

SOUTH AFRICA / JUDGMENT

Veerasamy and Another v Calgro M3 Development Ltd (JS505/22) [2022]

ZALCJHB 295 (24 October 2022)

[2022] ZALCJHB 295

COURT

Labour Court Johannesburg

BEFORE

Nkutha-Nkontwana

CASE / FILE NUMBER

JS505/22

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

Source record

THE

LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG

Not

Reportable

Case

no: JS505/22

In

the matter between:

ASHIKA
VEERASAMY
First Applicant
AMANDLA
MAQOKOLO
Second Applicant
And
CALGRO
M3 DEVELOPMENT LTD
Respondent

Decided:

In chambers

Delivered:

24 October 2022

This

judgment was handed down electronically by circulation to the parties' legal representatives by email, publication on the Labour Court's website and released to SAFLII. The date and time for hand-down is deemed to be 10h00 on 24 October 2022.

LEAVE TO APPEAL –

JUDGMENT

NKUTHA-NKONTWANA, J

Introduction

- [1] This is an opposed leave to appeal wherein the applicant seeks leave to appeal the whole judgment and order of this Court handed down on 27 May 2022. Leave is sought to appeal to the Labour Appeal Court (LAC) on two grounds that are enunciated in its notice of the application for leave to appeal.
- [2] The application for leave to appeal was filed late and condonation thereof is sought. The respondent is not opposing the grant of condonation. In the light of the inconsequential degree of lateness and sufficiently reasonable explanation, I am satisfied that condonation should be granted.
- [3] The application for leave to appeal stands on two legs. Firstly, they submit that I erroneously refused to interdict their retrenchment pending the outcome of the disclosure of information dispute that was before the Commission for Conciliation, Mediation and Arbitration (CCMA). Secondly, that I erred in dismissing the applicants' claim for reinstatement.
- [4] In my view, the main insurmountable hurdle in the applicants' contestation about the outcome I arrived at in the impugned judgment is the fact that by the time they approached the Court they had already been retrenched. In essence, they were seeking reinstatement pending the final determination of the disclosure of information dispute that was before the CCMA when they had already been favoured with the information they requested and yet bailed from the consultation process which culminated in their retrenchment. In any event, if the information they were seeking was that critical to the consultation process, non-disclosure thereof, if at all, could be dealt with in due course in the event they decided to challenge the fairness of their retrenchment.
- [5] It is trite that the primary objective of interdictory relief is to prevent or prohibit future unlawful conduct as opposed to being a remedy for the past violation of rights. In *National Council of Societies for the Prevention of Cruelty to Animals v Openshaw*,^[1] it was held that: 'An interdict is not a remedy for past invasion of rights but is concerned with present or future infringements. It is appropriate only where future injury is feared. Where a wrongful act giving rise to the injury has already occurred, it must be of a continuing nature or there must be a reasonable apprehension that it will be repeated.'
- [6] It follows that interdictory relief that the applicants were seeking, which is reinstatement, was not appropriate as the horse had

bolted. Moreover, they had an alternative adequate remedy.

- [7] Having holistically assessed all the grounds of appeal, I am convinced that the applicants' failed to show that the appeal bears reasonable prospects of success. Put differently, there are no prospects that another court might reasonably arrive at a decision different to the one reached by this Court. It follows that this application stands to be dismissed. I am, however, not inclined to award costs.
- [8] In the circumstances, the application for leave to appeal is dismissed with no order as to costs.

P Nkutha-Nkontwana

Judge of the Labour Court of South Africa

[1]

[2008] ZASCA 78; 2008 (5) SA 339 (SCA) at para [20].

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/ZALCJHB/2022/295.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/veerasamy-and-another-v-calgro-unknown-topic-alcjhb-2022--6a3ea5133b1caa912980b20b>

Prepared on 12 October 2026 · Esheria