



SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal

DATE 30 May 2019

STATUS Immediate

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.

Gauteng Department of Agriculture and Rural Development & others v Interwaste (Pty) Ltd & others [2019] ZASCA 68

Today the Supreme Court of Appeal (SCA) upheld an appeal by the Gauteng Department of Agriculture and Rural Development (the GDARD) and others, and substituted an order of the Gauteng Division of the High Court, Pretoria, sitting as the first court of first instance, as follows:

'The application is dismissed with costs, including, where applicable, the costs of two counsel'.

The appeal was directed against an order by the court below in which it set aside a compliance notice issued to Interwaste (Pty) Ltd (Interwaste), the first respondent, and ordered the GDARD to issue a licence to Interwaste which complied with the provisions of the National Environmental Management Act 107 of 1998.

The compliance notice referred to above, instructed Interwaste to cease all activities at its waste disposal site. In terms of their licence, Interwaste had to renew their licence within four years of it being issued. On 24 March 2016, at the time the compliance notice was issued, the four year period had lapsed without Interwaste applying for renewal of its licence.

Interwaste, in opposing the compliance notice, first of all denied that there was a four year renewal period stipulated and submitted that even if it was stipulated, an amendment to the licence on 12 December 2012 meant that the four year renewal period ran from that date, and not from the date of first issue of the licence. In its view, the licence was still valid at the time of the issuing of the compliance notice.

In the court below, Interwaste contended that the licence did not specify a renewal period as required by legislation.

The SCA found that the licence period was not extended by the amendment in 2012, since those amendments related only to volume of waste and to the height of the stacking of the waste and not to the duration of the licence.

Furthermore, the SCA stated that the issuing of a compliance notice was superfluous, since the validity of the licence had terminated due to the effluxion of time. Compliance could not be enforced.

The appeal was upheld with costs.