



## THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

**From:** The Registrar, Supreme Court of Appeal

**Date:** 20 September 2023

**Status:** Immediate

***The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal***

*KGA Life Limited v Multisure Corporation (Pty) Ltd and Others (with funeral Federation of South Africa as Amicus Curiae)* (304/2022) [2023] ZASCA 122 (20 September 2023)

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Today the Supreme Court of Appeal (SCA) upheld an appeal by the appellant, KGA Life Limited (KGA), with no order as to costs. The SCA set aside and replaced the order of the Eastern Cape Local Division of the High Court, Gqeberha (the high court). In the last instance, the SCA directed the Registrar to refer a copy of its judgment to the Prudential Authority under the Insurance Act, 2017.

KGA is registered as a 'licensed insurer' in terms of the Long-Term Insurance Act 52 of 1998. Multisure Corporation (Pty) Ltd (Multisure), is an independent intermediary whose business is to market and sell funeral cover plans for various companies to individuals and families (funeral policies). The second respondent, Q Link Holdings (Pty) Ltd (Q Link) is a service provider appointed by the South African Social Security Agency (SASSA), to administer, inter alia, the deductions from moneys due to social grant beneficiaries, which moneys are paid to various creditors of such beneficiaries. The third respondent, African Unity Life Limited (AUL), is the proposed new underwriter, chosen by Multisure to replace KGA. The Funeral Federation of South Africa (FFSA) applied to be and was admitted, as *amicus curiae* (*amicus*).

Multisure had a large body of clients with whom it had concluded funeral policy agreements by admitting each client to membership of Multisure's group funeral insurance scheme. On 14 January 2015, KGA and Multisure entered into an Intermediary Agreement (IA) which incorporated a Master Policy (MP) underwritten by KGA. The majority of Multisure's clients or members are social grant beneficiaries, whose payments for funeral cover are made by SASSA. KGA agreed, in terms of the two agreements, to underwrite and provide the necessary cover to Multisure's clients under a group scheme. Q Link was appointed to administer the deductions from the social benefits administered by SASSA.

There were three documents produced by Multisure as material to an understanding of the nature of the scheme: (a) the membership application form to be signed by Multisure's clients (the membership application); (b) the IA and; (c) the MP issued by KGA.

There was no dispute that Multisure complied with the requirement to cancel the IA and MP on 14 day's notice, The issue for determination was what effect the Insurance Act of 2017 had on the attempt by Multisure to cancel the IA and MP.

The SCA held that the 2017 Act rendered Multisure's group scheme unlawful, within two years of the Promulgation of the 2017 Act. The group scheme became invalid and unenforceable, through the intervening legislation, Multisure's subsequent purported cancellation therefore had no legal consequences, as there were no valid contracts to terminate.

In the result, the SCA upheld the appeal by the KGA with no order as to costs. It set aside and replaced the order of the high court, and directed the Registrar to refer a copy of its judgment to the Prudential Authority under the 2017 Act.

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