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**IN THE SPECIAL TRIBUNAL ESTABLISHED IN TERMS OF SECTION 2 (1) OF THE SPECIAL INVESTIGATIONS UNIT AND SPECIAL TRIBUNALS ACT 74 OF 1996**

**JUDGMENT SUMMARY**

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| ***Special Investigating Unit and Another v Zulu and Others*** |
| URL | [https://lawlibrary.org.za/akn/za/judgment/zast/2023/15/eng@2023-11-13](https://lawlibrary.org.za/akn/za/judgment/zast/2023/15/eng%402023-11-13)  |
| Citations | (GP/04/2022) [2023] ZAST 15 |
| Date of judgment | 13 November 2023 |
| Keyword(s):[[1]](#footnote-1) | Special Tribunal, summons, unlawful, irregular conduct, common law, statutory obligations, duties, bribery, corruption, contract, profits, cause of action, exception, procurement, averment, interpretation |
| Summary[[2]](#footnote-2) | The plaintiffs issued summons against the defendants regarding the alleged unlawful granting of contracts by the second plaintiff (**Eskom**) to the second and third defendants (**Commodity Logistics** and **Siba**). The first defendant (**Zulu**) was employed by Eskom, and had allegedly received substantial amounts of money from Commodity Logistics and Siba, which the plaintiffs argued amounted to unlawful kickbacks. The defendants each filed an exception to the Particulars of Claim, on the basis that the plaintiffs had failed to disclose a cause of action, as well as the lack of averments necessary to sustain the action against them.The Special Tribunal (**Tribunal**) was asked to determine whether the exception could be upheld. |
| Decision/ Judgment[[3]](#footnote-3) | The exception raised by the defendants were dismissed with costs. |
| Basis of the decision[[4]](#footnote-4) | As the Tribunal Rules does not specifically make provision for the basis upon which an exception may be raised, the Tribunal relied on Tribunal Rule 28 to invoke Rules 23 and 18(4) of the Uniform Rules of Court. The Uniform Rules provide that every pleading must contain a clear and concise statement of the material facts upon which the pleader relies, and that any pleading that is vague and lacks averments which are necessary to sustain an action, may be opposed through an exception. The plaintiffs had set out what Zulu’s duties were at Eskom, detailed the large sums of monies received by Zulu from Commodity Logistics and Siba, averments that Zulu was not entitled to receive these payments and that it breached his duties to Eskom. The Tribunal therefore found that the defendants had failed to show that on every interpretation of the pleading, a cause of action could not be established. The exceptions were dismissed as they did not dispose of the matter in whole or in part. |
| Reported byDate | African Legal Information Institute ([AfricanLII](https://africanlii.org/))13 November 2023 |

1. Clarify the type of issues that come up in the case. [↑](#footnote-ref-1)
2. Summary of the facts, the main legal questions and/or grounds of appeal, and the court’s reasoning (between 150-250 words). [↑](#footnote-ref-2)
3. The ruling/judgment of the court, as given in the Order. [↑](#footnote-ref-3)
4. A 1-2 sentence summary of the basis of the decision (i.e. which legal rules were relied on). [↑](#footnote-ref-4)