

C OF A (CIV) NO.38 OF 1994

IN THE LESOTHO COURT OF APPEAL

In the matter between:

Attorney General of Lesotho	1st Appellant
Lesotho Highlands Development Authority	2nd Appellant

and

Swissbrough Diamonds Mines (Pty) Ltd	1st Respondent
Rampai Diamond (Pty) Ltd	2nd Respondent
Matsoku Diamonds (Pty) Ltd	3rd Respondent
Patiseng Diamonds (Pty) Ltd	4th Respondent
Orange Diamonds (Pty) Ltd	5th Respondent
Motete Diamonds (Pty) Ltd	6th Respondent

ORDER

The following order is substituted for the order made by the Court a quo:

1. The revocation of Specified Mining Leases Order (NO.7 of 1992) is declared to be void and of no force or effect in law.
2. The first and second respondents are directed to ensure that the proceedings under Civil Application No.198 of 1991 and Civil Application No.206 of 1991 are properly enrolled forthwith and expeditiously prosecuted in terms of the relevant Rules of Court,
3. All the respondents are directed to enrol the proceedings

under Civil Application No. 394 of 1991 forthwith and expeditiously to prosecute the said application in terms of the Rules of Court;

4. Should the respondents referred to in paragraphs 2 and 3 fail to enrol and prosecute the applications referred to in these sub-paragraphs as directed herein, the relevant respondents in the said applications shall be so entitled (after notice to the relevant applicants) to enrol the said applications for determination by the Court.

5. During the period commencing from the date of this order and expiring at midnight on the 31st of July 1995 the appellants are interdicted and restrained from interfering with, obstructing or impeding any agent, employee or expert engaged by or in the employment of the respondents (and who is lawfully entitled to be in Lesotho)
 - (a) from conducting any tests or investigations in the areas identified in Schedule A hereto, for the bona fide purposes of estimating and quantifying any damages suffered by the respondents or any of them, in consequence of any unlawful acts perpetrated by or on behalf of or at the instance of the appellants.

 - (b) from using equipment, machinery or materials

to conduct such tests or investigations, in the said areas, whether such equipment, machinery, or materials already exist within the areas area covered by Schedule A or is introduced for that purpose after the date of this order.

6. Costs in the Court a quo

Paragraph 4 of the order of the Court a quo in respect of the proceedings in that Court is confirmed.

7. Costs of Appeal

- (a) The respondents shall pay 25% of the costs of the second appellant. Such costs shall include the costs consequent upon the employment of two counsel.
- (b) The first Appellant shall pay 25% of the costs of the respondents. Such costs shall include costs consequent upon the employment of three counsel.
- (c) Save for the costs referred to subparagraphs (a) ^{and} (b) the parties shall bear their own costs.

SCHEDULE A

The 16 Priority Exploration Target Areas identified by Dr

D. Stepto in his Preliminary Report "The effect of Khatse Dam on Diamond Exploration Activities in the Rampai Mining Lease, Lesotho" read with the Annexures thereto. (pp 520-537 of the record).