



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

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Muller and Another v Masureik and Others (807/2024) [2026] ZASCA 01 (08 January 2026)

Today, the Supreme Court of Appeal (SCA) handed down a judgment confirming an earlier order of the SCA that dismissed the application for leave to appeal.

The application for leave to appeal (which was refused by two justices of the SCA) related to an eviction order granted in favour of the respondents by the Western Cape Division of the High Court (the high court) against the first applicant, Mrs Joan Marie Muller (Mrs Muller) and the second applicant, a livery and horse-riding school business.

The dispute arose from the matrimonial home (the property) that Mrs Muller, continued to occupy after her spouse, Mr Howard Alexander Muller (Mr Muller), sold the property. As the sole registered owner of the property, Mr Muller sold and transferred the property to the respondents while divorce proceedings were pending. The applicants refused to vacate the property after it was transferred and registered to the respondents. The respondents obtained an eviction order from the high court. The applicants' attempts to appeal, both in the high court and in the SCA were unsuccessful, prompting them to seek reconsideration in terms of s 17(2)(f) of the Superior Courts Act 10 of 2013 (the Superior Courts Act). The first applicant argued that her accrual claim in the divorce entitled her to remain in the home. She asserted that the doctrine of notice principle should apply because the respondents knew of her claim; that Mr Muller and the respondents colluded against her; and that the transfer and eviction infringed upon her constitutional rights.

The majority of the SCA, per Kgoele JA, held that the central issue for consideration was whether a grave injustice or a threat to the integrity of the judicial process would result if the order of the two judges of the SCA dismissing the applicants' petition was allowed to stand. To determine whether the applicants met the threshold, the SCA considered how the high court addressed the nature of the first applicant's rights arising from the marriage with Mr Muller. Because the applicant had no legal right to stay on the property; and her accrual claim did not give her a proprietary interest as well as the fact that her allegations of collusion and constitutional violations were unsupported, the majority found that the high court adequately dealt with the issue without any evident oversight or injustice. Accordingly, the SCA held that the applicants failed to demonstrate that the administration of justice would be brought into disrepute if reconsideration were to be denied.

The majority of the SCA further found that the high court had properly granted the eviction order under the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998. Relying on the approach to reconsideration applications in the SCA case of *Former Way Trade*, of which the order was not changed or questioned by the Constitutional Court on appeal to it, the majority formulated the order as one that confirmed the dismissal of the application of the petition for leave to appeal and held that costs should follow the result.

The minority of the SCA, per Keightley JA, while agreeing with the majority that the applicants failed to meet the threshold of s 17(2)(f) of the Superior Courts Act, disagreed with the formulation of the order in the majority judgment. This disagreement was on the basis of the two-stage approach to reconsideration applications established in the SCA case of *Bidvest*, following *Motsoeneng*, and confirmed recently by the SCA in *RAF v Mautla*. Instead of confirming the order dismissing the application for leave to appeal, the minority would have struck the matter from the roll on account of the absence of jurisdiction of the SCA to reconsider the application for leave to appeal.