



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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4 Seasons Logistics CC v Nicholas Ngwanammoto Kgotse (1215/2023) [2026] ZASCA 09 (04 February 2026)

Today, the Supreme Court of Appeal (SCA) dismissed, with costs, a reconsideration application brought in terms of s 17(2)(f) of the Superior Courts Act 10 of 2013 (SC Act) against an order of the Western Cape Division of the High Court, Cape Town (the high court).

This matter arises from provisional winding-up proceedings that were a sequel to a default judgment granted in favour of the respondent against the applicant. Those proceedings resulted in the applicant being placed in final liquidation, following its inability to pay its debts. The high court dismissed the applicant's subsequent application for rescission of the default judgment, and both their application for leave to appeal and petition to the SCA were refused. The applicant brought a further application in terms of s 17(2)(f) of the SC Act for reconsideration and, if necessary, variation of the decision refusing it leave to appeal.

Even though the issue before the SCA was whether the applicants had a basis to warrant the grant of leave to appeal, the applicants nevertheless sought to challenge the high court's confirmation of the provisional winding-up order on several grounds. The SCA held that most of these grounds amounted to a mere rehashing of arguments advanced to resist the initial order and found them to be without merit. However, the SCA did acknowledge a procedural misstep: the default judgment was granted prematurely. The judge in the high court failed to fulfil her judicial duty to provide reasons underlying her order confirming the provisional liquidation order when requested. The SCA found this failure to be inexcusable.

In relation to the reconsideration application, the SCA noted that s 17(2)(f) explicitly confers a discretion on the President which must be exercised judiciously to decide whether there are exceptional circumstances that justify a referral of the decision of the two judges to the Court for reconsideration and, if necessary, variation. More so, it was held that if the President decides that no exceptional circumstances exist, the application for reconsideration would fail on that score.

The SCA held that it is only the President who is vested with the discretion located in the proviso of s 17(2)(f) and not the Court to which the President refers the final decision of the majority of the judges considering an application referred to in paragraph (b) of s 17(2) to grant or refuse the application for leave to appeal.

The SCA further held that what is demanded by the facts of a referral to the Court made by the President pursuant to s 17(2)(f) is the reconsideration of the decision of the two judges who refused leave to

appeal, nothing else. Put differently, the Court must step into the shoes of the two judges, consider the application for leave to appeal on its merits, and then decide whether to grant or refuse it. If leave is granted, the Court must enter into and determine the substantive merits of the appeal itself.

Considering the merits of the application before it, the SCA held that there were no exceptional circumstances of the nature required, despite the presence of procedural missteps and substantive judicial ineptitude before the high court. That being so, the SCA found that the application for reconsideration of the decision refusing leave to appeal by two judges of this Court was stillborn and should therefore fail.

As a result, the SCA dismissed the reconsideration application with costs, including the costs of two counsel.

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