

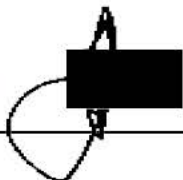
REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case Number: **009838/2023**

(1)	REPORTABLE: YES
(2)	OF INTEREST TO OTHER JUDGES: YES
(3)	REVISED: YES
9 July 2025	
DATE	SIGNATURE



In the matter between:

THE FINANCIAL SECTOR CONDUCT AUTHORITY

Applicant

and

THE FINANCIAL SERVICES TRIBUNAL

First Respondent

LOUIS HARMS N.O.

Second Respondent

JAY PEMA N.O.

Third Respondent

MICHELLE LE ROUX N.O.

Fourth Respondent

VICEROY RESEARCH PARTNERSHIP LLC

Fifth Respondent

FRASER JOHN PERRING

Sixth Respondent

AIDEN LAU

Seventh Respondent

GABRIEL BERNARDE

Eighth Respondent

Summary: *Jurisdiction — Financial Sector Regulation Act 9 of 2017 — section 167 — common law developed — an administrative penalty may be imposed on a peregrinus in circumstances where the requirements of section 167 are satisfied and where the FSCA has jurisdiction over the person of the peregrinus on the basis that notice of the intention to impose an administrative penalty was delivered to the peregrinus by any means (including electronic means) and the connection between the conduct of the peregrinus and South Africa is sufficiently close to make it appropriate and convenient for the regulatory power to be exercised.— application granted.*

JUDGMENT

JANSE VAN NIEUWENHUIZEN J:

Introduction

[1] The applicant, The Financial Sector Conduct Authority (FSCA), applies for the review and setting aside of the majority decision of the first respondent, The Financial Services Tribunal (“the Tribunal”) delivered on 15 November 2022, in which the Tribunal granted the application for reconsideration brought by the fifth to eighth respondents on the basis that the FSCA does not have jurisdiction over the persons of the sixth to eighth respondents, being *peregrini*.

Parties

[2] The FSCA is a juristic person established by section 56 of the Financial Sector Regulation Act (“the Act”).¹

[3] The Tribunal was established in terms of section 219 of the Act. The second respondent is cited in his official capacity as chairperson of the Tribunal panel that

¹ Act 9 of 2017.

made the decision forming the subject matter of the review application and the third and fourth respondents in their official capacities as members of the Tribunal panel.

[4] The fifth respondent, Viceroy Research Partnership LLC (Viceroy), is a corporation that was established and has its business address in the United States of America.

[5] The sixth respondent is an adult male who resides in England. The seventh respondent is an adult male who resides in France and the eighth respondent is an adult male who resides in Australia.

[6] The fifth to eighth respondents were cited as the parties that brought the application for reconsideration and are the only parties that oppose the relief claimed herein.

[7] Insofar as the fifth respondent is concerned, the Tribunal held that a penalty was not imposed on the fifth respondent and that the fifth respondent lacked *locus standi* to apply for a reconsideration of the FSCA's decision. The fifth respondent does not take issue with the aforesaid finding.

[8] The relief claimed herein is only directed at the Tribunal's finding that the FSCA does not have jurisdiction over the persons of the sixth to eighth respondents, who will hereinafter be referred to as the respondents.

Background

[9] The genesis of the present application is the conduct of Viceroy and the respondents in their capacities as partners of the Partnership.

[10] On 30 January 2018, Viceroy published a document titled "Capitec: A wolf in sheep's clothing". The document was widely distributed and publicised in South Africa by the respondents, and the immediate effect was staggering. The share price of Capitec dropped by more than 20% to an intraday low, wiping out more than R25 billion of Capitec's market capitalisation before it recovered to end 3% down on the day.

[11] The FSCA conducted an investigation into the conduct of Viceroy and the respondents and found on 30 August 2021 that their conduct amounted to false, misleading or deceptive statements, promises and forecasts as envisaged in section 81 of the Financial Markets Act (“FMA”).² Having found that Viceroy and the respondents were guilty of contravening section 81 of the FMA, the FSCA, in terms of section 167 of the Act, imposed an administrative penalty of R50 million on Viceroy and the respondents.

[12] On 25 October 2022, the respondents applied to the Tribunal for a reconsideration of the FSCA’s decision to impose the penalty of R50 million. The reconsideration application raised the issue whether the FSCA had the requisite jurisdiction over the respondents to impose the administrative penalty.

[13] On 15 November 2022, a majority of the Tribunal upheld the application for reconsideration and set aside the administrative penalty on the basis that, although the FSCA had jurisdiction over the conduct of the respondents, it did not have jurisdiction over the persons of the respondents.

[14] The FSCA did not agree with the majority decision of the Tribunal and launched the present application for the review and setting aside of the decision.

Grounds of review

[15] The FSCA advanced the following grounds in support of its contention that the Tribunal misdirected itself in finding that the FSCA does not have jurisdiction over the persons of the respondents:

- 16.1 it is not necessary for the FSCA to satisfy the common law requirements for personal jurisdiction before imposing an administrative penalty;
- 16.2 should the common law requirements apply, the respondents consented to jurisdiction; and
- 16.3 in the event that the respondents did not consent to jurisdiction, the common law requirements for personal jurisdiction were met.

² Act 19 of 2012.

[16] Lastly and in the event that the Tribunal's finding is correct, the common law should be developed to dispense with the requirement for service of process in the case of an investigative body such as the FSCA.

[17] Before considering the grounds for review, it is apposite to have regard to the common law requirements to establish jurisdiction over *peregrini*.

Common law requirements for jurisdiction over peregrini

[18] In terms of the common law, prior to *Bid Industrial Holdings (Pty) Ltd v Strang*³ (*Strang*), it was necessary to arrest the person, or attach the property, of a *peregrinus* in order to found or confirm the jurisdiction of a superior court in a claim sounding in money.

[19] In *Strang*, the common law was developed by abolishing the arrest requirement to found or confirm jurisdiction. The rationale for the development of the common law appears at para [59], to wit:

*"[59] For all these reasons the common-law rule that arrest is mandatory to found or confirm jurisdiction cannot pass the limitations test set by s 36(1). It is contrary to the spirit, purport and objects of the Bill of Rights. The common law must be, and is hereby, developed by abolition of the rule and the adoption in its stead, where attachment is not possible, of the practice according to which a South African High Court will have jurisdiction **if the summons is served on the defendant while in South Africa and there is sufficient connection between the suit and the area of jurisdiction of the court concerned so that disposal of the case by that court is appropriate and convenient.** It goes without saying that the new practice could itself be subject to development with time."* (Emphasis added.)

[20] In the result and in order to establish jurisdiction over the persons of the respondents, service of the summons must have occurred whilst the respondents were in South Africa. It is common cause that the aforesaid requirement was not met.

³ [2007] ZASCA 144; 2008 (3) SA 355 (SCA); [2008] 2 All SA 373 (SCA).

[21] Having established the requirements for jurisdiction over *peregrini*, I proceed to consider the grounds of review.

The common law requirements for personal jurisdiction do not apply

[22] The Tribunal held that the Act does not deal with jurisdiction and, by default, the FSCA's jurisdiction to impose a penalty in terms of the Act depends on the question whether a superior court would, under common law, have such jurisdiction.

[23] The FSCA submitted that the Tribunal erred in this regard as the common law requirements for personal jurisdiction do not apply in circumstances where it was not attempting to recover a monetary debt in a court but was merely exercising a regulatory power.

[24] The FSCA's regulatory power to impose an administrative penalty is contained in Chapter 13 of the Act and section 170 provides for the enforcement of an administrative penalty. In terms of section 170(1), the FSCA must file with the registrar of a competent court a certified copy of the order.

[25] Section 170(2) provides that such an order "*on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in a court.*"

[26] "*Court*" is defined in section 1 of the Act to mean "*a Superior Court as defined in section 1 of the Superior Courts Act, 2013 (10 of 2013).*"

[27] In the result and in order to enforce the administrative penalty, the administrative penalty is, in terms of section 170, deemed to be a monetary debt payable in terms of a civil judgment lawfully given in a superior court. In order to give a lawful civil judgment, a superior court and by implication the FSCA, must have jurisdiction, under common law, over the person on whom the penalty is imposed.

[28] Consequently, the Tribunal was correct in finding that the common law jurisdictional requirements apply to the Act.

Submission to jurisdiction

[29] Having found that the common law requirements for jurisdiction do apply, the FSCA contends that the respondents consented to its jurisdiction.

[30] The principle pertaining to consent to jurisdiction was succinctly summarised in *National Arts Council and Another v Minister of Arts and Culture and Another*⁴ as follows:

“[37] It can at this stage of the development of the law regarding the jurisdiction be said without hesitation that submission to the jurisdiction of a court can take two forms. These are that the parties may agree, either at the time of contracting with each other or when a dispute between them has arisen, to submit to the jurisdiction of the court. Alternatively, a defendant may, when sued in a court which would otherwise have no power over him, acquiesce in its jurisdiction. In each case the onus will be on the party alleging submission to jurisdiction that the defendant has submitted or consented to jurisdiction either expressly or by conduct consistent only with acquiescence. Innes CJ illustrates the principle thus in Law v Rutherford:

‘The onus is strictly on the appellant. He must show that the respondent, with full knowledge of her right, decided to abandon it, whether expressly or by conduct plainly inconsistent with an intention to enforce it. Waiver is a question of fact, depending on the circumstances.’ (Footnotes omitted.)

[31] The FSCA, firstly, submitted that the cumulative effect of the proven facts established on a balance of probability that the respondents consented to jurisdiction.

[32] The facts established that during March 2021, Bonnie Kartzman from the Office of International Affairs, United States, Securities and Exchange Commission informed Snaid & Edworthy Attorneys of the FSCA’s investigation and enquired whether the Attorneys are authorised to accept the investigation report on behalf of the respondents, *“so that they may decide to make any submissions to the FSCA report.”*

[33] In a letter dated 25 March 2021, Snaid & Edworthy Attorneys confirmed that they represent the respondents and requested a copy of the investigation report. The letter specifically recorded that a response will be prepared if the respondents elect to do so and that all their rights remain strictly reserved.

⁴ [2005] ZAWCHC 49; 2006 (1) SA 215 (C); [2006] 3 All SA 395 (C).

[34] On 27 June 2021, Snaid & Edworthy Attorneys advised that the respondents have perused the investigation report and stated the following: *“our client denies in the strictest terms any wrongdoing. Our client advises that it shall protect its rights and shall defend any matter brought. Our client does not intend dealing with the contents of your report note at this time and all rights are strictly reserved to deal with same when and if the need arises and in the appropriate forum.”*

[35] The mere fact that the respondents requested the investigation report and perused it, is not in itself sufficient to establish consent to jurisdiction. Consent to jurisdiction can only be established if the respondents had full knowledge of their right to raise a jurisdiction point and their conduct indicating a decision to abandon the point was inconsistent with an intention to raise the point.⁵

[36] The Tribunal held that the respondents’ refusal to respond to the notice of intention of the FSCA mitigates against any notion that they consented to the jurisdiction of the FSCA. I agree. The respondents in the correspondence between the parties steadfastly reserved all their rights, which would include their right to raise a point of jurisdiction.

[37] Secondly, the FSCA contended that by lodging the application for reconsideration, which involves a rehearing, the respondents consented to its jurisdiction. In this regard, the Tribunal held as follows:

“The jurisdiction of the Tribunal depends on the decision-maker, in this case the Authority. The Tribunal does not have original jurisdiction. Confronted by (in their view) an illegal decision, which has the effect of a superior court judgment, the applicants were obliged to apply for reconsideration of the decision on the ground of lack of jurisdiction.”

[38] I agree with the Tribunal’s finding. It would be non-sensical if one has the right to deny the jurisdiction of the decision-maker, but once the decision-maker dismisses the jurisdiction point, a further challenge to a higher authority on the jurisdiction ruling, establishes jurisdiction on the decision-maker.

⁵ Id.

The common law requirements for personal jurisdiction were met

[39] The FSCA contends that a summons is not issued when an administrative penalty is imposed and therefore compliance with the “sufficient connection” requirement for jurisdiction under the common law suffice. A summons initiates civil litigation and service thereof informs a defendant of the case against him/her. The defendant is afforded an opportunity to respond to the allegations contained in the summons and to defend the matter.

[40] In *casu*, the FSCA went to great lengths to provide the respondents with the notice of intention prior to imposing the penalty. The respondents were made aware of the allegations against them and was provided with an opportunity to respond to the allegations. In the result, the notice of intention constitutes a “*summons*” for purposes of the Act and should have been served on the respondents in South Africa in order to confer jurisdiction on the FSCA.

[41] The FSCA submits that even if the notice of intention had to be served on the respondents, the Tribunal erred in finding that service had to be effected in South Africa.

[42] In support of the aforesaid contention, the FSCA relied on the judgment of the Competition Appeal Court in *Competition Commission of South Africa v Bank of America Merrill Lynch International Ltd* (“*Bank of America*”).⁶ The judgment considered the question of service of process and held that service on a *peregrinus* by fax or email would suffice for processes in terms of the provisions of the Competition Act.⁷

[43] The Tribunal considered the *Bank of America* judgment and held that the judgment addressed the rules of service that form part of procedural law. The judgment did not deal with the question of service as a means to find jurisdiction, which question is a matter of substantive law. In the result, the Tribunal held that it is bound by the Supreme Court of Appeal’s finding in *Strang* that service in South Africa is necessary to establish jurisdiction over the person of a *peregrinus*.

⁶ [2020] ZACAC 1; 2020 (4) SA 105 (CAC); [2020] 1 CPLR 26 (CAC).

⁷ Act 89 of 1998.

[44] The FSCA contended that the Tribunal erred in its aforesaid finding. According to the FSCA, the service requirement in *Strang* had been developed and “modernised” by *Bank of America*, in that service could be either by way of personal service while in South Africa or by way of electronic service. The FSCA submitted that *Bank of America* is binding on the Tribunal and that the Tribunal erred in not following the decision.

[45] Even if the FSCA is correct in its submission that the judgment in *Bank of America* developed the substantive law insofar as service to find jurisdiction is concerned, the submission that the Tribunal is bound by the judgment is legally unsustainable. In *American Natural Soda Ash Corporation v Competition Commission of South Africa*,⁸ the Supreme Court of Appeal held that the finality conferred upon the Competition Appeal Court in terms of the Competition Act,⁹ was subordinate to the Appellate powers the Constitution conferred on the Supreme Court of Appeal.

Development of the common law

[46] Should the aforesaid grounds for the review of the Tribunal’s decision be unsuccessful, the FSCA contends that the common law should be developed by either abolishing service for the purposes of imposing an administrative penalty in terms of section 167 of the Act or to broaden the requirements for jurisdiction over a *peregrinus* to allow for service of process by electronic means.

[47] The common law may be developed in terms of section 39(2) of the Constitution “to promote the spirit, purport and objects of the Bill of Rights” or in terms of section 173 if it is in the interests of justice to do so. In *casu*, the FSCA relies on the provisions of section 173.

[48] In *Ngxuza and Others v Permanent Secretary, Department of Welfare, Eastern Cape and Another*,¹⁰ the applicants were persons who received social grants under social legislation. They complained that the respondents cancelled or suspended their grants in an unlawful manner and alleged that the respondents’ decision affected many other people. The applicants claimed relief on their own behalf in the form of a declaration that the cancellation or suspension of the grants was unlawful. The

⁸ [2005] ZASCA 42; 2005 (6) SA 158 (SCA); [2005] 3 All SA 1 (SCA).

⁹ Act 89 of 1998.

¹⁰ 2001 (2) SA 609 (E).

respondents conceded that the first, second and fourth applicants were entitled to the relief, but not the third applicant, because he resides outside the area of jurisdiction of the Court.

[49] The applicants also claimed relief on behalf of the many other people said to be in the same position as the applicants. The respondents raised the same jurisdictional point insofar as the persons may be resident outside the court's area of jurisdiction.

[50] The court dealt as follows with the respondents' jurisdiction point at 628 F – 629A:

“But I have little sympathy for the respondents' objection in this regard. If they do not intend to honour their obligations in respect of the whole class simply because of where members of the class may reside, it smacks of the worst kind of opportunism imaginable.

This Court has jurisdiction over the respondents on ordinary common-law principles in respect of the first, second and fourth applicants. Once it is clear which members of the class have chosen not to be excluded from the class action, any judgment on the suit will bind them wherever they reside in South Africa. In a certain sense they would have become 'parties' to the cause (compare s 19(1)(b) of the Supreme Court Act 59 of 1959). Even if the members of the class residing outside the area of jurisdiction of this Court but elsewhere in South Africa are not parties to the action in the strict sense of the word as used in s 19(1)(b) of the Supreme Court Act, they may still be regarded as members of the class in the action in this Court (compare the Irish Shipping case, above at 865e - f)). The ratio jurisdictionis connecting them to the case is the class action itself. If this amounts to a development of the common law, I am of the view that such a development is justified and permissible by virtue of ss 172(1) and 173 of the Constitution. In Estate Agents Board v Lek [1979 \(3\) SA 1048 \(A\)](#) at 1063F it was stated that the question whether a court has jurisdiction 'depends on (a) the nature of the proceedings, (b) the nature of the relief claimed therein, or (c) in some cases, both (a) and (b)'. Having regard to these factors it is perhaps not

even necessary to call ss 172(1) and 173 of the Constitution in aid (compare also s 19(1)(a)(iii) of the Supreme Court Act 59 of 1959).” (Footnotes omitted.)

[51] In *Zondi v MEC, Traditional and Local Government Affairs and Others*,¹¹ the court examined the need to develop the common law to meet modern exigencies and conditions:

“[33] The other consideration relates to the need to adapt common law to the changing times and circumstances. In West Rand Estates, and in dealing with the time limit for prescription of one day within which the amendment of an order was allowed under common law, the Court observed that what was considered to be an expedient or reasonable time previously may not be expedient or reasonable at the present time. It added that '(t)ime and circumstances bring about change and development; and modern exigencies and conditions may well require the observance of a longer period of prescription'. Thus in Estate Garlick the court adapted common law ex necessitate rei to meet the modern exigencies caused by the practice of making the costs orders without hearing argument.

[34] What emerges from our pre-constitutional era jurisprudence is that the general rule that an order once made is unalterable was departed from when it was in the interests of justice to do so and where there was a need to adapt the common law to changing circumstances and to meet modern exigencies. It is equally clear from the case law that in departing from the general rule, the court invoked its inherent power to regulate its own process. Thus in West Rand Estates, the Court held that:

'It is within the province of this Court to regulate its own procedure in matters of adjective law. And, now that the point has come before it for decision, to lay down a definite rule of practice. I am of opinion that the proper rule should be that which I have just stated. The Court, by acting in this way, does not in substance and effect alter or undo its previously pronounced sentence, within the meaning of the Roman and Roman-Dutch law. The sanctity of the doctrine of res judicata remains unimpaired and of full force, for the Court is merely

¹¹ [2005] ZACC 18; 2006 (3) SA 1 (CC); 2006 (3) BCLR 423 (CC).

doing justice between the same parties, on the same pleadings in the same suit, on a claim which it has inadvertently overlooked.'

[35] *This approach to the general rule by the Appellant Division is consistent with the Constitution. It is now entrenched in s 173 of the Constitution, which provides that:*

*'The Constitutional Court, Supreme Court of Appeal and High Courts have the inherent power to protect and regulate their own process, and to develop the common law, taking into account the interests of justice.'*¹² (Footnotes omitted.)

[52] Lastly and in *Dendy v University of the Witwatersrand and Others*¹³ the court sounded the following caution in embarking on a common law development exercise:

"[25] The manner in which the common law is to be developed received attention in the seminal decision of Carmichele v Minister of Safety and Security and Another (Centre for Applied Legal Studies Intervening). It was held there that courts are under a general obligation to develop the common law appropriately, where the law, as it stands is deficient in promoting s 39(2) objectives. (Section 39(2) of the Constitution provides that when developing the common law, every court must promote the 'spirit, purport and objects' of the Bill of Rights. This must be read with s 173 of the Constitution which gives to all higher Courts, the inherent power to develop the common law, taking into account the interests of justice.) The deficiency enquiry should take place in two stages. The first, is to consider whether the existing common law, having regard to the s 39(2) objectives, requires development in accordance with these objectives. If this enquiry leads to a positive answer, the second stage is to consider how such development is to take place in order to meet s 39(2) objectives. In Carmichele the Court cautioned against 'overzealous judicial reform' and repeated the dictum of Iacobucci J in R v Salituro (1992) 8 CRR (2d) 173 ([1991] 3 SCR 654), (which was cited by Kentridge AJ in Du Plessis and Others v De Klerk and Another [1996 \(3\) SA 850 \(CC\)](#) (1996 (5) BCLR 658)) to the effect that '(t)he judiciary should

¹² See also: *Lininvest CC v Hammersley and Another* [2008] ZASCA 1; 2008 (3) SA 283 (SCA); [2008] 2 All SA 493 (SCA) at paras 25 and 33.

¹³ [2005] ZAGPHC 39; 2005 (5) SA 357 (W); [2005] 2 All SA 490 (W).

confine itself to those incremental changes which are necessary to keep the common law in step with the dynamic and evolving fabric of our society.”
(Footnotes omitted.)

[53] In support of its submission that the common should be developed, the FSCA contends that the common law results in the FSCA, as a financial regulator combating breaches of financial sector laws in the context of a global economy and financial markets, being hamstrung from taking any action against *peregrini* even when their conduct is deliberately aimed at causing substantial financial harm in South Africa.

[54] The FSCA contended that the development sought by it will be incremental, building on the process that started by the court in *Strang* and is aimed at remedying a clear defect in the existing law, to the extent that it effectively precludes the imposition of an administrative penalty on a *peregrinus* with no presence in South Africa, and does so on the basis of an arbitrary requirement of service while in South Africa.

[55] The FSCA submits that service of process on a *peregrinus* while in South Africa makes little, if any practical sense. It does little more than hamper and frustrate the effective regulation of financial activity that takes place extra-territorial and digitally.

[56] Personal service has been overtaken by the fast-developing digital world. In introducing rule 4A in the Uniform Rules of Court, the legislator acknowledged the technical advances that have occurred in the digital world and the rule now allows for the service of all documents subsequent to the service of a summons or application, by facsimile or electronic mail.

[57] Although rule 4A pertains to procedure and not substantive law, the necessity to develop practices and procedures to meet modern exigencies clearly exist. Modern society lives in a global world where the necessity to be present in person has diminished over time. Courts, for example, hear matters virtually and an employee can reside anywhere in the world if the nature of his/her employment does not demand physical presence.

[58] If one has regard to the purpose and object of the regulation of financial markets, its importance far outweighs the necessity to serve any documents that

initiate the enforcement of financial regulation on a *peregrinus* personally in order to find jurisdiction. The development of the common law in this regard will ensure the effective regulation of financial activity that takes place globally.

[59] The importance of proper regulation is borne out by the facts in *casu*. The misinformation that was widely distributed and publicised in South Africa by the respondents, had a disastrous effect on one of South Africa's prominent financial institutions. To absolve the respondents from being liable for their conduct merely because they will at no stage be physically present in South Africa is not in the interest of justice.

[60] The amount of the administrative penalty, to wit R50 million, will undoubtedly be welcomed in the dire economic circumstances prevailing in South Africa and the ever-shrinking fiscus.

[61] In the result, I am of the view that it will be in the interest of justice to develop the common law position in accordance with prayer 3.3 of the FSCA's notice of motion that reads as follows:

"It is declared that the applicant may impose an administrative penalty in terms of section 167 of the Financial Sector Regulation Act 9 of 2017 on a peregrinus in circumstances where the requirements of section 167 are satisfied and where the applicant has jurisdiction over the person of the peregrinus on the basis that notice of the applicant's intention to impose an administrative penalty was delivered to the peregrinus by any means (including electronic means) and the connection between the conduct of the peregrinus and South Africa is sufficiently close to make it appropriate and convenient for the regulatory power to be exercised."

[62] In view of the declarator, it is prudent to set the majority decision aside and to refer the matter to the Tribunal for reconsideration.

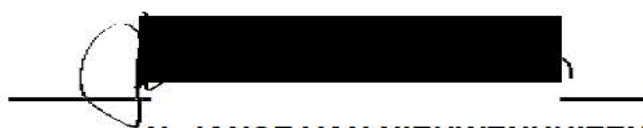
Costs

[63] The respondents were substantially successful in opposing the review application and are entitled to a cost order in their favour. The matter is significantly complex to justify an order that counsel's fees will be awarded on scale C.

ORDER

I grant the following order:

1. It is declared that the applicant may impose an administrative penalty in terms of section 167 of the Financial Sector Regulation Act 9 of 2017 on a *peregrinus* in circumstances where the requirements of section 167 are satisfied and where the applicant has jurisdiction over the person of the *peregrinus* on the basis that notice of the applicant's intention to impose an administrative penalty was delivered to the *peregrinus* by any means (including electronic means) and the connection between the conduct of the *peregrinus* and South Africa is sufficiently close to make it appropriate and convenient for the regulatory power to be exercised.
2. The majority decision of the first respondent is set aside.
3. The matter is remitted to the first respondent to make a decision on the merits of the application for reconsideration.
4. The applicant is ordered to pay the costs of the fifth to eighth respondents, counsel's fees on scale C.



N. JANSE VAN NIEUWENHUIZEN
JUDGE OF THE HIGH COURT OF SOUTH AFRICA

DATE HEARD:

6 May 2025

DATE DELIVERED:

9 July 2025

APPEARANCES

Counsel for the Applicant: Adv Breitenbach SC
Adv Mbikiwa

Instructed by: Chuene Mahlo Inc.

Counsel for the fifth
to eight respondents: Adv Subel SC

Instructed by: Snaid & Morris

