VICTIMS OF CORRUPTION TAKE HEART – “BIG CHIEF” GETS 15 YEARS BEHIND BARS

“… it is necessary for an unequivocal message to be sent out that corruption on the part of politicians, especially those holding high office, will not be tolerated and that punishment for those who act as Mr Block has done in this case will be severe” (extract from SCA case below)

We are all of us tired of reading about the rampant corruption in our society, and even if you aren’t one of the many businesses or individuals directly affected, everyone is ultimately a victim.

Let’s take heart then from two recent Supreme Court of Appeal (SCA) decisions.

Firstly, to set the scene…

Minimum sentences for corruption

Corruption in terms of the Prevention and Combating of Corrupt Activities Act is an offence which, when more than R500,000 is involved, carries a minimum sentence of 15 years’ imprisonment, even for first offenders, “unless there are substantial and compelling reasons justifying a lesser sentence”.

The R500k threshold is reduced to R100k where a “common conspiracy” is at play and to only R10k where a law enforcement officer is involved.

Confiscation orders are also common, being designed to deprive criminals of the benefits of their corruption. In the case below for example, a R60m confiscation order (and +R1m fines) accompanied the jail sentences.

“Big Chief” gets 15 years for a corrupt relationship

The first SCA case involved a former high ranking politician and provincial Finance MEC (known to at least one of his subordinates as “Big Chief”) on the one hand, and on the other a businessman with interests in a property group.

Both were convicted of corruption relating to “gratifications” paid to the politician for using his “considerable political clout” to help the property group lease premises to government departments on favourable terms and at inflated rentals, without following proper tender procedures.

It was irrelevant, held the Court, that the gratifications were only paid after the event, they were “paid and received as part of an on-going corrupt relationship where it was accepted by both sides that one hand would wash the other, so to speak, in respect of other favours already made or anticipated in the future.”

Neither did claiming that the payments were made for “consultancy services” and “business assistance” cut any ice at all with the Court.

An attempt to appeal to the Constitutional Court having failed, the 15 year sentences must now be served.

Beyond the grave: Still payback time

The second SCA case involves the same matter but another politician and former provincial Head of Department, who faced much the same charges as the others but died before her trial ended.

That didn’t stop the state from obtaining a High Court order forfeiting to the state both the shares given to the deceased in one of the property-owning companies (worth R28m at the time), and her R2m house.

On appeal the SCA upheld the share forfeiture order but, on the principle that forfeiture is designed to remove the incentive for crime rather than to punish it, set aside the forfeiture of the entire property and instead ordered the executor of the deceased estate to pay R758k to the state’s criminal assets recovery account.

Victims of corruption – what to do

Whether you have lost out on a tender, are on the wrong end of a bribe solicitation, or are in any other way a direct victim of corruption, report it!

Our laws and our courts are behind you.