

SOUTH AFRICA / JUDGMENT

Merensky and Othes v National Director of Public Prosecutions (500-507/2008)

[2008] ZANWHC 31 (3 July 2008)

[2008] ZANWHC 31**COURT**

North West High Court, Mafikeng

BEFORE

M.T.R. Mogoeng

CASE / FILE NUMBER

500-507/2008

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

Source record**IN THE****HIGH COURT OF SOUTH AFRICA****(BOPHUTHATSWANA****PROVINCIAL DIVISION)****CASE****NO. 500–507/2008****In****the Ex-parte****application of:****THE****NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS APPLICANT****In****re:****DUAN****MERENSKY 1ST****APPLICANT****SARAH****WILHELMINA BENNET 2ND****APPLICANT****DANIEL****JACOBUS SCHOEMAN 3RD****APPLICANT****and****THE****NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS RESPONDENT**

JUDGMENT

MOGOENG JP.

INTRODUCTION

[1] A preservation order was previously granted prohibiting any person from dealing in any manner with the proceeds generated from unlawful

activities, in particular any illegal gambling, gaming or lottery operations at the business called or trading as Pirates located at the Taxi Rank, Rustenburg in the North West Province and to surrender such property to the control of a Curator Bonis in terms of the Draft Order.

[2] An application was subsequently launched for the reconsideration of the preservation order. It was argued before me. Having heard both counsel and considered the issues, I discharged the preservation order with costs. These are the reasons for the order I made.

[3] A number of grounds were set out for the reconsideration and the discharging of the aforementioned preservation order. Due to the approach that I have decided to adopt in this matter, it will be unnecessary to mention them.

[4] It is clear from the papers and it became even more so during address, that there is a matter pending in the Transvaal Provincial Division:

4.1 in which virtually all the parties in this matter are also involved;

4.2 the building in which the proceeds sought to be preserved are generated, is also the subject-matter of the dispute between the parties in the Transvaal Provincial Division;

4.3 the issues to be decided upon by the Transvaal Provincial Division in that matter are the nature of the Respondents' business and the operation of the machines which are intrinsically related to the business premises and whether or not the Respondents'

activities and possession of the machines are unlawful.

[5] I therefore agree with Mr Jagga, for the Respondents, that a case relating to essentially the same premises, the same parties, the nature of the business, especially the alleged illegality of the business operations conducted at the aforementioned premises, is pending in the Transvaal Provincial Division. Both parties are aware of this pending case. It is, therefore, inappropriate for this Court to effectively make a ruling that pre-empts the decision of the Transvaal Provincial Division by finding that the proceeds of the same activities taking place in the business premises in question must be made the subject-matter of a preservation order because those activities are illegal.

[6] It is for these reasons that the preservation order was discharged with costs.

M.T.R. MOGOENG

JUDGE PRESIDENT OF THE HIGH COURT

APPEARANCES

DATE OF HEARING : 21 MAY 2008

DATE OF JUDGMENT : 03 JULY 2008

COUNSEL FOR APPLICANTS : ADV JAGGA

COUNSEL FOR RESPONDENT : ADV P. OOSTHUIZEN

ATTORNEYS FOR APPLICANTS : NIENABER & WISSING

ATTORNEYS FOR RESPONDENT : STATE ATTORNEY

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZANWHC/2008/31.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/merensky-and-oths-v-national-unknown-topic-anwhc-2008>

Prepared on 13 October 2026 · Esheria