



**IN THE SUPREME COURT OF ESWATINI**

**JUDGMENT**

**HELD AT MBABANE**

Civil Appeal No. 77/2016

In the matter between:

**France Du Pont**

**Applicant**

**Versus**

**M.A Ranches (Pty) Ltd  
Sarah Siyaphi Tsabedze  
The Registrar of Deeds  
The Registrar of the High  
Court of Swaziland**

**1<sup>st</sup> Respondent  
2<sup>nd</sup> Respondent  
3<sup>rd</sup> Respondent  
4<sup>th</sup> Respondent**

**The Attorney - General**

**5<sup>th</sup> Respondent**

**In Re:**

**France Du Pont**

**Applicant**

**And**

**M.A Ranches (Pty) Ltd  
Sarah Siyaphi Tsabedze  
The Registrar of Deeds  
The Registrar of the High  
Court of Swaziland**

**1<sup>st</sup> Respondent  
2<sup>nd</sup> Respondent  
3<sup>rd</sup> Respondent  
4<sup>th</sup> Respondent**

**The Attorney - General**

**5<sup>th</sup> Respondent**

**Neutral Citation:** *France Du Pont versus M.A Ranches (Pty) Ltd and 4 others, In Re, France Du Pont and M.A Ranches (Pty) Ltd and 2 others. (77/2016) [2018] SZSC 08 (24<sup>th</sup> April 2018)*

**Coram:** **JP ANNANDALE JA**

**Heard:** 24<sup>th</sup> April 2018

**Judgment:** 24<sup>th</sup> April 2018

### ***Summary***

*Execution pending judgment on review of Supreme Court Order – Existing Rules pertaining to execution of a High Court judgment pending appeal to apply mutatis mutandis.*

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## **JUDGMENT**

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### **Annandale JA**

- [1] Having noted the absence of both counsel at the agreed date and time for hearing of the interlocutory application herein;
- [2] Having read the papers filed of record and noting it to be common cause between the litigants on all relevant issues, with the sole exception to be: “Should execution of the Supreme Court order herein proceed prior to pronouncement by a full court on review

under Section 148 of the Swaziland Constitution, or should execution be stayed pending judgment on review”?

- [3] Taking judicial notice of the fact that as yet, no Rules or Act determines the aspect of execution pending the outcome of an application for review of a judgment of the Supreme Court of Swaziland: therefore it requires an application, *mutatis mutandis*, of the Rules of Court pertaining to execution of a High Court judgment pending the outcome of an appeal to the Supreme Court.
- [4] On legal consideration of the facts of the matter and the operation of applied law, also taking cognizance of the fact that the absence of a presently constituted Supreme Court full bench to hear and determine the noted application to Review the Order of the Supreme Court does not form a bar against established legal procedure in respect of the execution of judgments whilst further legal proceedings are still pending in the same matter;
- [5] It is therefore ordered that:
1. Pending judicial pronouncement in the application to Review the judgment of the Supreme Court herein, no process of execution shall be effected.

2. Costs of this application are ordered to be costs in the cause.

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**JACOBUS P. ANNANDALE**

JUSTICE OF THE SUPREME COURT OF ESWATINI

1. Counsel for the Applicant: Mxolisi Dlamini for Robinson Bertram
2. Counsel for the 1<sup>st</sup> to 5<sup>th</sup> Respondents: S.C. Simelane for N E Ginindza.