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Health and public works fail in bid to escape paying architect firm

ADRIENNE CARLISLE

The Eastern Cape public works and health departments will have to dig deep to pay more than R100m in damages to an architect firm after they lost yet another legal bid to avoid doing so.

Tuesday's decision by the Supreme Court of Appeal must surely be the final nail in the coffin of a matter that has dragged through the courts for close on two decades, with the government losing every step of the way.

At issue is a 2015 Makhanda high court default judgment in terms of which the departments were ordered to pay Ikamva Architects R41m in damages.

The 'damages' arose after the public works department renegotiated on a contract it had signed with Ikamva in terms of which the company was appointed to do the consulting work on the massive Frere Hospital upgrade project.

Ikamva was never allowed to do the work it was contracted to do.

Since then, the two departments failed in numerous bids to appeal or have the default judgment rescinded. The damages amount has more than doubled with interest since then and now stands at well more than R100m.

In 2019, the departments tried to tackle the matter from another angle.

They asked the court to set aside their own 2003 decision to award the tender to Ikamva in the first place.

They wanted the tender award and the subsequent contract set aside. They also wanted an order in terms of which they were absolved from making any further payment to Ikamva.

The Makhanda high court in 2021 dismissed this application and refused the departments leave to appeal.

Judge Thami Beshe ruled

that the departments were simply trying to revisit an issue already decided on by the court.

The departments did not deny this, indicating the fiasco would be denuded of desperately needed funds for public healthcare if they had to pay Ikamva for work that they admitted they never allowed the firm to do.

Not content with Beshe's decision, the departments petitioned the SCA for leave to appeal. But on Tuesday that court refused, saying their appeal had no prospect of succeeding.

Judge Trevor Gorven, with judge Ian van der Merwe and acting judges of appeal Anelli Basson, Leonie Windell and Gayatri Sallie-Hlophe agreeing, said the 2015 default judgment remained intact and had to be implemented.

Gorven said the departments had been transparent about why they had resorted to 'self review' as they wanted to 'render nugatory' the 2015 default judgment.

If granted, it would have the effect of 'permanently preventing execution by Ikamva of a valid and binding judgment granted in its favour'.

He found it was not permissible for a court to excuse payment of a 'valid and binding order of court' under the circumstances put forward by the departments.

'The departments attempted to enlist the assistance of the court in their efforts to undermine the dignity and authority of the courts by rendering nugatory a perfectly valid, binding, enforceable, executory judgment. In my view, this can and should not be countenanced.'

He ordered the departments to pay the costs of the application.

Gorven said the departments had been transparent about why they had resorted to 'self review'



PICKING A WINNER: Ronnie's Motors marketing executive Juan-Meri Goosen and dealer principal Dean Findlay with thousands of entries for the Win-A-Car competition. Picture: MARK ANDREWS

Retired Dispatch reader takes home a brand new Suzuki

ROSA-KAROO LOEWE

Picked from thousands of entrants, Mbulolo Mpondo, 72, from Zwelitsha, was overwhelmed to hear he had triumphed as the lucky winner of the Daily Dispatch Win-A-Car competition, taking home a snazzy R284,000 Suzuki Ertiga seven-seater.

Thanks to Ronnie's Motors, one Dispatch reader, for the last three years, has had the chance of driving away with a brand new vehicle.

'I'm so excited; this will

change my life forever!' said Mpondo, who is retired.

'I buy the Daily Dispatch every day and I entered the competition every day. I'm an avid reader. My grandchild will use the car to take the children to school.'

Mpondo was in shock when he heard the news.

'I phoned my daughter in Mpumalanga and she was elated. I'm going to take a photo to send to her.'

'This is the first time I've ever won a competition.'

His name was picked from

a box of thousands of entry forms at the Dispatch offices on Tuesday afternoon.

Dispatch editor Cheri-Ann James said: 'The Win-A-Car competition is probably one of our most popular giveaways and draws thousands of entries every year.'

'We thank Ronnie's Motors for partnering with us to gift one lucky Daily Dispatch reader a brand new Suzuki Ertiga.'

'We have seen how this

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