

SUPREME COURT OF APPEAL OF SOUTH AFRICA

PRESS RELEASE

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STATUS: Immediate

Kebble v Minister of Water Affairs [2007] SCA 111 (RSA)

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

The Supreme Court of Appeal today held that Mr Roger Kebble and other former directors of Stilfontein Gold Mining Co Ltd were not guilty of contempt of court when they failed to comply with an order of the Johannesburg High Court which required the company to comply with various directives issued by the Department of Water Affairs in 2005. The directives required that the company (and a number of other mining companies in the area in which it operated) pump water from particular mine shafts in order to prevent flooding and pollution. One directive also required the company to contribute to the costs of pumping but did not specify to whom payment was to be made, how much was to be paid or when payment had to be made.

When the company failed to comply with the court order the Department sought an order that the former directors be held in contempt of court. The directors of the company resigned before the application was heard. The Johannesburg High Court found that the directors had been in contempt of court and sentenced them to fines, failing which imprisonment.

The Supreme Court of Appeal held, however, that the directives issued by the Department were incapable of enforcement: they were vague, in parts unintelligible, and largely beyond the control of the company. The court order requiring compliance with the directives was thus also incapable of enforcement and the directors were accordingly not in contempt of court. The appeal against the decision of the high court thus succeeded.