



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: 18 July 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

Hassody Katha v Primathie Pillay N.O. and Others (276/2024) [2025] ZASCA 106 (18 July 2025)

Today, the Supreme Court of Appeal (SCA) dismissed an appeal against a judgment and order of the Gauteng Division of the High Court, Johannesburg (the high court). The appeal concerned a claim to ownership of an immovable property located in the Benoni area and registered in the name of Lutchmia Katha (Ms Katha), the mother-in-law of the appellant, Hassody Katha. After Ms Katha passed away on 18 August 2014 the appellant instituted an action in the high court alleging that she had acquired ownership of the property by acquisitive prescription, as contemplated in s 1 of the Prescription Act 68 of 1969 (the 1969 Act). The high court upheld the special plea raised by the first and second respondents, namely that the required prescription period was not completed, and stayed the remaining issues in the action for later determination. The first and second respondents were Ms Katha's two daughters, Primathie Pillay and Kanderuby Ramoothy, who were cited in their official capacities as the executrixes of their mother's estate.

Aggrieved by the decision of the high court, the appellant approached the SCA with the leave of the high court. The SCA had to determine if the interpretation of section 3(1)(a) of the 1969 Act, as determined by the high court, was correct and further if the death of Ms Katha constituted a 'superior force' that delayed the running of the 30-year acquisitive prescription period. The Court, like in the case of *Natal Joint Pension Fund v Endumeni Municipality*, departed from the golden rule of interpretation that existed, namely that the intention of the Legislature be regarded as the cardinal rule of statutory interpretation. It highlighted expressions by Wallis JA regarding this legislative intent as unrealistic and misleading.

The SCA stated that the right to own property is protected in terms of s 25(1) of the Constitution. As such, that an owner is entitled as of right to protect their rights to the property when it is claimed. Effectively, the Court continued, any deprivation of property, including property obtained through the process of acquisitive prescription, needed to comply with legislative prescripts. It found that the registered owner's right (Ms Katha) was protected by her daughters, who defended the claim against her estate as the executrixes of her estate. The

SCA underscored that the executrixes must ensure that her assets are properly administered and distributed in accordance with her wishes. In Conclusion the Court found there to be no doubt that the immovable property owned by Ms Katha remained an asset in her estate. In the result, the SCA dismissed the appeal and did not order costs of suit.