

SPECIAL TRIBUNAL OF SOUTH AFRICA
Judgment summary

<i>Special Investigating Unit and Another v Maczola Tours CC and Others</i>	
URL	https://lawlibrary.org.za/akn/za/judgment/zast/2022/43/eng@2022-10-19
Citations	(NW01/2020) [2022] ZAST 43
Date of judgment	19 October 2022
Keyword(s): ¹	Application, excessive, claims, transport, transportation services, contract, monetary relief, oppose, tribunal, heads of argument, judicial case management, irregularities, appointment, overpayment, service providers, tender, investigation, prescription, dispute of fact, proper service
Case type ²	Application
Result	Claim against first respondent was successful
Flynote ³	Law of Contracts – fraudulent conduct – the Special Tribunal is permitted to award monetary relief for the commission of fraudulent conduct
Legislation and International Instruments ⁴	<ul style="list-style-type: none"> ● Section 2 of the Special Investigating Units and Special Tribunal Act ● Sections 11(d) and 12(3) of the Prescription Act
Cases cited as authority ⁵	<ul style="list-style-type: none"> ● Room Hire Co (Pty) Ltd v Jeppe Street Mansions (Pty) Ltd 1949 (3) SA 1155 (T) ● Stellenbosch Farmers' Winery Ltd v Stellenvale Winery (Pty) Ltd 1957 (4) SA 234 (C)
Facts ⁶	The applicants sought a monetary judgement against the respondents arising from a tender issued by the North West Department of Public Works Roads and Transport (the Department) for the provision of learner transportation services (the Services). The first respondent, Maczola Tours CC (Maczola) successfully applied for the tender and was awarded a contract (Transport Contract). When the Transport Contract expired in 2015, Maczola continued providing the Services on a

¹ Clarify the type of issues that come up in the case.

² Whether Trial, Application or Appeal.

³ **Area of law** - topic – subtopic.

⁴ Legislation/ International instrument title and section numbers.

⁵ List of cases considered to be important precedent (case name and citation).

⁶ Brief facts about the case (max 150 words).

	<p>month-to-month basis and on the same contractual terms until June 2017. Following investigations conducted by the first applicant, the Special Investigating Unit (SIU), it was established that Maczola had inflated the kilometres travelled when rendering the Services and had claimed excessive payments from the Department, resulting in it unlawfully benefitting an excess of R180 793.20. The respondents denied the alleged claims and contended that the kilometres claimed were verified and approved by the Department, and raised a number of preliminary points.</p>
Summary ⁷	<p>The Tribunal was asked to consider three preliminary points, namely the lack of proper service on the respondents, prescription, and dispute of fact between the parties. The Tribunal was also asked to determine whether the applicants had made out a proper case for the monetary relief sought.</p>
Decision/ Judgment ⁸	<p>The application was successful, and costs were awarded. The Tribunal found that the applicant's claim had not prescribed, and the Maczola was ordered to pay the second applicant the agreed or proved amount by which Maczola had excessively claimed in respect of the Transport Contract. The applicants were also ordered to file a supplementary affidavit to explain how the amounts in the monetary judgement sought against the respondents, were determined.</p>
Basis of the decision ⁹	<p>While the respondents had claimed that the applicants had failed to effect proper service of the application on them, the Tribunal found this complaint to not only be frivolous and vexatious but also academic. The respondents intended to oppose the application and the Tribunal was therefore satisfied that they had knowledge of the application, and dismissed this preliminary point.</p> <p>The second preliminary point raised by the respondents regarding prescription was also dismissed. The Tribunal found that prescription only started running in 2019 when the SIU's investigations had been concluded and therefore the claim fell within the three-year period contemplated by the Prescription Act.</p> <p>The respondents also contended that the application ought to be dismissed due to a dispute of fact on paper; however, failed to provide evidence of this. Therefore, the Tribunal dismissed this</p>

⁷ Summary of the determination of legal questions and/or grounds of appeal (between 150-250 words).

⁸ A brief summary of the ruling/judgment of the court (max 100 words).

⁹ A 1-2 sentence summary of the basis of the decision (i.e. which legal rules were relied on).

	<p>preliminary point, too.</p> <p>On the merits of the case, the Tribunal found that respondents had simply made bald allegations regarding the excessive kilometres it had claimed, by simply submitting that it had been verified by the department, without providing any proof of the verification. The Tribunal found that the allegations that the kilometres had been exaggerated were undisputed. However, the Tribunal found that the applicants had not provided any explanations regarding how they determined the amount they had sought from the respondents, and had also not pleaded the basis on which they sought to impute liabilities on the second to fifth respondents. The Tribunal held that under these circumstances, only the claim against Maczola was successful.</p>
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