



## **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** 7 September 2012

**STATUS** Immediate

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

***TULIP DIAMONDS FZE v MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT & OTHERS (810/2011) [2012] ZASCA 111 (7 SEPTEMBER 2012)***

#### **Media Statement**

[1] The SCA today dismissed an appeal by Tulip Diamonds Fze, a foreign company which carries on business in Dubai, United Arab Emirates. It had instituted an application for an interdict in the South Gauteng High Court, which was presided over by CJ Claassen J and Jordaan AJ, seeking an order that the Director-General and the Minister of Justice and Constitutional Development and the Magistrate, Kempton Park, should have acceded to a request from the Belgian authorities in terms of the provisions of the International Co-operation in Criminal Matters. Section 7 and 8 of that Act permits the South African authorities to consider a request from foreign state to provide assistance in criminal matters. In this case the Belgian authorities had reason to believe that the Belgian company, Omega Diamonds and a Belgian citizen, Sylvain Goldberg, had allegedly violated certain provisions of

the Belgian Codes dealing with income tax and money laundering. During a search at the offices of Omega Diamonds they discovered nine invoices and documents reflecting the name of a South African courier company, Brinks South Africa. In these invoices issued by Brinks, the names of Omega Diamonds and Tulip Diamonds Fze appeared. The Belgian authorities requested the South African authorities to assist in the identification of Brinks in South Africa and to inspect the documents in Brinks' possession in order to compare and investigate the nine invoices, to search and establish whether these related to consignments of diamonds from Angola and Congo to Dubai, which they considered relevant to the investigation of a contravention of the provisions of the Belgian Codes by Omega Diamonds. The South African authorities acceded to the request. Tulip Diamonds Fze claimed that the documents in Brinks' possession contained information relating to it (Tulip) which was confidential, and that it could not be disclosed without violating it (Tulip's) right to confidentiality.

[2] The SCA held that although a foreign company such as Tulip was entitled to bring an application for an interdict to protect its interest in the courts of this country, it had in this case, failed to establish that the documents in question were confidential. For that reason it that Tulip Diamonds Fze did not have the legal standing to challenge the decision of the Director-General, the Minister of Justice and Constitutional Development and the Magistrate, to accede to the request for assistance from the Belgian authorities.

[3] Accordingly the appeal was dismissed with costs, including the costs of two counsel.

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