



JUTA'S ADVANCE NOTIFICATION SERVICE

JULY 2019

Dear South African Law Reports and Criminal Law Reports subscriber

Herewith the cases in the July 2019 law reports

JUDGMENTS OF INTEREST IN THE JULY 2019 EDITIONS OF THE SALR AND SACR LAW REPORTS. SEE ALSO, FURTHER BELOW, THE TABLE OF CASES FOR THE BOTSWANA LAW REPORTS 2016 (3) AND BURRELL'S INTELLECTUAL PROPERTY LAW REPORTS 2017 and 2018 CASES.

Click on the case name to download the original judgment.

SOUTH AFRICAN LAW REPORTS

Constitutionality of customary-law marriage requirement that bride be handed over to bridegroom's family

In a dispute over who was entitled to bury the deceased, the High Court found that it was no longer an essential prerequisite for the validation and existence of a customary-law marriage that the bride be handed over to the bridegroom's family. The custom imposing such a requirement, it found, was inherently discriminatory. *LS v RL* 2019 (4) SA 50 (GJ).

'Poverty' as ground of unfair discrimination

The High Court found that the South African Police Service's human resources allocation policy in the Western Cape resulted in unfair discrimination against black and poor people. In reaching this conclusion the court confirmed that 'poverty' amounted to a 'prohibited ground' of discrimination under the Equality Act (4 of 2000). *Social Justice Coalition and Others v Minister of Police and Others* 2019 (4) SA 82 (WCC).

Magistrate's judgment rewritten by attorney with approval of magistrate

A magistrate hearing an action for damages for unlawful arrest found in favour of the claimant. However, it came to light that the final judgment handed down by the magistrate had in fact been drafted by the attorney of the claimant with the magistrate's approval. In review proceedings before it, the High Court found the magistrate concerned to have committed misconduct in breach of the requirement that judicial officers act with impartiality and independence. The High Court set aside the judgment. *Minister of Police v Vowana and Another* 2019 (4) SA 297 (ECM)

SOUTH AFRICAN CRIMINAL LAW REPORTS

What is an appropriate sentence for possession of child pornography?

The appellant was convicted of 18 644 counts of possessing child pornography, much of which constituted hard-core and violent pornography involving babies, toddlers and teenagers. The court held that, although not the manufacturer thereof, his mere possession created a market for the illegal industry, and every image reflected the sexual violation of and impairment of dignity of a child, each time it was viewed. His personal history of childhood abuse was a mitigating factor, however, and his 15-year sentence was reduced to 10 years.
S v Beale 2019 (2) SACR 19 (WCC)

Fundamental rights of children in detention

Two-year-old twins were taken by the police to the cell where their mother was unlawfully being detained and kept overnight, the mother having to breastfeed them. Other women older than 18 years also occupied the cell. The court held that where the detention of a mother was in violation of her constitutional rights and unlawful, the children's rights were also violated and their detention unlawful. Further, even if the detention of a mother were lawful, the detention of her minor children with her was unconstitutional if in violation of the provisions of s 28(1) of Constitution. Afrika and Others v Minister of Police 2019 (2) SACR 77 (GP)

Presumption that owner of vehicle was driver thereof not applicable to trailer in moving violations

The presumption in s 73(1) of Act National Road Traffic Act 93 of 1996 that the owner of a motor vehicle was the presumed driver thereof, with respect to moving violations, was not applicable to the owner of a trailer. Different considerations applied in respect of the presumption in s 73(2) relating to stationary violations. Brackenfell Trailer Hire v Minister of Transport 2019 (2) SACR 62 (WCC)

WE WELCOME YOUR FEEDBACK

Please send any comments or queries to lawreports@iuta.co.za.

Kind Regards

The Juta Law Reports Team

SOUTH AFRICAN LAW REPORTS

JULY 2019

TABLE OF CASES

- Barker v Bishops Diocesan College and Others 2019 (4) SA 1 (WCC)
- Cape Gate (Pty) Ltd and Others v Eskom Holdings (Soc) Ltd and Others 2019 (4) SA 14 (GJ)
- LS v RL 2019 (4) SA 50 (GJ)
- Mbele v Road Accident Fund 2019 (4) SA 65 (WCC)
- Pine Glow Investments (Pty) Ltd and Others v Brick-on-Brick Property and Others 2019 (4) SA 75 (MN)
- Social Justice Coalition and Others v Minister of Police and Others 2019 (4) SA 82 (WCC)
- Symons NO and Another v Rob Roy Investments CC t/a Assetsure 2019 (4) SA 112 (KZP)
- Bergrivier Municipality v Van Ryn Beck 2019 (4) SA 127 (SCA)

- BF v RF 2019 (4) SA 145 (GJ)
- Gora v Kingswood College and Others 2019 (4) SA 162 (ECG)
- International Fruit Genetics LLC v Redelinghuys and Others NNO 2019 (4) SA 174 (WCC)
- Parktown High School for Girls v Emeran and Another 2019 (4) SA 188 (SCA)
- Tembu Convenience Centre CC and Another v City of Johannesburg and Others 2019 (4) SA 194 (SCA)
- Independent Institute of Education (Pty) Ltd v KwaZulu-Natal Law Society and Others 2019 (4) SA 200 (KZP)
- S v Liesching and Others 2019 (4) SA 219 (CC)
- Cloete and Another v S and A Similar Application 2019 (4) SA 268 (CC)
- Emakhasaneni Community and Others v Minister of Rural Development and Land Reform and Others 2019 (4) SA 286 (LCC)
- Minister of Police v Vowana and Another 2019 (4) SA 297 (ECM)
- Commissioner, South African Revenue Service v Digicall Solutions (Pty) Ltd 2019 (4) SA 312 (SCA)

FLYNOTES

BARKER v BISHOPS DIOCESAN COLLEGE AND OTHERS (WCC)

YEKISO J, STEYN J and SCHIPPERS J
2016 NOVEMBER 21

Costs—Security for costs—Peregrine plaintiff—Private individual—Court’s discretion to order security—Plaintiffs, foreign-based parents and their son, instituting action against incolae—Son pleading poverty in resisting order for provision of security—Stifling of claim—Court entitled to consider all son’s potential sources of funding, including parents—Appeal against order directing him to furnish security dismissed.

CAPE GATE (PTY) LTD AND OTHERS v ESKOM HOLDINGS (SOC) LTD AND OTHERS (GJ)

MAKUME J, VAN DER LINDE J and KEIGHTLY J
2018 NOVEMBER 8

Electricity—Supply—Eskom—Duty to supply end users where municipal intermediary defaulting on Eskom debt—Right of end user to enforce supply—User having public-law right to electricity supply, directly enforceable against Eskom—Eskom’s decision to interrupt supply potentially reviewable under Promotion of Administrative Justice Act 3 of 2000.

Electricity—Supply—Termination—Remedy—Eskom deciding to cut off supply to delinquent municipality—Court declaring intragovernmental dispute—Dispute referred back to Eskom and municipality for resolution within six months, failing which Eskom’s decision to terminate may be set down for review—Constitution, s 41(3), s 41(4).

LS v RL (GJ)

MOKGOATHLENG J
2018 NOVEMBER 3

Customary law—Customary marriage—Requirements—Handing-over of the bride—Custom declared discriminatory and unconstitutional—No longer requirement for existence of customary marriage—Recognition of Customary Marriages Act 120 of 1998, s 3(1).

MBELE v ROAD ACCIDENT FUND (WCC)

LE GRANGE J, GAMBLE J and SIEVERS AJ
2019 FEBRUARY 1

Motor vehicle accident—Compensation—Claim against Road Accident Fund—Definition of ‘motor vehicle’—72-ton ‘reach stacker’ used to lift and move containers around harbour—Differing from forklift in that designed to be used on roads—Qualifying as ‘motor vehicle’ for purposes of s 1 of Road Accident Fund Act 56 of 1996.

PINE GLOW INVESTMENTS (PTY) LTD AND OTHERS v BRICK-ON-BRICK PROPERTY AND OTHERS (MN)

LEGODI JP
2018 DECEMBER 18

Practice—Judgments and orders—Suspension of execution—Application for rescission of court order does not automatically suspend its operation—Party fearing irreparable harm from execution having remedy in rule 45A of Uniform Rules.

Practice—Judgments and orders—Suspension of operation—Application for its rescission not automatically suspending order of court—Judgments holding otherwise wrongly decided.

SOCIAL JUSTICE COALITION AND OTHERS v MINISTER OF POLICE AND OTHERS (WCC)

DOLAMO J and BOQWANA J
2018 DECEMBER 14

Equality legislation—Discrimination—What constitutes—Poverty qualifying as unlisted prohibited ground—Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000, s 1 sv ‘prohibited grounds’ para (b).

SYMONS NO AND ANOTHER v ROB ROY INVESTMENTS CC t/a ASSETSURE (KZP)

PLOOS VAN AMSTEL J
2018 DECEMBER 10

Financial institution—Financial services providers—Duty to investor—Liability of financial advisor for losses incurred by investor—Company recommended by advisor collapsed—Investor made informed decision to invest there—No breach—Collapse triggered by intervention of Reserve Bank—No causation either.

BERGRIVIER MUNICIPALITY v VAN RYN BECK (SCA)

NAVSA AP, ZONDI JA, MATHOPO JA, MOCUMIE JA and EKSTEEN AJA
2019 MARCH 29
[2019] ZASCA 38

Delict—Elements—Negligence—Storm-water system overwhelmed and home flooded—Alleged negligent and wrongful omission to provide effective system.

BF v RF (GJ)

MATOJANE J, SUTHERLAND J and SIWENDU J
2018 JULY 2

Marriage—Divorce—Proprietary rights—Accrual system—Whether Act permitting exclusion from accrual of asset not possessed at commencement of marriage, and not later acquired by virtue of an asset possessed at commencement—Matrimonial Property Act 88 of 1984, s 4(1)(b)(ii).

GORA v KINGSWOOD COLLEGE AND OTHERS (ECG)

PICKERING J
2019 MARCH 15

Delict—Elements—Negligence—What constitutes—Classroom left unattended for one hour—In that time plaintiff provoking, and being struck in face by fellow pupil—No negligence found.

Education—School—Delicts—Liability of school—Classroom left unattended for one hour—In that time plaintiff provoking, and being struck in face by fellow pupil—No negligence found.

INTERNATIONAL FRUIT GENETICS LLC v REDELINGHUYS AND OTHERS NNO (WCC)

ROGERS J
2017 FEBRUARY 7

Practice—Judgments and orders—Foreign judgment—Enforcement—Ministerial permission for enforcement—Requirement of where judgment or order arising from act or transaction connected with possession of 'matter or material'—Whether vines and grapes were 'matter or material'—Partial enforcement of foreign order—Protection of Businesses Act 99 of 1978, ss 1(1)(a) and 1(3).

PARKTOWN HIGH SCHOOL FOR GIRLS v EMERAN AND ANOTHER (SCA)

CACHALIA JA, LEACH JA, TSHIQI JA, MOKGOHLOA AJA and ROGERS AJA
2019 MARCH 14
[2019] ZASCA 10

Education—School—Delicts—Liability of school—While attending fashion show at public school, table top falling onto and injuring boy's hand—Whether show a 'school activity' or 'enterprise or business', and thence whether state or school liable—South African Schools Act 84 of 1996, ss 36 and 60.

TEMBU CONVENIENCE CENTRE CC AND ANOTHER v CITY OF JOHANNESBURG AND OTHERS (SCA)

PONNAN JA, TSHIQI JA, SALDULKER JA, MOKGOHLOA AJA and ROGERS AJA
2018 NOVEMBER 28
[2018] ZASCA 160

Local authority—Streets and roads—Closure of part of street—Creation of bus lane bounded by rumbling stones and solid island—Section governing—Local Government Ordinance 17 of 1939, ss 66(1)(b)(i) and 67(1).

INDEPENDENT INSTITUTE OF EDUCATION (PTY) LTD v KWAZULU-NATAL LAW SOCIETY AND OTHERS (KZP)

SIBIYA AJ
2019 FEBRUARY 22

Attorney—Admission and enrolment—Admission—Requirements—LLB degree obtained at any university—Constitutionality—Legal Practice Act 28 of 2014, s 26(1)(a).

S v LIESCHING AND OTHERS (CC)

ZONDO DCJ, CAMERON J, FRONEMAN J, JAFTA J, KATHREE-SETILOANE AJ, KOLLAPEN AJ, MADLANGA J, MHLANTLA J, THERON J and ZONDI AJ
2018 AUGUST 29
[2018] ZACC 25

Appeal—Leave to appeal—Refusal by Supreme Court of Appeal—Referral by President of Supreme Court of Appeal for reconsideration—'Exceptional circumstances'—Meaning of—Superior Courts Act 10 of 2013, s 17(2)(f).

CLOETE AND ANOTHER v S AND A SIMILAR APPLICATION (CC)

MOGOENG CJ, BASSON AJ, CAMERON J, DLODLO AJ, FRONEMAN J, GOLIATH AJ, KHAMPEPE J, MHLANTLA J, PETSE AJ and THERON J

2019 FEBRUARY 19

[2018] ZACC 6

Appeal—To Constitutional Court—Leave to appeal—Against decision of President of Supreme Court of Appeal under s 17(2)(f) of Superior Courts Act whether to refer decision of SCA refusing leave to appeal—Normally no appeal lying against such decision of President—Superior Courts Act 10 of 2013.

EMAKHASANENI COMMUNITY AND OTHERS v MINISTER OF RURAL DEVELOPMENT AND LAND REFORM AND OTHERS (LCC)

CANCA AJ and ASSESSOR

2019 MARCH 6

Land—Land reform—Restitution—Purchase of land by state for restitution—Compensation of owner—Jurisdiction of Land Claims Court to determine compensation where Office of Valuer-General having valued property in question—Court retaining power to determine compensation and not bound by valuation—Property Valuation Act 17 of 2014, s 12(1)(a).

Land—Land reform—Land Claims Court—Jurisdiction—Power to determine or approve compensation upon expropriation or acquisition—Effect on such power of Valuer-General's valuation under Property Valuation Act—Restitution of Land Rights Act 22 of 1994, s 22(1)(b); Property Valuation Act 17 of 2014, s 12(1)(a).

MINISTER OF POLICE v VOWANA AND ANOTHER (ECM)

MALUSI J and JOLWANA J

2019 FEBRUARY 14

Practice—Judgments and orders—Judgments—Judgment rewritten by attorney with approval of magistrate—Independence and impartiality of judicial officers—Proceedings set aside on review.

Magistrates' court—Civil proceedings—Judgments and orders—Judgment—Salutary practice that delivery of reserved judgments be done in open court.

COMMISSIONER, SOUTH AFRICAN REVENUE SERVICE v DIGICALL SOLUTIONS (PTY) LTD (SCA)

NAVSA JA, MAJIEDT JA, SWAIN JA, ZONDI JA and MOKGOHLOA AJA

2018 SEPTEMBER 28

[2018] ZASCA 137

Revenue—Income tax—Scheme for avoidance of—Change in shareholding of company solely or mainly for purpose of utilising assessed loss—Requirements for disallowing utilising assessed loss—Where successive changes in company's shareholding in consecutive tax years—Purpose requirement may be satisfied by reference to any year of assessment in which income received—Where sole purpose of first change to preserve and utilise assessed loss, income received from second change may, as question of fact, be indirect result of first change—Income Tax Act 58 of 1962, s 103(2)(b)(A)(aa).

SOUTH AFRICAN CRIMINAL LAW REPORTS

JULY 2019

TABLE OF CASES

- Director of Public Prosecutions, KwaZulu-Natal v Ramdass 2019 (2) SACR 1 (SCA)
- S v Beale 2019 (2) SACR 19 (WCC)
- National Director of Public Prosecutions v Theron and Others 2019 (2) SACR 32 (WCC)
- S v Kopsani and Another 2019 (2) SACR 53 (ECG)
- Brackenfell Trailer Hire (Pty) Ltd and Others v Minister of Transport 2019 (2) SACR 62 (WCC)
- Afrika and Others v Minister of Police 2019 (2) SACR 77 (GP)
- Phaahla v Minister of Justice and Correctional Services and Another 2019 (2) SACR 88 (CC)

FLYNOTES

DIRECTOR OF PUBLIC PROSECUTIONS, KWAZULU-NATAL v RAMDASS (SCA)

WALLIS JA, SWAIN JA and MOKGOHLOA AJA
2019 MARCH 14, 28
[2019] ZASCA 23

Appeal—Reservation of question of law—Application for in terms of s 319 of Criminal Procedure Act 51 of 1977—Refusal of by trial judge in High Court—Challenge to refusal to be by way of s 317(5) of Act by petition to President of Supreme Court of Appeal.

Appeal—Reservation of question of law—Application for in terms of s 319 of Criminal Procedure Act 51 of 1977—Refusal of by trial judge in High Court—Challenge to refusal—Proper interpretation of s 17(2)(f) of Superior Courts Act 10 of 2013.

S v BEALE (WCC)

STEYN J and SIEVERS AJ
2019 MAY 3

Sexual offences—Child pornography—Possession of in contravention of s 24B(1)(a) of Films and Publications Act 65 of 1996—Sentence—Factors to be taken into account—Fact of possession creating market for illegal industry, and every image reflecting sexual violation of and impairment of dignity of child each time viewed.

Sexual offences—Child pornography—Possession of in contravention of s 24B(1)(a) of Films and Publications Act 65 of 1996—Sentence—Accused convicted of 18 644 counts of possession of child pornography and sentenced to 15 years' imprisonment—Court taking into consideration that appellant also victim of abuse as child—Sentence reduced to 10 years' imprisonment.

NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS v THERON AND OTHERS (WCC)

BINNS-WARD J
2018 OCTOBER 30; NOVEMBER 8

Prevention of crime—Forfeiture order—Prevention of Organised Crime Act 121 of 1998—Immovable property subject to mortgage—Preservation order simpliciter in respect of immovable property resulting in preservation of property subject to its encumbrances—In circumstances no need for application in terms of s 52 to protect interest of holder of mortgage.

Search and seizure—Unlawful search—Effect of order of invalidity of provisions of Drugs and Drug Trafficking Act 140 of 1992 by Constitutional Court—Order prospective and not

applicable to person opposing forfeiture application in terms of s 48 of Prevention of Organised Crime Act 121 of 1998 where search carried out before declaration of invalidity.

S v KOPSANI AND ANOTHER (ECG)

LOWE J and BLOEM J

2019 FEBRUARY 20; MARCH 14

Theft—Proof of—Circumstantial evidence—Reasonable inference—Possession, one month later, of two brand-new vehicles (of model not yet released) stolen from vehicle manufacturer—Such evidence not per se justifying inference that persons in possession of vehicles had stolen them—Conviction of theft changed to contravention of s 36 of General Law Amendment Act 62 of 1955.

BRACKENFELL TRAILER HIRE (PTY) LTD AND OTHERS v MINISTER OF TRANSPORT (WCC)

BINNS-WARD J

2018 NOVEMBER 22; 2019 FEBRUARY 25; MARCH 20

Traffic offences—Moving violations in contravention of National Road Traffic Act 93 of 1996—Proof of—Presumption in s 73(1) of Act—Application of to owner of trailer hired out to customer—Presumption not applicable to owner of trailer—Different considerations applying in respect of presumption in s 73(2) relating to stationary violations.

AFRIKA AND OTHERS v MINISTER OF POLICE (GP)

MABESELE J

2018 DECEMBER 4; 2019 FEBRUARY 12

Arrest—Detention of child—Unlawfulness of—Two-year-old twins taken by police to cell where mother detained and kept overnight, mother having to breastfeed them—Where detention of mother in violation of her constitutional rights and unlawful, children's rights also violated and their detention unlawful.

Fundamental rights—Rights of children—Detention of—Two-year-old twins taken by police to cell where mother detained and kept overnight, mother having to breastfeed them—Other women older than 18 years also occupying cell—Even if detention of mother lawful, detention of minor children with her unconstitutional if in violation of provisions of s 28(1) of Constitution.

PHAAHLA v MINISTER OF JUSTICE AND CORRECTIONAL SERVICES AND ANOTHER (CC)

MOGOENG CJ, BASSON AJ, CAMERON J, DLODLO AJ, FRONEMAN J, GOLIATH AJ, KHAMPEPE J, MHLANTLA J, PETSE AJ and THERON J

2018 NOVEMBER 8; 2019 MAY 3

[2019] ZACC 18

Prisoner—Parole—Eligibility of prisoner for placement on—Provisions of ss 136(1) and 73(6)(b)(iv) of Correctional Services Act 111 of 1998, in adopting date of sentence rather than commission of offence for coming into operation of harsher parole regime, inconsistent with ss 9(1) and (3) and s 35(3)(n) of Constitution—Parliament required to amend provisions within 24 months.

Prisoner—Parole—Eligibility of prisoner for placement on—Rules lengthening parole non-eligibility periods resulting in increase of severity of imprisonment and thereby imposing more severe 'punishment' within ambit of s 35(3)(n) of Constitution—Correctional Services Act 111 of 1998, ss 136(1) and 73(6)(b)(iv).

2016 (3)

TABLE OF CASES

- Adekanmbi v University of Botswana [2016] 3 BLR 182 (CA)
- Altina t/a Chamill Construction (Pty) Ltd, Brickbuild (Pty) Ltd t/a Panda v [2016] 3 BLR 189 (CA)
- Attorney-General and Another, Motsamai v [2016] 3 BLR 578 (HC)
- Attorney-General and Another, Motswakgotleng v [2016] 3 BLR 572 (HC)
- Attorney-General and Another; In Re: Attorney-General and Another v Mudongo, Mudongo v [2016] 3 BLR 108 (CA)
- Attorney-General and Others, Molokwe v [2016] 3 BLR 42 (HC)
- Attorney-General and Others, Motaung v [2016] 3 BLR 316 (HC)
- Attorney-General v Tshuma [2016] 3 BLR 141 (CA)
- Attorney-General, Laleca (Pty) Ltd v [2016] 3 BLR 364 (HC)
- Attorney-General, Magapatona v [2016] 3 BLR 148 (CA)
- Attorney-General, Masaseng and Others v [2016] 3 BLR 245 (HC)
- Attorney-General, Monaheng v [2016] 3 BLR 517 (HC)
- Automated Security (Pty) Ltd t/a G4S Alarms, Goldwing (Pty) Ltd t/a Cell City v [2016] 3 BLR 305 (HC)
- Balosang v The State; In Re: The State v Balosang [2016] 3 BLR 427 (HC)
- Beekman, Nthibane v [2016] 3 BLR 64 (HC)
- Behroz Investments (Pty) Ltd v Gaolaolwe and Another [2016] 3 BLR 383 (HC)
- Blue Star Diamond (Pty) Ltd, Mpatisang v [2016] 3 BLR 508 (IC)
- Boemo and Others v G4S Cleaning Services [2016] 3 BLR 418 (IC)
- Boikanyo and Another, The State v [2016] 3 BLR 26 (HC)
- Bontshetse v First National Bank of Botswana Ltd; In Re: First National Bank of Botswana Ltd v Bontshetse [2016] 3 BLR 195 (HC)
- Botswana Land Boards and Local Authorities Workers Union and Others v Director of Public Service Management and Others [2016] 3 BLR 440 (HC)
- Botswana Life Insurance Ltd and Another, Mapiti v [2016] 3 BLR 489 (HC)
- Botswana National Youth Council v Chube [2016] 3 BLR 398 (CA)
- Botswana Oxygen (Pty) Ltd t/a Afrox Botswana v Lencony Botswana (Pty) Ltd and Another [2016] 3 BLR 13 (HC)
- Botswana Public Employees Union and Others v Ministry of Environment, Wildlife and Tourism and Another [2016] 3 BLR 430 (IC)
- BP Botswana (Pty) Ltd; In Re: Puma Energy (Pty) Ltd (Formerly BP Botswana (Pty) Ltd) v Tati Motors (Pty) Ltd t/a 9 Miles Service Station and Another, Tati Motors (Pty) Ltd t/a 9 Miles Service Station v [2016] 3 BLR 224 (HC)
- Brickbuild (Pty) Ltd t/a Panda v Altina t/a Chamill Construction (Pty) Ltd [2016] 3 BLR 189 (CA)
- Brown Khata & Sons (Pty) Ltd v Thebe and Others [2016] 3 BLR 263 (HC)
- Chihope v The State [2016] 3 BLR 161 (CA)
- Chube, Botswana National Youth Council v [2016] 3 BLR 398 (CA)
- Commander, Botswana Defence Force and Others, Tihapisang and Another v [2016] 3 BLR 369 (HC)
- Commissioner General of the Botswana Unified Revenue Service, Debswana Diamond Company (Pty) Ltd v [2016] 3 BLR 123 (CA)
- Commissioner General of the Botswana Unified Revenue Service, Knight Frank Botswana (Pty) Ltd v [2016] 3 BLR 403 (CA)
- CPP Botswana (Pty) Ltd, Msapenda v [2016] 3 BLR 553 (IC)
- Crates & Pallets Botswana (Pty) Ltd and Another, Mbaakanyi v [2016] 3 BLR 285 (HC)
- Debswana Diamond Company (Pty) Ltd v Commissioner General of the Botswana Unified Revenue Service [2016] 3 BLR 123 (CA)

- Debswana Diamond Company (Pty) Ltd, Phepa Clean Varsity (Pty) Ltd v [2016] 3 BLR 451 (HC)
- Debswana Pension Fund and Another, Odisang v [2016] 3 BLR 260 (HC)
- Director of Public Prosecutions v IRB Transport (Pty) Ltd and Others [2016] 3 BLR 321 (HC)
- Director of Public Prosecutions v Khato Civils (Pty) Ltd and Others [2016] 3 BLR 253 (HC)
- Director of Public Prosecutions, Lesego v [2016] 3 BLR 525 (HC)
- Director of Public Service Management and Others, Botswana Land Boards and Local Authorities Workers Union and Others v [2016] 3 BLR 440 (HC)
- Dynasty Ventures (Pty) Ltd t/a A to Z Hardware v Phoenix Botswana Assurance Co (Pty) Ltd [2016] 3 BLR 114 (CA)
- E K Building Construction (Pty) Ltd v Kweneng District Council [2016] 3 BLR 564 (HC)
- Estates Late Phiri and Others, Hopkins v [2016] 3 BLR 535 (HC)
- First National Bank of Botswana Limited, Tours of Africa (Pty) Ltd and Another v [2016] 3 BLR 166 (CA)
- First National Bank of Botswana Ltd v Lopez Holdings (Pty) Ltd and Another [2016] 3 BLR 414 (HC)
- First National Bank of Botswana Ltd; In Re: First National Bank of Botswana Ltd v Bontshetse, Bontshetse v [2016] 3 BLR 195 (HC)
- G4S Cleaning Services, Boemo and Others v [2016] 3 BLR 418 (IC)
- Galakwe v Ghanzi Land Board [2016] 3 BLR 405 (CA)
- Gaolaolwe and Another, Behroz Investments (Pty) Ltd v [2016] 3 BLR 383 (HC)
- Gaosenye v Modise [2016] 3 BLR 498 (IC)
- Ghanzi Land Board, Galakwe v [2016] 3 BLR 405 (CA)
- Goldwing (Pty) Ltd t/a Cell City v Automated Security (Pty) Ltd t/a G4S Alarms [2016] 3 BLR 305 (HC)
- Hodges Resources Ltd; In Re: Hodges Resources Ltd v Jaquar Ventures (Pty) Ltd and Others, Jaquar Ventures (Pty) Ltd and Another v [2016] 3 BLR 69 (HC)
- Hopkins v Estates Late Phiri and Others [2016] 3 BLR 535 (HC)
- IRB Transport (Pty) Ltd and Others, Director of Public Prosecutions v [2016] 3 BLR 321 (HC)
- Jacob, Saudu v [2016] 3 BLR 388 (HC)
- Jaquar Ventures (Pty) Ltd and Another v Hodges Resources Ltd; In Re: Hodges Resources Ltd v Jaquar Ventures (Pty) Ltd and Others [2016] 3 BLR 69 (HC)
- Jeremia t/a Jeremia Attorneys v Trans Makgadikgadi Investment (Pty) Ltd; In Re: Trans Makgadikgadi Investment (Pty) Ltd v Jeremia and Another [2016] 3 BLR 346 (HC)
- JNG Express (Pty) Ltd v Raborophi [2016] 3 BLR 10 (HC)
- Kader v Kader; In Re: Kader v Kader [2016] 3 BLR 102 (CA)
- Kader; In Re: Kader v Kader, Kader v [2016] 3 BLR 102 (CA)
- Kenzo Enterprises and Others, Ntlhe v [2016] 3 BLR 204 (HC)
- Keoraletse, The State v [2016] 3 BLR 362 (HC)
- Kgalagadi Breweries (Pty) Ltd, Motholmok Investments (Pty) Ltd v [2016] 3 BLR 527 (HC)
- Kgotla v Oageng [2016] 3 BLR 332 (HC)
- Khato Civils (Pty) Ltd and Others, Director of Public Prosecutions v [2016] 3 BLR 253 (HC)
- Knight Frank Botswana (Pty) Ltd v Commissioner General of the Botswana Unified Revenue Service [2016] 3 BLR 403 (CA)
- Kole v University of Botswana [2016] 3 BLR 50 (IC)
- Kweneng District Council, E K Building Construction (Pty) Ltd v [2016] 3 BLR 564 (HC)
- Laleca (Pty) Ltd v Attorney-General [2016] 3 BLR 364 (HC)
- Lencony Botswana (Pty) Ltd and Another, Botswana Oxygen (Pty) Ltd t/a Afrox Botswana v [2016] 3 BLR 13 (HC)
- Lesego v Director of Public Prosecutions [2016] 3 BLR 525 (HC)
- Lily Builders (Pty) Ltd, Mido Construction (Pty) Ltd v [2016] 3 BLR 409 (HC)
- Lopez Holdings (Pty) Ltd and Another, First National Bank of Botswana Ltd v [2016] 3 BLR 414 (HC)
- Mabotseng v Marty Enterprises (Pty) Ltd [2016] 3 BLR 560 (IC)
- Magapatona v Attorney-General [2016] 3 BLR 148 (CA)
- Magongo v Westwood International School [2016] 3 BLR 98 (CA)

- Mapiti v Botswana Life Insurance Ltd and Another [2016] 3 BLR 489 (HC)
- Mapurisa v The State [2016] 3 BLR 32 (HC)
- Marty Enterprises (Pty) Ltd, Mabotseng v [2016] 3 BLR 560 (IC)
- Masaseng and Others v Attorney-General [2016] 3 BLR 245 (HC)
- Materere; In Re: Nkarabang v Materere, Nkarabang v [2016] 3 BLR 500 (HC)
- Mbaakanyi v Crates & Pallets Botswana (Pty) Ltd and Another [2016] 3 BLR 285 (HC)
- Mido Construction (Pty) Ltd v Lily Builders (Pty) Ltd [2016] 3 BLR 409 (HC)
- Ministry of Environment, Wildlife and Tourism and Another, Botswana Public Employees Union and Others v [2016] 3 BLR 430 (IC)
- MM Enterprises (Pty) Ltd and Another v Residential Holdings (Pty) Ltd and Another [2016] 3 BLR 1 (HC)
- Modise, Gaosenye v [2016] 3 BLR 498 (IC)
- Mokgatlhane (Nee Butale), Mokgatlhane v [2016] 3 BLR 299 (HC)
- Mokgatlhane v Mokgatlhane (Nee Butale) [2016] 3 BLR 299 (HC)
- Mokgothu v The State [2016] 3 BLR 510 (HC)
- Molapong and Another v Ross Breeders Botswana [2016] 3 BLR 506 (IC)
- Molepha v The State [2016] 3 BLR 154 (CA)
- Molokwe v Attorney-General and Others [2016] 3 BLR 42 (HC)
- Molwalefe, The State v [2016] 3 BLR 6 (HC)
- Monaheng v Attorney-General [2016] 3 BLR 517 (HC)
- Moseki v Mosiakgabo [2016] 3 BLR 340 (HC)
- Mosiakgabo, Moseki v [2016] 3 BLR 340 (HC)
- Motaung v Attorney-General and Others [2016] 3 BLR 316 (HC)
- Motholmok Investments (Pty) Ltd v Kgalagadi Breweries (Pty) Ltd [2016] 3 BLR 527 (HC)
- Motona and Others v The State [2016] 3 BLR 355 (HC)
- Motsamai v Attorney-General and Another [2016] 3 BLR 578 (HC)
- Motswakgotleng v Attorney-General and Another [2016] 3 BLR 572 (HC)
- Mpatisang v Blue Star Diamond (Pty) Ltd [2016] 3 BLR 508 (IC)
- Msapenda v CPP Botswana (Pty) Ltd [2016] 3 BLR 553 (IC)
- Mudongo v Attorney-General and Another; In Re: Attorney-General and Another v Mudongo [2016] 3 BLR 108 (CA)
- Ncube v Ncube; In Re: Ncube v Ncube [2016] 3 BLR 423 (HC)
- Ncube; In Re: Ncube v Ncube, Ncube v [2016] 3 BLR 423 (HC)
- Nkarabang v Materere; In Re: Nkarabang v Materere [2016] 3 BLR 500 (HC)
- Nkomo v Water Utilities Corporation [2016] 3 BLR 394 (HC)
- Nthibane v Beekman [2016] 3 BLR 64 (HC)
- Ntlhe v Kenzo Enterprises and Others [2016] 3 BLR 204 (HC)
- Oageng, Kgotla v [2016] 3 BLR 332 (HC)
- Odisang v Debswana Pension Fund and Another [2016] 3 BLR 260 (HC)
- Oitatotse and Others v The State [2016] 3 BLR 172 (CA)
- Pheko v University of Botswana [2016] 3 BLR 484 (IC)
- Phepa Clean Varsity (Pty) Ltd v Debswana Diamond Company (Pty) Ltd [2016] 3 BLR 451 (HC)
- Phoenix Botswana Assurance Co (Pty) Ltd, Dynasty Ventures (Pty) Ltd t/a A to Z Hardware v [2016] 3 BLR 114 (CA)
- Raborophi, JNG Express (Pty) Ltd v [2016] 3 BLR 10 (HC)
- Residential Holdings (Pty) Ltd and Another, MM Enterprises (Pty) Ltd and Another v [2016] 3 BLR 1 (HC)
- Ross Breeders Botswana, Molapong and Another v [2016] 3 BLR 506 (IC)
- Saudu v Jacob [2016] 3 BLR 388 (HC)
- Taolo, Tettey v [2016] 3 BLR 292 (HC)
- Tati Motors (Pty) Ltd t/a 9 Miles Service Station v BP Botswana (Pty) Ltd; In Re: Puma Energy (Pty) Ltd (Formerly BP Botswana (Pty) Ltd) v Tati Motors (Pty) Ltd t/a 9 Miles Service Station and Another [2016] 3 BLR 224 (HC)
- Tettey v Taolo [2016] 3 BLR 292 (HC)
- The State v Boikanyo and Another [2016] 3 BLR 26 (HC)

- The State v Keoraletse [2016] 3 BLR 362 (HC)
- The State v Molwalefe [2016] 3 BLR 6 (HC)
- The State, Chihope v [2016] 3 BLR 161 (CA)
- The State, Mapurisa v [2016] 3 BLR 32 (HC)
- The State, Mokgothu v [2016] 3 BLR 510 (HC)
- The State, Molepha v [2016] 3 BLR 154 (CA)
- The State, Motona and Others v [2016] 3 BLR 355 (HC)
- The State, Oitatotse and Others v [2016] 3 BLR 172 (CA)
- The State; In Re: The State v Balosang, Balosang v [2016] 3 BLR 427 (HC)
- Thebe and Others, Brown Khata & Sons (Pty) Ltd v [2016] 3 BLR 263 (HC)
- Tlhapisang and Another v Commander, Botswana Defence Force and Others [2016] 3 BLR 369 (HC)
- Tours of Africa (Pty) Ltd and Another v First National Bank of Botswana Limited [2016] 3 BLR 166 (CA)
- Trans Makgadikgadi Investment (Pty) Ltd; In Re: Trans Makgadikgadi Investment (Pty) Ltd v Jeremia and Another, Jeremia t/a Jeremia Attorneys v [2016] 3 BLR 346 (HC)
- Tsaanang and Another v Zurich Insurance Company Botswana Ltd [2016] 3 BLR 475 (HC)
- Tshuma, Attorney-General v [2016] 3 BLR 141 (CA)
- University of Botswana, Adekanmbi v [2016] 3 BLR 182 (CA)
- University of Botswana, Kole v [2016] 3 BLR 50 (IC)
- University of Botswana, Pheko v [2016] 3 BLR 484 (IC)
- Water Utilities Corporation, Nkomo v [2016] 3 BLR 394 (HC)
- Westwood International School, Magongo v [2016] 3 BLR 98 (CA)
- Zurich Insurance Company Botswana Ltd, Tsaanang and Another v [2016] 3 BLR 475 (HC)

BURRELL'S INTELLECTUAL PROPERTY LAW REPORTS

2017 & 2018

TABLE OF CASES

2017

- Advertising Standards Authority v Herbex (Pty) Ltd 2017 BIP 205 (SCA)
- Bayer Pharma AG v Teva Pharmaceuticals (Pty) Ltd 2017 BIP 33 (CP)
- Cipla Agrimed (Pty) Ltd v Merck Sharp Dohme Corporation 2017 BIP 14 (SCA)
- Cochrane Steel Products (Pty) Ltd v M-Systems Group 2017 BIP 134 (SCA)
- Drywonder (Pty) Ltd v Carpet Dryclean CC 2017 BIP 189 (GP)
- H Mocke Construction (Pty) Ltd v Pexmart CC 2017 BIP 212 (GP)
- Herbal Zone (Pty) Ltd v Infitech Technologies (Pty) Ltd 2017 BIP 172 (SCA)
- Infitech Technologies (Pty) Ltd v Herbal Zone (Pty) Ltd 2017 BIP 151 (WCC)
- Morris Material Handling Ltd v Morris Material Handling SA (Pty) Ltd 2018 BIP 278 (SCA)
- Orica Mining Services SA (Pty) Ltd v Elbroc Mining Products (Pty) Ltd 2017 BIP 1 (SCA)
- Pepsico Inc v Atlantic Industries 2017 BIP 122 (SCA)
- Rostruct Mining (Pty) Ltd v Rosond (Pty) Ltd 2017 BIP 194 (GP)
- Sandvik Intellectual Property AB v Outokumpu OYJ 2017 BIP 44 (CP)
- Tekno-Medical Optik Chirurgie GmbH v Registrar of Trade Marks (No 1) 2017 BIP 106 (GP)
- Tekno-Medical Optik Chirurgie GmbH v Registrar of Trade Marks (No 2) 2017 BIP 119 (GP)
- Tequila Cuervo SA de CV v Fabrication and Light Engineering CC (No 1) 2017 BIP 68 (GP)
- The Philanthropic Collection (Pty) Ltd v Girls & Boys South Africa 2017 BIP 143 (GJ)
- TPN Group (Pty) Ltd v Ebay Inc 2017 BIP 57 (GP)
- Westminster Tobacco Co (Cape Town and London) (Pty) Ltd v Philip Morris Products SA 2017 BIP 74 (SCA)

2018

- Arysta Lifescience South Africa (Pty) Ltd v Farm-AG International (Pty) Ltd 2018 BIP 227 (CP)
- Dinnermates (Tvl) CC v Piquante Brands International (Pty) Ltd 2018 BIP 260 (SCA)
- Morris Material Handling Ltd v Morris Material Handling SA (Pty) Ltd 2018 BIP 278 (SCA)
- Novartis AG v Cipla Medpro (Pty) Ltd 2018 BIP 268 (SCA)
- Nu-World Industries (Pty) Ltd v Strix Ltd 2018 BIP 249 (CP)
- Pexmart CC v H Mocke Construction (Pty) Ltd 2018 BIP 345 (SCA)
- Strix Ltd v Nu-World Industries 2018 BIP 243 (CP)
- Sugarless Company (Pty) Ltd v Quad Energy (Pty) Ltd 2018 BIP 287 (GJ)
- Tequila Cuervo SA de CV v Fabrication and Light Engineering CC (No 2) 2018 BIP 253 (GP)
- Truworths Ltd v Primark Holdings (No 1) 2018 BIP 310 (GP)
- Truworths Ltd v Primark Holdings (No 2) 2018 BIP 320 (SCA)