



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE
SUPREME COURT OF APPEAL

30 May 2016

STATUS: Immediate

**PALALA RESOURCES (PTY) LTD V MINISTER OF MINERAL RESOURCES AND
ENERGY AND OTHERS (479/15)**

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

The Supreme Court of Appeal (the SCA) today upheld an appeal against an order of the Gauteng Division of the High Court Pretoria. The court a quo had granted a review application brought by Hectocorp (Pty) Ltd, the third respondent, to set aside the decision of the Minister of Mineral Resources and Energy, the first respondent, who had upheld an appeal against a decision of the Acting Director-General in her department. The Acting Director-General had overruled the decision of the regional manager who had refused to accept the appellant's (Palala Resources (Pty) Ltd) application for the renewal of its prospecting right for gold and pyrite on a designated prospecting area on the farm Malamulele 234 LT in Limpopo. The basis for the regional manager's decision was that Palala's prospecting right had lapsed due to Palala's deregistration as a company. Palala's deregistration on 16 July 2010 and its restoration to the company register on 13 September 2010 was common cause.

The crisp issue for determination was whether a mineral right which has lapsed due to the deregistration of a company which holds that right is revived when that company is restored to the register. Related to this question was the relationship between the provisions of section 56(c) of the Mineral and Petroleum Resources Development Act 28 of 2002 and section 73(6A) of the old Companies Act 61 of 1973, which was in force at that time. In referring to its decision in *Newlands Surgical Clinic (Pty) Ltd v Peninsula Eye Clinic (Pty) Ltd* 2015 (4) SA 34 (SCA), the SCA held that such a lapsed right is revived upon restoration, by virtue of section 73(6A). The SCA held further that there is no tension between section 56(c) and

section 73(6A) and that the two sections can co-exist as they refer to two different situations at two different points in time.

The appeal was accordingly upheld and the matter was remitted to the Minister for her decision on Palala's application to renew its prospecting right.

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