

**Kenalemodisa Mosepele & 10 Others v Gideon Pitlagano & 23 Others - CACGB-134-25 (Judgment issued on the 5th of November 2025)**

**Court:** Court of Appeal

**Judge:** Justices Leburu, Tebogo-Maruping & Motswagole

**Summary By:** Ms Mangubo

In this matter, Bogopa, Manewe, Tobedza & Co (BMT) acted for the 1<sup>st</sup> to 10<sup>th</sup> and 14<sup>th</sup> to 23<sup>rd</sup> Respondents. The Appellants had been removed as trustees of the Okavango Kopano Mokoro Community Trust (OKMCT or “the Trust”). The Appellants sought to appeal the High Court’s refusal to grant an interim interdict to preserve the *status quo* (current status) pending review proceedings (the main case), specifically by suspending resolutions passed at a Special General Meeting (SGM). In that SGM, the Appellants have been voted out as trustees of the Trust through a motion of no confidence, and the Respondents represented by BMT had been voted as the replacement trustees of the Trust.

The central issue before the Court of Appeal was whether the Appellants had satisfied the requirements for interim relief, in particular whether they had established a *prima facie* right (a right that, although not clear, but somewhat established to warrant protection by law). The Appellants contended that the SGM resolutions were improper and that their implementation would cause prejudice before the review (main case) could be determined. They further argued that the matter was urgent and warranted the preservation of the *status quo* (current status).

The Appellants argued that under the Trust Property Control Act, the power to remove trustees rested only with trustees or protectors, not beneficiaries. The Respondents through their able representative, BMT, however, successfully argued that the Deed of Trust expressly empowered members of the Trust to pass a vote of no confidence in trustees. The Court accepted this interpretation holding that the Act does not exclude such powers and that, when read together with the trust deed, beneficiaries may lawfully participate in the removal of trustees. The SGM was accordingly found to have been properly convened and conducted in a fair and transparent manner.

The Court also accepted BMT’s argument that the elections for the removal of trustees and the appointment of BMT’s client as trustees were done regularly and transparently.

These findings were pivotal as once removed through lawful internal processes, the Appellants' claim to office became untenable and legally unsustainable, undermining the existence of a *prima facie* right.

The Court further held that the Appellants' tenure had effectively lapsed and that new trustees had already been appointed and recognised by the Master. In those circumstances, "the horse had bolted," and no useful purpose would be served by granting an interim interdict. As a discretionary remedy, interim relief was therefore refused.

In the end the Respondents succeeded. Their arguments, through BMT, showed that the application did not meet the requirements for an interim interdict and that there was no basis for the Court to intervene. BMT presented a clear and persuasive case which assisted the Court in reaching its decision. BMT was thus instrumental in ensuring that the Trust is run in accordance with the law and for the benefit of people who are the intended beneficiaries.

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