

Supreme Court of Appeal of South Africa

MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 17 March 2006

Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

v

K MOHUNRAM & 2 OTHERS

The SCA today upheld an appeal by the National Director of Public Prosecutions with costs. The effect of the judgment is that the property (a sectional title unit in Vryheid) of Shelgate Investments CC was forfeited in favour of the Criminal Asset Recovery Account. The first respondent, Mr Kumarnath Mohunram, the only member of the CC, conducted an unlawful casino on part of the property, operating 57 gaming machines. These had been confiscated and he had paid an admission of guilt fine of R88 500. The High Court, Pietermaritzburg, refused to declare the sectional title unit forfeited because the casino had been conducted on part of the property only and because, so it held, the property was not 'an instrumentality of the crime' (a requirement for forfeiture of a specific asset). The SCA disagreed, holding that the property was indeed an instrumentality of the crimes defined in the relevant Gambling Act. The fact that part of the property had been used, it held, was relevant in determining

whether forfeiture was disproportionate or not. The SCA found, on the facts, that it was not disproportionate and made the order as mentioned.