

High Court rules 50-year Anglo lead poisoning case is 'untenable'

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The Johannesburg High Court has ruled that a class action lawsuit against miner Anglo American brought by victims of alleged historic lead poisoning in Zambia should not go ahead, lawyers for the claimants said on Saturday.



The logo of Anglo American is seen on a jacket of an employee at the Los Bronces copper mine, in the outskirts of Santiago, Chile. Source: Reuters/Rodrigo Garrido

Victims of the alleged poisoning had accused Anglo's South African unit of negligence in controlling emissions of lead into the local environment at a mine it part-owned 50 years ago in Zambia's Kabwe district.

Anglo has previously denied the allegations and vowed to defend itself.

"We have stated from the outset that this claim is entirely misconceived and it is clear that the court recognised its multiple legal and factual flaws, deeming it not in the interest of justice for the class action to proceed," an Anglo American spokesperson said.



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Anglo partly owned the Kabwe lead mine some 50 years ago. The mine was later owned by Zambian state-owned firm ZCCM-IH until 1994 when it was closed.

In a statement, lawyers for the claimants said the Johannesburg High Court had ruled in a 126-page judgment delivered on Friday evening that a claim against Anglo American South Africa (AASA) over widespread lead poisoning across Kabwe, Zambia, could not proceed as a class action.

The victims will appeal the ruling, the lawyers said.

'Unmanageable'

Among the concluding arguments in the ruling, the court said the application was seeking permission to advance an untenable claim that would set a grave precedent.

"The precedent is that a business could be held liable half a century after its activities have ceased, to generations not yet born, as a result of being tested against future knowledge and standards unknown at the time," the ruling said.

The court also said the class action would be "unmanageable" in that it would take a long time to be completed, after the applicants estimated it would take ten years for their legal team to take instructions from every member of the proposed classes.

“ If this is so, it would take much longer for a South African court to assess the claim of each class member in the second stage. ”

"It bears emphasis that an unmanageable class action is not only adverse to Anglo's interests: It undermines the applicants' access to justice," the court said.

"Under the circumstances it is proper and necessary to dismiss the certification application."

South African law firm Mbuyisa Moleele and UK-based Leigh Day, acting on behalf of about 140,000 women and children of Kabwe, want Anglo held liable for failing to curb lead emissions from a smelter and waste dumps.

They also allege that Anglo was aware, before 1974, of the environmental damage and lead poisoning, including deaths of local children, and had ignored expert advice to remedy the situation before it handed over the assets to ZCCM-IH.