



**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 August 2026

**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 judgment of the Supreme Court of Appeal***

*Municipal Employees Pension Fund v Ntabankulu Local Municipality (098/2025) [2026] ZASCA 112 (28 August 2026)*

---

The Supreme Court of Appeal (SCA) dismissed the Municipal Employees Pension Fund's (MEPF) appeal, with costs including the costs of two counsel where employed, upholding the Gauteng Division of the High Court's refusal to rescind a default judgment in favour of Ntabankulu Local Municipality.

The dispute arose from the transfer of pension contributions of 101 Ntabankulu employees from the SAMWU Fund to the MEPF in 2013. In earlier litigation, the SCA found that the transfer was unlawful because it had bypassed the statutory process under the Pension Funds Act. Ntabankulu was consequently ordered to repay the SAMWU Fund approximately R45.9 million. The MEPF refunded Ntabankulu approximately R19.9 million, leaving a shortfall of R5.1 million, which Ntabankulu subsequently claimed from the MEPF on the basis of unjustified enrichment, alternatively contract.

The summons was properly served on the MEPF, but it failed to defend the action. Default judgment was granted and served on the MEPF. Despite subsequently receiving a writ of execution, the MEPF only brought its rescission application several months later. The MEPF argued that the default judgment had been erroneously granted under Rule 42(1)(a) and, alternatively, that it was entitled to rescission under the common law. It explained its failure to defend the action by attributing it to an employee who had failed to instruct attorneys and explained the delay in seeking rescission by referring to the appointment of a new legal manager who needed time to investigate the matter.

The SCA rejected these explanations. It held that internal administrative failures do not render a procedurally regular judgment erroneously granted. The MEPF had failed to provide a reasonable explanation for its default, and the unexplained loss of institutional memory among its officials was inadequate and unpersuasive. This was sufficient, on its own, to defeat the application for common-law rescission.

The SCA also rejected the MEPF's purported defences, including non-joinder, the alleged illiquid nature of Ntabankulu's claim, and the contention that the earlier SCA judgment permitted the employees to belong to both pension funds. The Court found that this interpretation was inconsistent with its earlier judgment. The MEPF's prescription defence was also found to be without merit.

In essence, the SCA held that the MEPF failed to establish any basis for rescission: the default judgment was not erroneously granted, there was no reasonable explanation for the default, and the defences raised were not bona fide or sustainable. The high court therefore correctly dismissed the rescission application, and the appeal was dismissed with costs.

-----oOo-----