



# IN THE SUPREME COURT OF SWAZILAND

## JUDGMENT

CASE NO. 18/2014

HELD AT MBABANE

In the matter between:

**BHEKI MAKHUBU**

**1<sup>ST</sup> APPELLANT**

**THULANI RUDOLPH MASEKO**

**2<sup>ND</sup> APPELLANT**

v

**REX**

**RESPONDENT**

Neutral Citation : Bheki Makhubu and Thulani Rudolph Maseko v  
Rex (18/2014) [2014] SZSC 43(03 NOVEMBER  
2014)

Coram : A.M. EBRAHIM J.A., S.A. MOORE J.A., M.C.B.  
MAPHALALA J.A.

Heard : 3 NOVEMBER 2014

Delivered : 3 DECEMBER 2014

**Summary : Record incomplete. Matter adjourned sine die with the consent of both parties.**

## **JUDGMENT**

### **MOORE J.A.**

- [1] The roll for the November 2014 sitting of the Supreme Court of Swaziland was first published on the 3<sup>rd</sup> October 2014. An amended roll was published on the 14<sup>th</sup> October 2014. The instant appeal was listed on the original and the amended roll for hearing on the 3<sup>rd</sup> November 2014 at No. 4 on both rolls.
- [2] Members of this Court observed the following deficiencies in the record of proceedings in the trial court:
- (i) Page 13 of the record reads “(RECORD WAS CUT).”
  - (ii) The judgment of the trial court was not included in the record.
  - (iii) The only Court Order contained in the record mandates that the “2<sup>nd</sup> and 4<sup>th</sup> Accused be remanded in custody till Tuesday the 1<sup>st</sup> April 2014.”

- (iv) The grounds of appeal filed in the Notice of Appeal were totally unrelated to the only Court Order on the record referred to in (iii) above.

[3] This Court having drawn attention to the state of the record, all of the counsel appearing agreed that the appellants could not properly pursue their appeals in the circumstances then obtaining. They also agreed that the parties on both sides needed time to take such steps as were requisite and necessary to ensure that the deficiencies in the record were corrected: so that the Court would be in possession of all the material necessary for a full and fair hearing of the appeals. Having taken a short adjournment for consideration, this Court determined that the matter be adjourned *sine die*.

[4] **ORDER**

It is ordered that:

- (i) The appeals be and are hereby adjourned sine die.
- (ii) The appellants are at liberty to apply to the Registrar of the Supreme Court as soon as a fresh Registrar's Certificate has been issued by the Registrar of the High Court."

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S.A. MOORE  
JUSTICE OF APPEAL

I agree

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A.M. EBRAHIM  
JUSTICE OF APPEAL

I agree

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M.C.B. MAPHALALA  
JUSTICE OF APPEAL

For the 1<sup>st</sup> Appellant : Advocate M.L.M. Maziya  
For the 2<sup>nd</sup> Appellant : Advocate M. Brassey  
Mr. K.D. Ramolefe with him  
For the Crown : Mr. T. Dlamini