hathorn NO & others (176/13)

Appealed from WCC

Date to be heard: 13 November 2013

Navsa ADP, Brand, Malan, Pillay JJA, Swain AJA

Insolvency law – Application in terms of Rule 30 to set aside the respondents' actions – Whether the institution on behalf of the liquidators (respondents) of an action by a creditor of the company in liquidation was invalid or a nullity and/or an irregular step in terms of s 157 of the Insolvency Act 24 of 1936 which falls to be set aside for non-compliance with the indemnity requirements of s 32(1)(b) of the Act – Alternatively whether the furnishing by the creditor of the requisite indemnity to the liquidators pursuant to s 32(1)(b) of the Act has retrospective effect and thereby validates the institution of the action – Whether substantive injustice has nevertheless been caused by such defect, rendering the action invalid.

Hyprop Investments Ltd & 3 others v NSC Carriers & Forwarding CC & 3 others (935/12)

Appealed from GSJ

Date to be heard: 13 November 2013

Lewis, Theron, Willis JJA, Van der Merwe, Meyer AJJA

Appeal against judgment of the South Gauteng High Court dismissing four special pleas in actions on lease agreements and suretyships.

Gideon Johannes Jacobus Theron NO & another v Andrew Thomas Loubser NO & others (161/13)

Appealed from WCC

Date to be heard: 13 November 2013

Ponnan, Maya, Leach, Madjiet, Petse JJA

Trust Law – The applicable procedure before the appellants are entitled, as trustees of various trusts, to approach the court in a matter concerning those trusts – Whether the appellants had locus standi to approach the court a quo, as trustees of the various trusts concerned, in the manner in which they did, by submitting an affidavit rather than a resolution agreed to by fellow trustees in light of section 23 of the Trust Property Control Act 57 of 1988.

Tshepo Bongani Zwane & another v The State (426/13)

Appealed from GNP

Date to be heard: 14 November 2013

Mthiyane AP, Cachalia, Malan, Tshiqi, Madjiet JJA

Criminal Law – appeal against convictions on nine counts of robbery with aggravating circumstances as well as a tenth count of the receipt of suspected stolen property – concomitant sentences also appealed – doctrine of recent possession – whether the information tendered by the appellants before their arrest is admissible as evidence against them – whether State proved its case – whether sentences not excessive – whether the minimum sentence of 15 years' imprisonment imposed on the second appellant who was 17 years at the time of commission of the offence is appropriate.

Guardrisk Insurance Company Ltd & others v Kentz (Pty) Ltd (94/13)

Appealed from GSJ

Date to be heard: 14 November 2013

Navsa ADP, Shongwe, Theron, Saldulker JJA, Meyer AJA

Contract – appeal against a finding by the court below in favour of the respondent under two guarantees issued by the appellant – nature of guarantees – whether there is any limitation to defences that might be raised – fraud alleged on the part of the respondent – whether contractual relationship between contractor and employer should be enquired into.

Born Free Investments 364 (Pty) Ltd v Firststrand Bank Limited (973/12)

Appealed from GSJ

Date to be heard: 14 November 2013

Ponnan, Bosielo, Pillay JA, Vd Merwe, Zondi AJJA

Civil law- Interpretation of a pactum de non cedendo contained in loan agreements; whether prohibition against cession binds the liquidators of each insolvent company; whether liquidators of a company wound up by a court require a meeting of creditors and members to exercise powers under s 386(4) of the Companies Act. Cross-appeal: whether or not cessions relied upon by appellant fall within the ambit of the powers given to the liquidators of each cedent by resolution.

Dr JS Moroka Municipality & others v Betram (Pty) Ltd & another (937/12)

Appealed from GNP

Date to be heard: 15 November 2013

Brand, Maya, Bosielo, Leach, Wallis JJA

Whether decision of the appellants to disqualify the first respondent's tender because it failed to submit a valid original Tax Clearance Certificate was administratively unfair in terms of the Promotion of Administrative Justice Act – whether the appellants had the authority to condone the first respondent's non-compliance with the peremptory requirements of the tender document – if the appellants had the discretion to condone the first respondent's non-compliance with the tender document, whether it is in the public interest to require the appellants to exercise that discretion in favour of the first respondent – whether regulation 43(2) of the Supply Chain Management Regulations precludes the first appellant from requiring the submission by tenderers of a valid original Tax Clearance Certificate with their tender.

Boschpoort Ondernemings v ABSA Bank Ltd (963/12)

Appealed from GNP

Date to be heard: 15 November 2013

Cachalia, Petse, Willis JJA, Swain, Meyer AJJA

Company Law – Application for the winding-up of the appellant by respondent – Definition of ‘solvent company’ in Item 9 of Schedule 5 of the Companies Act 71 of 2008; whether actual or commercial insolvency – whether presumption in relation to inability to pay debts in terms of s 345 of the new Companies Act 61 of 1973 still applies – Ambit of the ground of ‘just and equitable’ upon which a winding-up order can be applied for in terms of s 81(1)(c)(ii) of the new Companies Act.

Clearfreight (Pty) Ltd v Pictech Sales CC (186/12)

Appealed from GSJ

Date to be heard: 18 November 2013

Mthiyane AP, Maya, Leach, Saldulker JJA, Meyer AJA

Contract Law – Whether certain warehousing services, admittedly rendered by the appellant to the respondent were in terms of a written or oral agreement – whether standard terms were incorporated – Whether there was an under-receipt by the appellant in respect of certain consignments – whether this was a result of gross negligence or theft – Application by the appellant for condonation of the late filing of heads of argument and practice note.

I O Tech Manufacturing (Pty) Ltd & others v Gallagher Group Ltd & another (872/12)

Appealed from GNP

Date to be heard: 18 November 2013

Navsa ADP, Ponnann, Bosielo JJA, Van der Merwe, Swain AJA

Intellectual Property Law – patent – whether the respondents showed an act of direct or indirect infringement by the appellants of a patent granted for a method of transmitting of energy pulses on a conductive system – contributory infringement also raised.

Farouk Meyer v The State (046/12)

Appealed from GSJ

Date to be heard: 18 November 2013

Cachalia, Shongwe, Madjiet JJA

Application for special leave to appeal – Petition for condonation of the late filing of the application for special leave to appeal against both conviction and sentence, referred for oral argument – Whether there are reasonable prospects of success on appeal.

Nkhumeleni David Mudau v The State (276/13)

Appealed from LT

Date to be heard: 18 November 2013

Cachalia, Shongwe, Madjiet JJA

Appeal against two life terms imposed by trial court – indictment not containing a reference to applicable statutory prescribed minimum sentence.

Coface South Africa Insurance Co. Ltd v East London Own Haven t/a Own Haven Housing Association (050/13)

Appealed from GSJ

Date to be heard: 19 November 2013

Navsa ADP, Maya, Malan, Pillay JJA, Swain AJA

Contract – whether a final payment certificate in a building contract finally determines the existence and extent of the liability of a guarantor, who had issued a demand guarantee pursuant to a building contract.

Pezula Private Estate (Pty) Ltd v Neil Metelerkamp & another (149/13)

Appealed from WCC

Date to be heard: 19 November 2013

Brand, Tshiqi, Theron, Petse JJA, Zondi AJA

Property Law – servitude – whether the first respondent openly used the road on appellant’s property as though he was entitled to – whether the use occurred nec precario and adverse to the rights of appellant – whether the first respondent had the required mental attitude to acquire a servitude by prescription – whether the requirement of utilitas in respect of a praedial servitude was satisfied when the road in question does not extend fully over appellant’s property.

Joan Shannon Jakins (nee Dell) v Michelle Baxter & another (178/13)

Appealed from ECG

Date to be heard: 19 November 2013

Lewis, Chachalia, Leach, Wallis JJA, Meyer AJA

Proper interpretation of a clause in an ante-nuptial contract which relates to benefits accruing from a pension fund.

Miles Lourens Van der Molen v Ilona Fagan (041/13)

Appealed from GSJ

Date to be heard: 20 November 2013

Lewis, Maya, Wallis, Pillay JJA, Swain AJA

Whether written agreement concluded between the respondent and one Amod, in terms of which the respondent sold to Amod a 2008 Mercedes-Benz C63 AMG motor vehicle, provided for the passing of ownership of the vehicle to Amod upon conclusion of the agreement – whether the respondent is estopped from asserting ownership of the Mercedes-Benz.

Motowest Bikes & ATVS v Calvern Financial Services (138/13)

Appealed from GNP

Date to be heard: 20 November 2013

Ponnan, Bosielo, Madjiet JJA, Vd Merwe, Zondi AJJA

Property law – whether or not a contract of depositum existed that was not subject to the owner’s risk clause – whether or not the court a quo correctly decided the matter on credibility – whether the appellant could avoid liability due to an absence of negligence/gross negligence – whether the court a quo correctly granted costs on an attorney-client scale against the appellant.

Fourier Approach (Pty) Ltd v Lynn Margaret West (921/12)

Appealed from GNP

Date to be heard: 20 November 2013

Malan, Shongwe, Leach, Willis JJA, Meyer AJA

Interpretation of employment contract - whether appellant is liable to pay the respondent commission only on the purchase price (base amount) or also to pay commission on the interest earned by the appellant on the purchase price that was deferred.

Bothma-Batho Transport (Pty) Ltd v S Bothma & Seun Transport (Pty) Ltd (802/12)

Appealed from FB

Date to be heard: 21 November 2013

Mthiyane AP, Lewis, Shongwe, Wallis, Pillay JJA

Interpretation and application of a clause in a settlement agreement between appellant and respondent – whether it determines amount to be paid by one party to the other.

Clive Arthur Sharwood NO & others v Transnet Ltd t/a The National Ports Authority of South Africa & others (908/12)

Appealed from ECP

Date to be heard: 21 November 2013

Navsa ADP, Tshiqi, Madjiet JJA, Vd Merwe, Swain AJJA

Environmental Law – The interpretation and application of the record of a decision taken by the predecessor to the third respondent pursuant to s 22(3) of the Environmental Conservation Act 73 of 1989 – Whether that record imposes obligations on the first and second respondents as contended for by the appellants, in light of the constitutional obligation to protect the environment.

ABSA Bank Limited v Mahomed Arif & Abdul Shiraz (876/12)

Appealed from GSJ

Date to be heard: 21 November 2013

Maya, Malan, Petse, Willis, Saldulker JJA

Whether respondents discharged onus of proving and establishing that fixed deposit investment agreements alleged by them to have been concluded with a representative of the appellant – Whether, in any event, the unlawfulness of those contracts rendered them unenforceable – Whether representative was duly authorised to act as agent of the appellant; alternatively whether the appellant is estopped from denying the binding nature of the agreements.

Enver Mohamed Motala & others v Master of the High Court (North Gauteng) & others (313/13)

Appealed from GSJ

Date to be heard: 22 November 2013

Brand, Tshiqi, Wallis, Willis JJA, Van der Merwe AJA

Company Law – Application pursuant to s 420 of the Companies Act 61 of 1973 to declare void the dissolution of a company under s 419 of the Act – Whether such an order will have the effect of reviving litigation commenced by the company prior to its dissolution – Whether, in the circumstances, it is proper for the court to exercise its discretion in terms of s 420 of the Act to grant such an order – Application by the appellants for condonation of the late filing of the notice of appeal.

Boy Wilken Slinger v The State(233/13)

Appealed from GNP

Date to be heard: 22 November 2013

Lewis, Leach, Theron, Pillay, Petse JJA

Criminal law – whether the photo identity parade established the appellant's identity beyond a reasonable doubt - whether common purpose to rob establishes joint possession of a fire arm – whether duplication of convictions occurred – whether the sentence of 23 years imprisonment is shockingly inappropriate in the circumstances.

Andries Lodewikus Michael Kruger v The State (612/13)

Appealed from GNP

Date to be heard: 22 November 2013

Lewis, Leach, Theron, Pillay, Petse JJA

Criminal law – whether the onus in criminal trials was correctly applied – whether trial court assessed the evidence correctly – considerations regarding the rejection of an independent medical expert's opinion – consideration of whether the trial court's credibility findings are supported by the record – whether the appellant was correctly convicted on a count of rape in contravention of s 3 of Act 32 of 2007, taking into account that the conviction is based on the evidence of a single witness and furthermore that the medical examination of the complainant showed no physical injuries.

Lucky Simphiwe Hlongwane v The State (024/13)

Appealed from KZP

Date to be heard: 22 November 2013

Cachalia, Malan, Bosielo JJA, Zondi, Meyer AJJA

Criminal Law – appeal against a refusal for leave to appeal on petition from the Magistrates's court to the KZN High Court – considerations in respect of prospects of success

- whether trial court erred when it found that the State proved the guilt of the appellant beyond reasonable doubt – whether the State witnesses were credible and corroborated each other in all material respects.

Harmony Gold Mining Company Ltd v Regional Director: Free State, Department of Water Affairs & others (971/12)

Appealed from GNP

Date to be heard: 25 November 2013

Navsa ADP, Brand, Shongwe JJA, Zondi, Meyer AJJA

Civil Law - Interpretation of s 19(3) of Water Act; whether a directive became invalid when appellant ceased to be the landholder; whether condonation should be granted for the failure to institute review proceedings within 180 days.

Alex Dikeledi Mahlase v The State (255/13)

Appealed from LT

Date to be heard: 25 November 2013

Lewis, Tshiqi, Theron JJA

Whether sentences of 15 years, life and four 5 year sentences of imprisonment for robbery with aggravating circumstances, rape and four counts of kidnapping respectively are just – whether the court *a quo* correctly found that there were no substantial and compelling circumstances justifying the imposition of a lesser sentence.

Herman Zaibonisha v The State (948/12)

Appealed from GSJ

Date to be heard: 25 November 2013

Lewis, Tshiqi, Theron JJA

Whether the court *a quo* was correct in confirming the trial court's convictions of the appellant on one count of assault with intent to do grievous bodily harm and one count of culpable homicide – Whether the only reasonable inference to be drawn from the proved facts was that the appellant had inflicted the injuries.

Benny Redonga Lebogo v The State (474/13)

Appealed from GNP

Date to be heard: 25 November 2013

Cachalia, Leach, Pillay JJA, Van der Merwe, Swain AJJA

Criminal Law – Appellant convicted on counts of indecent assault and rape – whether the State satisfied the onus in particular whether appellant's version of events correctly rejected – alibi evidence to be considered.

Thinandavha Phineas Mangoma v The State (155/13)

Appealed from LT

Date to be heard: 26 November 2013

Navsa ADP, Maya, Saldulker JJA

Criminal Law - Appeal against conviction and sentence; whether appellant received a fair trial; whether state proved its case on a charge of rape beyond reasonable doubt – whether material witness was properly sworn in or admonished to tell the truth – whether age of complainant was proved – whether sentence of life imprisonment just in circumstances.

Mashava Michael Magezi v The State (247/13)

Appealed from LT

Date to be heard: 26 November 2013

Navsa ADP, Maya, Saldulker JJA

Criminal Law – Appeal against sentences for rape and attempted murder; whether the sentences imposed by court *a quo* is appropriate.

Oliver Jon Tonkin v The State(938/12)

Appealed from FB

Date to be heard: 26 November 2013

Brand, Lewis, Cachalia JJA

Criminal Law- Appeal against the refusal for leave to appeal by the Free State High Court.

Lucky Mashudu Makhokha v The State (258/13)

Appealed from LT

Date to be heard: 26 November 2013

Brand, Lewis, Cachalia JJA

Criminal Law- Appeal against conviction on one count of theft and one count of robbery and against sentences of 15 and 6 years respectively – sentences not to run concurrently.

Whether appellant received a fair trial, whether state proved its case beyond reasonable doubt, whether confession admissible, whether irregularity vitiated the proceedings and whether effective sentence of 21 years imprisonment is disproportionate to the offences.

Elias Mulovhedzi Mulimisi v The State (257/13)

Appealed from LT

Date to be heard: 26 November 2013

Ponnan, Shongwe, Petse JJA

Criminal Law – appeal against conviction on a charge of rape and against life imprisonment imposed by the Limpopo High Court – leave granted by the court below – whether State proved its case beyond reasonable doubt – whether State proved the complainant’s age beyond reasonable doubt – whether appellant received a fair trial – whether right to legal representation properly explained – whether sentence imposed too harsh.

Robert Rudzani Mudzanani v The State (179/13)

Appealed from LT

Date to be heard: 26 November 2013

Ponnan, Shongwe, Petse JJA

Criminal Law – Appeal against sentence in relation to a conviction on one count of rape – whether court a quo erred in sentencing appellant to life imprisonment, whether sentence is grossly inappropriate and induces a sense of shock and outrage – whether court a quo misdirected itself in finding no substantial and compelling circumstances as envisaged in s52 of the Criminal Law Amendment Act 105 of 1997 as amended.

Khorommbi Ntshengedzeni Alfred v The State (527/2013)

Appealed from LT

Date to be heard: 27 November 2013

Navsa ADP, Malan and Tshiqi JJA

Criminal law – Appeal against conviction and sentence on two counts of rape – whether the court below erred in its finding of guilt beyond a reasonable doubt – whether there were irregularities in the examination of the minor complainants in the court below due to the court’s failure to consider whether there was a need to hear their evidence through an intermediary, or to ensure their understanding of the nature and import of speaking under oath, or satisfy itself of the complainants’ ability to differentiate the truth from lies - whether the court below erred in not approaching the minor complainants’ evidence with caution - whether the sentences imposed are shockingly harsh and inappropriate in the circumstances – whether the court below erred by not specifying sentences on each count for each appellant.