



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

Samuel Alfred Schoonhoven N O and Others v Pieter Cornelius Antonius Schoonhoven and Others (791/2024) [2025] ZASCA 178 (28 November 2025)

Today, the Supreme Court of Appeal (SCA) dismissed an appeal with costs from the KwaZulu-Natal Division of the High Court, Pietermaritzburg (the high court).

The appeal arose from a dispute concerning the Schoonies Family Trust (the Trust), established by the founder, Johannes Bernardus Alphonsus Schoonhoven. The Trust Deed contained a broad list of potential capital beneficiaries and gave the founder a testamentary right to determine the vesting date of the Trust and to prescribe how the Trust capital should be distributed. In his 2010 Will, the founder fixed the vesting date to be fifteen years after his death and directed that ‘the capital beneficiaries’ were to share the net proceeds of the Trust in equal parts. The trustees argued that this clause did not identify the beneficiaries and that they retained a discretion to designate them.

In the high court, the trustees of the Trust sought a declaratory order confirming that they had a discretion to designate the capital beneficiaries of the Trust upon its termination. The high court rejected their application, holding that the Trust Deed did not confer such a discretion on the trustees and that, if they wished to enjoy such a discretion, they ought first to have sought rectification of the Trust Deed. The high court therefore dismissed the application with costs.

The first issue on appeal was whether the founder, in clause 5.3 of his Will, exercised his power under clause 27 of the Trust Deed to identify all the capital beneficiaries.

The SCA held that the founder did exercise both components of his testamentary prescription rights: he determined the vesting date and, by prescribing that ‘the capital beneficiaries’ were to receive equal shares, he designated all persons falling within items (ii) to (vii) of the definition of capital beneficiaries in the Trust Deed. The SCA held that the Trust Deed conferred a broad and flexible discretion on the founder, which included the power to designate beneficiaries even from open or indeterminate classes, and that any resulting inequalities were expressly permitted by the Trust Deed.

The SCA concluded that the founder's designation was binding, and there was therefore no scope for the trustees to exercise any discretion of their own regarding the identification of capital beneficiaries.

In the result, the appeal was dismissed with costs, including the costs of two counsel.

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