

SPECIAL TRIBUNAL OF SOUTH AFRICA
Judgment summary

<i>The Special Investigating Unit v The Alfred Nzo Local Municipality and Others</i>	
URL	https://lawlibrary.org.za/akn/za/judgment/zast/2023/8/eng@2023-04-14
Citations	[2023] ZAST 8 (14 April 2023)
Date of judgment	14 April 2023
Keyword(s):	Special Tribunal, Special Investigating Unit, order, unlawful, contracts, rental, assets, application, action, amend, pleadings, discretion, injustice, lacuna, summons, defective, non-compliance, notice, objection, proper service, prejudice, cost order
Case type	Application
Result	Granted
Flynote	Civil Procedure - application of the Uniform Rules to Tribunal proceedings - a party opposing an application must establish appropriate circumstances exist to justify the exercise of the Tribunal's discretion to invoke the Uniform Rules it seeks to rely upon
Legislation and International Instruments	<ul style="list-style-type: none"> ● Rules 28(1), 4(1)(a) and 17(4) of the Uniform Rules of the Court ● Tribunal Rule 15 ●
Cases cited as authority	<ul style="list-style-type: none"> ● N/a
Facts	In the main action, the plaintiff, the Special Investigating Unit (SIU), sought an order declaring unlawful and setting aside contracts concluded between the first and second defendants for the rental of assets. The SIU later brought an application seeking several amendments to its particulars of claim, relating mainly to the correction of the citation of the second defendant (Amendment Application). Kwane Capital (Pty) Ltd (Kwane Capital), a party not cited in the main action, opposed the Amendment Application.
Summary	Kwane Capital relied on Tribunal Rule 28(1) to invoke the application of the Uniform Rules to oppose the Amendment Application on the following grounds: <ol style="list-style-type: none"> 1. that the summons was defectively served on non-existent entities; 2. that there was no proper service of summons on Kwane Capital; and 3. that it was prevented from raising a special plea

	<p>due to the defective service.</p> <p>The Special Tribunal was asked to exercise its discretion in determining whether Kwane Capital could rely on the Uniform Rules it invoked, by considering whether the grounds of objection raised by Kwane Capital adequately established appropriate circumstances to justify this.</p>
Decision/ Judgment	The Special Tribunal dismissed Kwane Capital's grounds of objection and the Amendment Application was granted.
Basis of the decision	<p>The Special Tribunal found that Kwane Capital's grounds of objection had no merit. Despite Kwane Capital's submission that the summons was defectively served on non-existent entities and that the summons was not properly served, Kwane Capital did in fact receive the notice of the main action and had accordingly responded. Furthermore, Kwane Capital's complaint that it was unable to file a special plea was unfounded as it would still be able to do so once the SIU had amended its particulars of claims and properly cited Kwane Capital. The Special Tribunal, therefore, found that Kwane Capital would not suffer any prejudice as a result of the SIU's proposed amendments and that the circumstances did not justify the invocation of the Uniform Rules on which Kwane Capital relied in its objection.</p> <p>The Special Tribunal also ordered Kwane Capital to pay the costs of its opposition as the grounds of objection raised lacked merit and Kwane Capital had unnecessarily delayed the proceedings.</p>
Reported by Date	African Legal Information Institute (AfricanLII)