



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 February 2021

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

Global Environmental Trust and Others v Tendele Coal Mining (Pty) Ltd and Others
(1105/2019) [2020] ZASCA 13 (09 February 2021)

Today the Supreme Court of Appeal (SCA) handed down judgment dismissing the appeal against an order of the KwaZulu-Natal Division of the High Court, Pietermaritzburg.

The issue before the SCA was whether Tendele Coal Mining (Pty) Ltd, the respondent, is mining without the necessary statutory authorisations and approvals. The SCA held that the appellants, Global Environmental Trust and Mfolozi Community Environmental Justice Organisation did not make out a case in their founding papers that the respondent was conducting listed activities requiring environmental authorisation as contemplated in s 24 of the National Environmental Management Act 107 of 1998 (NEMA). The SCA also found that the respondent did not require municipal approval for land use in terms of the Spatial Planning and Land Use Management Act 16 of 2013; or a waste management licence under the National Environmental Management: Waste Act 9 of 2008, because of transitional arrangements in these statutes. The appellants' application for an interdict to prevent the relocation of ancestral graves was also refused on the basis that the appellants failed to establish a reasonable apprehension of harm.

In a separate minority judgment it was held that respondent's mining operations were unlawful and unconstitutional without an environmental authorisation under s 24 of NEMA. This order

was suspended for one year to enable the respondent to obtain the necessary environmental authorisation. It was also held that an order declaring that the respondent's mining operations is unlawful and unconstitutional unless it obtained approval in terms of the KwaZulu-Natal Heritage Act 4 of 2008, to alter or remove additional graves, was appropriate.

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