



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: 14 March 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*

Newnet Properties (Pty) Ltd t/a Sunshine Hospital v The Road Accident Fund (1150/2023)

[2025] ZASCA 19 (14 March 2025)

Today the Supreme Court of Appeal (SCA) upheld an appeal with costs, including the costs of two counsel, where so employed.

The appellants appealed a decision of the Gauteng Division of the High Court, Pretoria, wherein the high court directed the appellants to furnish certain information to the respondent, the Road Accident Fund (RAF), in terms of s 24 of the Road Accident Fund Act 56 of 1996 (RAF Act) and allowed the latter, within a stipulated time, either to apply for rescission of the judgments or a declaratory order. On 19 October 2023, the high court granted the appellants leave to appeal to this Court and directed that its order is not suspended in terms of s 18(2) of the Superior Courts Act 10 of 2013.

The factual background is as follows. In March 2023, the sheriffs for Pretoria East and Centurion East served writs of execution on the RAF in respect of some 400 judgments which the appellants had obtained against it. The judgments all related to claims submitted by suppliers in terms of s 17(5) of the RAF Act. That section provides for claims by third party suppliers who have incurred costs in respect of accommodation, services rendered or goods supplied to a person who has suffered loss or damages wrongfully caused by the driving of a motor vehicle. The sheriffs attached the RAF's assets and published a notice of the sale in execution. Faced with the daunting prospect of the sale of its assets and tools of trade, which it requires for the performance of its statutory functions, the RAF approached the high court for an order, *inter alia*, staying the writs and ordering the appellants, through their instructing attorneys, to furnish it with identity documents of all injured persons as well as accident report

forms (where none were submitted) in support of their claims. The suspension of the writs would operate as an interim interdict pending the filing by RAF of applications for rescission or declaratory relief.

The facts of this appeal implicated one of the most fundamental principles of our law, namely, the finality of court orders. The SCA chose to deal only with the two most substantive issues, which were dispositive of the appeal. They are: (a) whether the RAF was entitled to an order directing the appellants to furnish it with information in terms of s 24 of the RAF Act after judgment had been granted against it; and (b) whether the RAF made out a case for the suspension of the writs of execution issued pursuant to the judgments obtained by the appellants.

The SCA, per Smith JA, held that there can be little doubt that the high court's order offends the principle of finality of court orders. The SCA reasoned that by directing the appellants to comply with pre-summons procedures despite the existence of a valid court order against the RAF, the high court had impermissibly reopened the *lis* between the parties. The anomalous situation may then arise that the RAF may refuse to pay the claim despite an extant court order and without having to apply for rescission of judgment. The SCA held that such a state of affairs, albeit judicially sanctioned, would have grievously unfair consequences for a judgment creditor.

With regards to the suspension of the writs of execution the SCA held that the RAF has failed to show that the appellants irregularly obtained the judgments and orders and that they fell to be set aside by a competent court. The SCA further held that in seeking the interim relief pending the institution of rescission proceedings, the RAF had not put up any facts to show that the underlying causa of the judgments is being disputed or that real and substantial injustice would follow the refusal of such relief. It instead relied on anecdotal averments based on unsubstantiated and generalised examples. The SCA was accordingly of the view that the RAF failed to establish a *prima facie* right.

The SCA ultimately found that the order directing the appellants to provide information to the RAF in terms of s 24 of the RAF Act is incompetent because it offends the principle of finality of court orders and that the RAF has failed to make out a case for relief in terms of rule 45A. The SCA upheld the appeal with costs, including the costs of two counsel where so employed and the order of the high court was set aside and replaced with the following order: 'The application is dismissed with costs, including the costs of two counsel where so employed.'

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