



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: 28 November 2025

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

Johannes Wessel Greeff v Body Corporate of Merriman Court and Others (502/2024) [2025]
ZASCA 176 (28 November 2025)

Today, the Supreme Court of Appeal (SCA), handed down judgment, dismissing an appeal against an order granted in the Western Cape Division of the High Court, Cape Town, with costs, including the costs of two counsel.

On 15 September 2021, the Western Cape Division of the High Court, Cape Town per Ndita J (the high court) granted the appellant, Mr Johannes Wessel Greeff (Mr Greeff) declaratory relief to the effect that he was authorised to implement building plans for construction on his property, section 1 of the Merriman Court sectional scheme located along Merriman Road in Greenpoint, Cape Town. The order included a mandamus that the respondents consider Mr Greeff's request for approval of the building plans.

On 13 February 2024, the full court of that division, per Allie, Salie and Mangcu-Lockwood JJ, (the full court), set aside that relief. This appeal against the judgment of the full court, is with the special leave of the SCA.

In 1986, Merriman Court converted into a Sectional Title Scheme. Thereafter, various owners extended their sections into the common property. Mr Greeff is the owner of section 1 of the Sectional Title Scheme, and he is the only owner in Merriman Court who has not yet extended his unit.

Mr Greeff sought relief from the high court to direct the respondents to consider his request for the approval of his plans for construction by way of the extension and grant a declarator to the effect that Mr Greeff is permitted to implement his plans. The high court found in favour of Mr Greeff and further held that the Body Corporate was not properly before the court. On appeal the full court set aside the high court's order.

The issue before the SCA for determination is whether Mr Greeff has, in compliance with the relevant legislative provisions, acquired the right to extend his section or is entitled to a declarator to that effect.

The SCA held that it was apparent from a plain reading of the relevant approvals that Mr Greeff's request was considered by the owners and that they raised certain concerns. In addition, the SCA held that it was apparent from the resolutions that the respondents were not satisfied that the documents submitted by Mr Greeff contained essential information for them to make an informed decision. Nowhere in the record does Mr Greeff explain why he has not addressed the concerns raised by the owners. Nor does he show that in terms of s 5 (1)(h) of the STSMA he has the necessary approval, in the form of a 'special resolution' from the owners to extend his unit as proposed.

The SCA found that Mr Greeff's request was appropriately considered by the Body Corporate and that it is now incumbent on him to address the concerns raised by the owners and approach the Body Corporate to consider his responses. Until such time that is done, there is no obligation on the owners to reconsider his plans. Mr Greeff has failed to demonstrate that he has a clear right to the interdictory relief sought or that he will suffer any harm if the interdictory relief is not granted.

The SCA held that the resolution taken at the informal meeting did not have any binding force, and the adoption of the minutes on 7 December 2017 did not meet the test for ratification. There is therefore no merit in the submission that Mr Greeff's claim had prescribed. The high court, in the exercise of its discretion, did not consider all these important facts mentioned above and therefore Mr Greeff did not satisfy the requirements for a declaratory order, and he did not have a claim.

The SCA found no fault in the findings and order of the full court and consequently dismissed the appeal with costs, including the costs of two counsel.

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