

IN THE HIGH COURT OF SWAZILAND

REVIEW CASE NO. 170/07

In the matter between

REX

Versus

THEMBINKOSI H. SHONGWE

JUDGEMENT

20th September, 2007

[1] The accused, who was unrepresented appeared before a Magistrate in Manzini on the 30th day of April, 2007.

[2] The allegation against him was that he contravened * section 40 (1) (a) of the Electricity Act, Number 10 of 1963 in that

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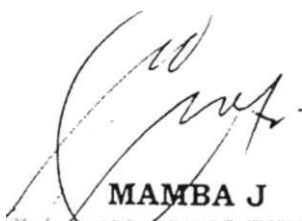
[4] The accused was found guilty as charged on his own plea and acting in terms of section 238 (1) of the Criminal Procedure and Evidence Act 67 of 1938, the learned magistrate sentenced him to pay a fine of E1000-00, failing which to undergo a term of ten (10) months of imprisonment. He paid the fine and was, I believe, liberated on that very same day.

[5] The Electricity Act, number 10 of 1963 was repealed by section 69 of the Electricity Act Number 3 of 2007. The 2007 Act came into force on the 1st day of March 2007 as per Legal Notice Number 33 of 2007.

[6] The 2007 Electricity Act does not contain a provision similar or akin to section 40 (1) (a) of the repealed Act. As the act charged occurred in March 2007, after the 1963 Act was repealed, the accused was wrongly charged and convicted of having contravened a statute that no longer existed at the time of the commission of the offence complained of.

[7] The 2007 Act does not appear to me to criminalize the act that is the subject of the charge herein. Section 52 (1) (e) and (f) of the Act merely empowers and or authorizes the Licensee or supplier of electricity to reduce or discontinue the supply of electricity to a consumer who fraudulently abstracts or diverts electricity- supplied to him ...[or who] interferes with or attempts to interfere with any plant or equipment of the licensee or supplier used for supplying electricity to the **consumer** *

[8] In the result, the conviction may no: stand and it is accordingly set aside, together with the sentence imposed on the Accused. The sum of E1000-00 paid as a fine is to be refunded to him forthwith-



MAMBA J