

SUMMARY OF JUDGMENT

MINISTER OF FINANCE V OAKBAY INVESTMENTS AND OTHERS

Application for a declaratory relief that Minister of Finance is not by law compelled to interfere in a private dispute between a bank and its client – Minister of Finance is by law not compelled to interfere in a private dispute between a bank and its client – case is not a proper one for the exercise of the court's discretion to grant declaratory relief. Members of the National Executive have the duty to obey, respect and uphold the law in the exercise of their executive functions - inappropriate for member of the National Executive to draw the judiciary into the exercise of his executive functions – application dismissed with costs.

Non joinder - Application for declaratory relief that a member of the National Executive acting alone and/or on behalf of Cabinet, including the President is not empowered to intervene in any manner whatsoever in any decision taken by a bank to terminate its banking relationship with its client – the President and other members of the National Executive are interested parties – their non-joinder fatal to the application - application dismissed with costs.

Application for condonation for the late filing of a notice in terms of rule 7 of the Uniform Rules of Court and an application to compel the State Attorney to comply with a notice in terms of rule 7 to file its authority to act on behalf of the Minister of Finance – section 3 State Attorney Act 56 of 195 - State Attorney performs on behalf of the government, work that is by law, practice or custom performed by attorneys - rule 7(1) – State Attorney not required to file a power of attorney when acting for an organ of state – good cause for condonation for the late filing of rule 7 not shown – brought late in proceedings even though applicant was joined from the beginning – change of attorneys not good cause for bringing the application late - application vexatious – application dismissed with a punitive cost order.

Applications to strike out - certificate issued in terms of section 39 of the Financial Intelligence Centre Act 38 of 2001 by the Director of Financial Intelligence Centre at the request of the Minister of Finance setting out 72 suspicious transactions reported to the Financial Intelligence Centre by banks against several entities in the Oakbay Group and several associated individuals irrelevant to declaratory relief – so are averments in the respondents' answering affidavit filed in response thereto - application dismissed with costs.