



**IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG**

CASE NO: AR6/2023

In the matter between:

**XABISO MAGUBANE
SBULELO NDUMO
SABELO MNGOMEZULU**

First Appellant
Second Appellant
Third Appellant

and

THE STATE

Respondent

ORDER

On appeal from: Estcourt Regional Court (sitting as a court of first instance):

1. The appeal is upheld.
2. The conviction and sentence of the appellants are set aside.

JUDGMENT

Chithi J (Seegobin J, concurring)

Introduction

[1] The three appellants in this matter, together with their erstwhile co-accused, stood charged with one count of murder before the Regional Court in Estcourt. The charge against the erstwhile accused 4 was withdrawn before the commencement of the trial, while the erstwhile accused 1 was acquitted of the charge. During the trial the first appellant was accused 2, the second appellant was accused 3 and the third appellant was accused 5.

[2] It was alleged that on or about 10 June 2020 and at or near KwaBhekuzulu in the Regional Division of KwaZulu-Natal, the appellants and their co-accused unlawfully and intentionally killed Nsuku Mbongwe, a male person. This charge was read with the provisions of section 51(2) and Part II of Schedule 2 of the Criminal Law Amendment Act 105 of 1997 ('the CLAA'). The respondent also alleged that in committing the offence the appellants and their co-accused acted in furtherance of a common purpose.

[3] On 6 July 2022, following upon the trial of the matter the appellants were found guilty of murder in terms of section 51(2) of the CLAA. On 12 July 2022 the appellants were each sentenced to 15 years imprisonment and for the purposes of section 103 of the Firearms Control Act 60 of 2000 the appellants were automatically deemed unfit to possess firearms. The appellants now appeal to this court both against their conviction and sentence having been granted leave to appeal by the trial court on 28 November 2022.

Grounds of appeal

[4] The appellants did not file any notice of appeal. However, the grounds upon which the appellants seek to assail their conviction and sentence as distilled by this court from their respective applications for leave to appeal are as set out below.

(a) In relation to their conviction the appellants contend that the learned magistrate erred:

- (i) in finding that the appellants, in committing the offence, acted with a common purpose.
- (ii) in accepting the evidence of Ms Nombuso Cynthia Mbongwa ('the complainant') who was a single witness was clear and satisfactory in all material respects despite the contradictions and inconsistencies in her evidence.
- (iii) in finding that the contradictions in the complainant's evidence were not of a material nature so as to render her evidence not worthy of any credence.
- (iv) in accepting the version of the complainant which was not corroborated by any independent witness.
- (v) in finding that there was no reason for the complainant to falsely implicate the appellants when the appellants did not have to speculate as to why the complainant falsely implicated them.

(b) In relation to sentence the appellants contend that the learned magistrate erred:

- (i) in imposing a sentence of 15 years imprisonment as such sentence was grossly excessive and disturbingly inappropriate so as to induce a sense of shock.
- (ii) in failing to sufficiently consider their respective personal circumstances, including the fact that they were all first offenders. In relation to the second appellant the learned magistrate erred in failing to sufficiently consider that the second appellant had two minor children.
- (iii) in finding that there were no substantial and compelling circumstances which justified the court to depart from imposing the prescribed minimum sentence.
- (iv) in over-emphasising the seriousness of the offence, and without paying sufficient heed to the interest of society and the purpose of punishment, namely deterrence, prevention, reformation and retribution.

- (c) In addition, the third appellant contended that the learned magistrate:
- (i) committed a procedural irregularity by failing to specifically explain the provisions of s 93*ter* of the Magistrates' Court Act 32 of 1944 ('the MCA') to the third appellant.
 - (ii) descended into the arena on several occasions and this created the impression that she was biased in favour of the respondent.

Factual background

[5] The facts giving rise to the appellants' conviction and ultimate sentence, which are the subject of this appeal, are set out as follows. During the night of 9 August 2020, a cellular phone was stolen from the Mngomezulu household and the deceased was the person who was suspected of having stolen it. On 10 June 2020, at about 9h00, a group of people went to the deceased's home. The deceased was not home, however his mother and his sister, who is the complainant herein, were. The complainant was the sole witness to testify on behalf of the respondent in this case. The complainant's evidence will be considered against that of the appellants, which will be the focus of this judgment.

The evidence

[6] The complainant testified that upon the arrival of this group of persons they asked for the whereabouts of the deceased and was told that the deceased was presently not at home. Immediately thereafter her mother asked the group as to the reason for looking for the deceased. In response, the group alleged that the deceased had stolen a cellular phone from the Mngomezulu household. Upon the group making this allegation, her mother permitted them to search for the cellular phone in the deceased's room. The group did not find the cellular phone in the deceased's room. The group then left her home.

[7] After a short while the complainant's attention was caught by a noise, which emanated from the direction of the pathway in the vicinity of their neighbour's house. Amid this noise was a voice of someone who was crying. At that stage her mother left the house and went towards the direction where the noise emanated from. The complainant then followed her mother. Upon their arrival at the scene on the pathway, they found a group of people assaulting the deceased. The deceased was tied with a

rope, with his hands tied up behind him and around his neck. The group forced the deceased to walk with it along the pathway while he was naked. The complainant described that what the group was doing was “driving the deceased”. As it was driving the deceased the group continuously assaulted him along the way. The group did not want anyone from the Mbongwa homestead to come closer. The complainant watched the events unfold from about 4 metres away.

[8] In relation to the presence and participation of the appellants and their erstwhile co-accused, she testified that although the erstwhile accused 1 was present at the scene, she did not see what he was carrying. The first appellant was carrying a spear. The third appellant was carrying a stick with a steel bolt. The third appellant was carrying a stick.

[9] She stated that when this group crossed the main road, she, however, managed to get closer to the deceased. She enquired from him if he knew anything about the cellular phone. At that stage the deceased told her that he had sold the cellular phone to a local Pakistani shopkeeper at the Mabaso homestead. The Pakistani shop was around 100 metres away from the scene. The complainant then left the scene in order to retrieve the cellular phone from the Pakistani shopkeeper. However, when the Pakistani shopkeeper saw the complainant approaching, he evaded her by running into the mealie fields.

[10] The complainant then went back to the scene and found the group assaulting the deceased. She then decided to go back to the Pakistani shopkeeper, this time in company of one Thabani. On this occasion the Pakistani shopkeeper released the cellular phone to the complainant. The complainant then went back to the scene and handed back the cellular phone to Ms Pinky Mbongwa who had claimed the cellular phone to be hers. After the cellular phone was handed over to the owner, the group of people started disbursing. However, after the complainant handed the cellular phone to the owner, the first appellant stabbed the deceased with a spear on his head. At that stage, everybody left including the first appellant.

[11] The complainant testified that she, together with her brother, who was a distant relative, untied the deceased and put him in her sister's motor vehicle and transported him to a local clinic. From there the deceased was conveyed by an ambulance to the Estcourt Provincial Hospital. Upon arrival at the hospital, the deceased was attended to by the doctors who were already waiting for him. The complainant was then advised to go home and told that if the hospital wanted anything from her, she would be contacted. At about 22h00 she received a call from the hospital and was told that her brother had passed away. In reply to a question from the court, the complainant testified that when the first appellant stabbed the deceased all the people were still at the scene.

[12] During cross-examination the complainant testified that it was a group of people of approximately 50 people who had come looking for her brother. The group that was at the scene where the deceased was assaulted was a lot bigger than the group that came to her residence to look for the deceased, as it included spectators. The complainant testified that she would not be able to describe how her brother was assaulted. She stated that the reason why she was not able to describe how her brother was assaulted was because she was not paying full attention as she was also moving up and down between the scene of the crime and the Pakistani shopkeeper and trying to call the police. She testified that she could not be able to see if there were any other people apart from the appellants and their erstwhile co-accused who were present at the scene who also assaulted the deceased because there were a lot of people.

[13] She stated that what enabled her to identify who the appellants and their erstwhile co-accused were, was because they were the people whom she knew. She testified that she did not see the erstwhile accused 1 assault the deceased at any stage, but the erstwhile accused 1 was present at the scene whilst the deceased was being assaulted. In relation to the first appellant, she testified that besides seeing him stab the deceased with a spear, she did not see him participating in the assault. In relation to the second appellant, she testified that she saw him assaulting the deceased when the deceased was on the road. The second appellant assaulted the deceased on his body. However, in reply to the court's question the complaint testified

that she did not notice exactly on which part of his body did the second appellant assault the deceased.

[14] With regards to the third appellant, the complainant stated that she was unable to say where exactly on his body was the deceased assaulted by the third appellant. In addition, she stated that she did not see the third appellant assaulting the deceased on his head. The complainant was also unable to say whether the appellants and their erstwhile co-accused took turns to assault the deceased or whether they were assaulting the deceased randomly. The complainant agreed that it was possible that she was unable to say with certainty exactly what had happened and what she had observed was because the scene was chaotic; and the whole incident happened so fast.

[15] The complainant testified that when she came back from the Pakistani shopkeeper there were people who were still assaulting the deceased, but she could not specify who was assaulting him at that stage but, he was still being assaulted. The complainant stated that on her way back from the Pakistani shopkeeper on the second occasion, she picked up a bush knife on the ground. This bush knife was taken from her by Sphelele Majozi. However, she did not see anyone using the bush knife to assault the deceased. The complainant confirmed that she was not any at stage during the assault of the deceased ever assaulted with the bush knife.

[16] When it was put to the complainant whether the statement she made to the police was read back to her, she testified that she did not recall exactly if it was read back to her. She stated that the reason she did not recall was because she was normally forgetful. However, when it was put to the complainant that she could not dispute that the statement was read back to her, she agreed with this proposition. She further agreed that she was satisfied with the contents of the statement which she thereafter signed. Moreover, she confirmed that before the case started the prosecutor read the statement to her and that she was still satisfied with the contents of the statement.

[17] The complainant was asked whether she informed the police that she and her mother had been asked by the group that was looking for the deceased as to what he was wearing. She testified that she could not remember, and that she had difficulty remembering details as she suffered from epilepsy. When the complainant was confronted about the fact that she said in her statement that she was assaulted with a bush knife by Sphelele Majozi, she denied ever having said this to the police. Moreover, when the complainant was confronted about having said in her statement that the first appellant stabbed the deceased with a spear in his head upon reaching the main road, before she went to retrieve for the cellular phone from the Pakistani shopkeeper, she denied having said that. She persisted that the first appellant stabbed the deceased after she handed over the cellular phone to its owner.

[18] When the complainant was confronted about her failure to mention in her evidence that Thabo Zuma was also one of the persons who assaulted the deceased, she stated that it was because she was never asked about it. She stated that when the deceased was being assaulted, there was a big commotion. This concluded the evidence of the respondent.

[19] The appellants and their co-accused testified in the proceedings. The erstwhile accused 1 and first appellant admitted that that they were present at the scene, but denied having participated in the attack of the deceased or having been in possession of the weapons, which the complainant referred to. The second and third appellants, on the other hand, denied being at the scene whilst where the deceased was assaulted. They testified that they were only present at the deceased's home where they had gone searching for the cellular phone. They thereafter went in search of the deceased at Estcourt. After they had located the deceased, they brought him to KwaBhekuzulu and left him with other people by the tap that was in the near the third appellant's homestead.

The issues

[20] The following are the issues which this Honourable Court must determine:

- (a) whether the provisions of s 93*ter* of the MCA were explained to the third appellant;
- (b) whether the respondent proved the guilt of the appellants beyond reasonable doubt; and,
- (c) whether the appellants in committing the offence acted with a common purpose.

The party's submissions

[21] Mr *Mthembu*, on behalf of the first and second appellants, argued that the complainant's evidence was not credible. The complainant was not certain about many of the important aspects of the incident. She did not know how many times, and where on his body, the deceased was assaulted by the appellants. The complainant contradicted the statement she made to the police as to when the deceased was allegedly stabbed by the first appellant. Given that the scene was chaotic with more than 50 people being present, including spectators, the complainant conceded that she could not say with certainty whether the appellants in assaulting the deceased, took turns or assaulted him randomly.

[22] The complainant conceded that she was forgetful, as she suffered from epilepsy. Not only was the complainant forced, in light of the circumstance to leave the scene on two occasions, but there was a time when she had to call the police.

[23] Mr *Mthembu* therefore submitted that the complainant's evidence, as a single witness, was not clear and satisfactory in every material respect. Consequently, the appellants should have been acquitted. Insofar as the issue of common purpose, Mr *Mthembu* submitted that the complainant's evidence did not prove the appellants and erstwhile accused had acted in common purpose.

[24] Mr *Geldenhuys*, for the third appellant, aligned himself with Mr *Mthembu*'s submissions. However, in addition, Mr *Geldenhuys* submitted that there was no real corroboration for evidence of the complainant. He argued that the respondent failed to call Ms Pinky Mbongwa, who was available, and could have corroborated the complainant's version. The postmortem report did not corroborate the complainant's

version. There was no evidence, which was led by the respondent, that the injuries which the deceased sustained were consistent with the injuries which could have been inflicted by the weapons allegedly used by the appellants to assault the deceased. In these circumstances, Mr *Geldenhuys* went on to argue, that it was essential for the doctor who conducted the post-mortem examination on the body of the deceased to have been called. He argued that this evidence would have lent some credibility to the complainant's version. He submitted that this was a serious murder case which was hastily handled by the respondent.

[25] In relation to the issue of common purpose, Mr *Geldenhuys*, argued that by the complainant's own admission, people were coming and going at the scene. The complainant too had to leave and come back to the scene on two occasions. In addition, the complainant herself had testified that when she handed over the cellular phone to the owner, the group had dispersed. From this set of circumstances, it could not be inferred that the appellants acted with a common purpose.

[26] Concerning the question of whether the provisions of s 93ter were explained to the third appellant, Mr *Geldenhuys* conceded that this was not his strongest argument and did not persist with it.

[27] Mr *Khanyile*, on behalf of the respondent, argued that while the complainant's evidence was not without blemish the appellants were however, correctly convicted. However, when this court pointed the numerous discrepancies which were apparent on the complainant's evidence, Mr *Khanyile* readily conceded that he could not take the matter any further.

The provisions of s 93ter

[28] In dealing with the issues which this court must determine it is convenient to start off with the issue of whether the provisions of s 93ter of the MCA were explained to the third appellant. Before its amendment by the Judicial Matters Amendment Act 15 of 2023, which came into effect on 3 April 2024, s 93ter read as follows:

‘(1) The judicial officer presiding at any trial may, if he deems it expedient for the administration of justice—

(a) before any evidence has been led; or

(b) in considering a community-based punishment in respect of any person who has been convicted of any offence, summon to his assistance any one or two persons who, in his opinion, may be of assistance at the trial of the case or in the determination of a proper sentence, as the case may be, to sit with him as assessor or assessors: Provided that if an accused is standing trial in the court of a regional division on a charge of murder, whether together with other charges or accused or not, the judicial officer shall at that trial be assisted by two assessors unless such an accused requests that the trial be proceeded with without assessors whereupon the judicial officer may in his discretion summon one or two assessors to assist him.'

[29] In *Chala and Others v Director of Public Prosecutions, KwaZulu-Natal and Another*¹ it was held that:

'it should always appear from the record of proceedings in cases where s 93ter is required to be invoked, that a proper explanation is given by the magistrate to accused persons of the choice they have in the appointment of assessors, together with a brief exposition of the import of that choice and as to what is required of them. The record should also reflect, after having given such explanation and requesting such response from accused persons, in cases where they elect not to have assessors, that the magistrate nevertheless still considered whether such course was advisable in the particular case before him or her. All of this should appear on the record.'

[30] This section, which is in peremptory terms, requires of a regional magistrate before which an accused is charged with murder to be assisted by two assessors at the trial, unless the accused requests that the trial proceeds without assessors. Only in that instance where the judicial officer becomes entitled to exercise his or her discretion whether to summon one or two assessors to assist him or her.²

[31] The record in this case shows that not only were the provisions of s 93ter explained to the appellants on 3 March 2021 but also, on 3 May 2022 after the third appellant was joined as accused number 5 in the proceedings on 28 June 2021.³

¹ *Chala and Others v Director of Public Prosecutions, KwaZulu-Natal and Another* 2015 (2) SACR 238 (KZP) para 28.

² *S v Gayiya* [2016] ZASCA 65; 2016 (2) SACR 165 (SCA) para 8; *Director of Public Prosecutions, KwaZulu-Natal v Pillay* [2023] ZASCA 105; 2023 (2) SACR 254 (SCA) para 30.

³ Record, volume 1 at pages 6 and 12. Record, volume 1 at page 37: lines 4 -9. Record, volume 1 at page 66: lines 17 - 23.

[32] The concession by Mr *Geldenhuys* no longer to persist to argue that the trial court failed to explain the provisions of s 93ter was therefore well made. He was correct not to pursue this point any further during his argument as his contention that the trial court failed to explain the provisions of s 93ter to the third appellant was not borne by the record.

Whether the respondent proved the guilt of the appellants beyond reasonable doubt

[33] Concerning the question whether the respondent proved the guilt of the appellants beyond reasonable doubt, it is trite that where the trial judge does not misdirect himself on the facts or the law in relation to the application of a cautionary rule, but, instead, demonstrably subjects the evidence to careful scrutiny, a court of appeal will not readily depart from his conclusions.¹⁴

[34] It is trite that the powers of a court of appeal to interfere with the findings of fact of a trial court are limited:

‘In the absence of any misdirection the trial court’s conclusion, including its acceptance of a witness’ evidence is presumed to be correct.’¹⁵

[35] It is common cause that the complainant was a single witness. The trial court held that although the complainant was a single witness, it was satisfied that she gave her evidence in a clear and concise manner despite the contradictions and omissions in her evidence. It was satisfied that the truth had been told. It is these findings which the appellants attack.

[36] As a court of appeal, ‘this court must determine’ as regards to the conviction, what the evidence of the State entailed,

‘as understood within the totality of the evidence led, including evidence led on the part of the appellant, and compare it to the factual findings made by the trial court in relation to that evidence, as to whether the trial court considered all the evidence before it, weighed it correctly and then determine (a) whether the trial court applied the law or

¹⁴ *S v Leve* 2011 (1) SACR 87 (ECG), referred to in *S v Prinsloo and Others* [2015] ZASCA 207; 2016 (2) SACR 25 (SCA) para 183.

¹⁵ *S v Francis* 1991 (1) SACR 198 (A) at 198 -199 and 204d, where the court referred to *R v Dhlumayo and Another* 1948 (2) SA 677 (A) at 705. See also *S v Hadebe and Others* 1997 (2) SACR 641 (SCA) at 645e-f, and *Masango v S* [2024] ZAGPPHC 64 para 3.

applicable legal principles correctly to the said facts in coming to its decision, and (b) whether the appellant was correctly convicted.⁶

[37] In doing so, an appropriate point of departure are the provisions of section 208 of the Criminal Procedure Act 51 of 1977, which provide that an accused person may be convicted on the evidence of a single witness.⁷

[38] In order for the court to convict on the evidence of a single witness it must be clear and satisfactory in all material respects.⁸ It is equally trite that 'evidence of a single witness does not necessarily need to be free of all conceivable criticism' but the requirement is that it should be 'substantially satisfactory in relation to the material aspects or be corroborated'.⁹

[39] The trial court in dealing with a cautionary rule simply concluded that the complainant gave her evidence in a clear and concise manner despite the contradictions and omissions in her evidence. It therefore found it was satisfied that the truth had been told. In evaluating the evidence, the 'trial court is required to weigh up all the evidence which comprise all the elements which point towards the guilt of the accused against all those elements which are indicative of his innocence'.¹⁰ The conclusion reached must account for all the evidence.

[40] In this case it does not appear that the trial court sufficiently considered that the complainant's evidence was riddled with contradictions of a material nature. Initially during her evidence in chief, the complainant was adamant that the erstwhile accused 1 was not only present at the scene but also assaulted the deceased. During the trial court's questioning, she conceded that she did not see the erstwhile accused 1 assaulting the deceased. When she was pressed under cross-examination, whether it was possible for her not have seen what happened clearly, due to chaotic nature of the scene, and the number of people that were present, the complainant admitted that

⁶ *Bulelani v S* [2024] ZAGPPHC 50 para 3.

⁷ *Baisley v S* [2024] ZAECMKHC 37 para 5.

⁸ *R v Mokoena* 1932 OPD 79 at 80; *R v Mokoena* 1956 (3) SA 81 (A) at 85; *S v Webber* 1971 (3) SA 754 (A) at 758; *S v Sauls and Others* 1981 (3) SA 172 (A) at 179H-180G.

⁹ *Rugnanan v S* [2020] ZASCA 166 para 23.

¹⁰ *S v Chabalala* 2003 (1) SACR 134 (SCA) para 15. See also *S v Trainor* 2003 (1) SACR 35 (SCA) para 9.

this was possible. During her evidence in chief, the complainant was adamant that the first appellant stabbed the deceased after she had handed the cellular phone to the owner. However, when she was confronted about the fact that she had stated in her statement to the police that the deceased was stabbed before she went to recover the cellular phone, she was unable to proffer any cogent explanation except blame this discrepancy on the police. It is well to remember that at the time when the complainant made the statement, the events were still fresh in her mind as opposed to when she testified, which was almost two years later.

[41] While the complainant had denied ever having been assaulted with the bush knife at the scene when her attention was directed to her statement where she alleged that she was assaulted by Sphelele Majozi with a bush knife, she distanced herself to these allegations. Moreover, when the complainant was confronted about her failure to mention that Thabo Zuma also assaulted the deceased with a stick, she again, shifted the blame to the prosecutor, alleging that she was never asked about it. Above and beyond these contradictions, the complainant admitted that she was forgetful due to being epileptic. It also goes without saying that when the complainant left the scene on two occasions, she would not have been able to see whether the deceased was assaulted, and if so, who assaulted him, what was used to assault him, where on his body was he assaulted and what was the extent of the injuries he sustained from such assault. As if that was not enough, the complainant admitted that she was not able to see properly because she was busy phoning the police. In fact, during her evidence in chief the complainant was adamant that all the appellants and their erstwhile co-accused assaulted the deceased. She stated that what enabled her to notice the appellants and their erstwhile co-accused was because they were the people that were known to her. In saying this the complainant singled out the appellants simply because she knew them. It would have been easy for her to say that there were also other people who assaulted the deceased who were unknown to her. The complainant did not say whether the appellants continuously assaulted the deceased from the time she first came to the scene to the time she handed over the cell phone to its owner.

[42] In addition, sight should not be lost of the fact that the complainant was not an unbiased witness. The deceased was her brother. Moreover, this was a moving scene where there were more than 50 people who were coming and going. In my view, the complainant was not a satisfactory witness whose evidence a court could safely rely on to convict. In all these circumstances, it is difficult to understand how the trial court was in a position to conclude that the evidence of the complainant was clear and satisfactory.

[43] The complainant's evidence clearly yearned for some corroboration. Despite the respondent having indicated during the pre-trial conference that it intended to call three witnesses, the respondent failed to call these witnesses. This was a serious case where the deceased suffered injuries at the hands of a mob which was determined to meet punishment upon him, having been suspected of stealing a cellular phone. The deceased did not deserve to die. All that was required was for him to be subjected to the due process of the law after he was caught, more particularly in view of the cellular phone having been recovered. This court sympathises with the family of the deceased and the way the deceased came to meet his death. However, this court is constrained by the evidence. Where there is no credible evidence upon which the conviction was founded, this court is bound to acquit. This court agrees with Mr *Geldenhuys* that this case was prosecuted hastily, not to mention the fact that it was not properly investigated. I say so because some of the people whose names appeared on the complainant's statement were never even charged. Perhaps had the evidence of Dr Neethianathan Naidu, who conducted a postmortem examination on the body of the deceased, been led, it could have lent some corroboration to the complainant's evidence.

[44] Considering the evidence on record as a whole, this court is not satisfied that the guilt of the appellants was proved beyond reasonable doubt.

[45] As far as the question of whether the appellants acted with common purpose in committing the offence, if one considers the fact that a group of people firstly went to the deceased's home for the recovery of the cellular phone, it would be inconceivable that they had formed a common purpose to kill the deceased. In any event, had the respondent believed that the appellants in committing this offence acted in furtherance

of a common purpose it would not have charged the appellants with murder read with s 51(2) and Part II of Schedule 2 of CLAA, instead, the respondent would have charged the appellants with murder read with s 51(1) and Part I of Schedule II of CLAA.

[46] In view of the order which this court proposes, it is unnecessary for this court to decide the question whether the trial court's persistent interventions during the course of the trial by putting questions to the witness, which clearly favoured the respondent's case, rendered the trial unfair.

[47] In the result, I make the following order:

1. The appeal is upheld.
2. The conviction and sentence of the appellants are set aside.



Chithi, J

I agree.



Seegobin, J

Date of hearing : 30 May 2025

Date of judgment : 05 September 2025

APPEARANCES

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