

Old Mutual wins: Peter Moyo's R250m claim thrown out of court

A full bench of the Gauteng Local Division of the High Court has dismissed with costs former chief executive officer, Peter Moyo's consolidated applications to have the Old Mutual non-executive directors declared delinquent and in contempt of court. This follows hearings which took place in November last year.



Source: [Supplied](#)

It is also on the back of a decision in January this year that found in favour of Old Mutual in dismissing the damages case brought against it by Moyo.

In the latest judgement, handed down on 16 May 2022, the Honourable Justices Raulinga, Twala and Opperman dismissed Moyo's application to have Old Mutual's non-executive directors declared in contempt of court. That application was launched by Moyo after Old Mutual had declined to avail itself of his services. This, following the initial court order reinstating him on an interim basis pending the finalisation of his legal proceedings against Old Mutual.

The full bench found that, in not allowing Moyo to resume his position as chief executive officer after that initial interim order, Old Mutual had not defied that order. The directors had acted in good faith on the basis of reasonable legal advice.

End of the road for Moyo

Furthermore, the Court found that Moyo's employment had been lawfully terminated a second time. Consequently, and again based on reasonable legal advice, the directors had been entitled, after such second termination, not to receive Moyo back into service as chief executive officer.

The full bench also ruled that the public views expressed on Old Mutual's behalf on the initial interim order were not contemptuous. The relevant statements did not imply disrespect of the judiciary: "Quite the opposite." These statements were "not intended as an affront", and did not undermine the integrity of the courts.

As far as Moyo's attempt to have the directors declared delinquent was concerned, the Court found that, in terminating Moyo's employment, the directors had not acted in breach of their duties to the company. On the contrary, once the relationship between the Board and Moyo had broken down, the Board was not only entitled but obliged to terminate his appointment.

The Court found that Moyo had been guilty of breaching his fiduciary duties to Old Mutual. Although he was not entitled, in terms of his contract or under the common law, to a disciplinary enquiry before the termination of his employment, the Board had afforded him an "ample hearing" and had "observed all the requirements of a fair hearing".

The Board terminated Moyo's contract "only after it had concluded, in good faith and on reasonable grounds, that he had been guilty of egregious misconduct and could no longer be trusted to serve the best interests of Old Mutual."

Ultimately, the Court found that there was no transgression of Companies Act by Old Mutual's directors.

"Old Mutual is pleased to put this matter behind us after three years of contentious litigation and to focus on growing the business well into the future, with good governance at all times its shining light," said Old Mutual.