



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: 06 February 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

Matsi and Another v The South African Legal Practice Council (Gauteng Province) (184/2023) [2025] ZASCA 12 (06 February 2025)

Today, the Supreme Court of Appeal (SCA) handed down judgment dismissing the application for reconsideration referred by the President of the SCA in terms of s 17(2)(f) of the Superior Courts Act 10 of 2013 (the SC Act), with costs on an attorney and client scale. The appeal was against the decision of the Gauteng Division of the High Court, Pretoria (the high court).

The first applicant, Mr Mmatlou Lesley Matsi, is an attorney admitted and enrolled as such, and a member of the South African Legal Practice Council (the LPC) of the Gauteng Province, the respondent in this application. The second applicant is Matsi Law Chambers Inc, it is essentially the name and style under which the first applicant practises his profession.

During August 2023 the LPC instituted proceedings, as a matter of urgency, by way of a notice of motion comprising Part A and Part B in the high court. In Part A of the notice of motion, the LPC sought an order that the first applicant be suspended from practicing as a legal practitioner on an urgent basis pending the final determination of Part B of its application. In Part B of its notice of motion the LPC, in the main, sought an order that the name of the first applicant be struck off the roll of legal practitioners on the grounds that he is no longer a fit and proper person to remain on the roll of legal practitioners. The LPC also claimed ancillary relief predicated upon the removal of the first applicant's name from the roll.

What precipitated the institution of legal proceedings against the applicants were several complaints lodged with the LPC by certain of their clients. The gravamen of the complaints was that the first applicant failed or neglected to account to them in respect of moneys paid on diverse times by the Road Accident Fund (the RAF) to compensate them as contemplated in s 17 of the Road Accident Fund Act. The applicants opposed the LPC's application. They also delivered a counter-application in which they sought certain orders. It was alleged that the first applicant failed to comply with some of the LPC's crucial Rules and prescripts of the Legal Practice Act (the Act) concerned with the keeping of accounting records pertaining to the practice's trust account and their trust account was perpetually in deficit.

The high court concluded that on the facts presented on behalf of the LPC, read in the context of the response by the applicants, it was satisfied that the infractions relied upon by the LPC were clearly established. In the light of its finding, it went on to hold that, given the gravity of the proven misconduct, the immediate suspension of the first applicant was imperatively warranted. The high court subsequently refused the applicants' application for leave to appeal.

Undeterred by the dismissal of their application for leave to appeal, the applicants turned to the SCA, seeking leave to appeal in terms of s 17(2)(b) of the SC Act against their immediate suspension. The application suffered a similar fate. On 5 March 2024 the applicants then applied to the President of this Court under the proviso to s 17(2)(f) of the SC Act for reconsideration of the decision of the two judges of this Court in terms of which the applicants' application for leave to appeal was dismissed with costs.

On 7 June 2024 the President referred the decision of the two judges of this Court, which is ordinarily final, to the court for reconsideration under s 17(2)(f) and, if need be, also variation.

The amendment of s 17(2)(f) became operative from 3 April 2024. However, since the applicants' s 17(2)(f) application was already pending when the amendment took effect, the current application falls to be determined under the pre-amendment statutory regime.

The issues before the SCA were: (a) whether the immediate suspension of the first applicant pending the determination of application to have his name struck from the roll imperatively called for in the context of the peculiar facts of the case (b) whether substantial and compelling circumstances exist warranting reconsideration of decision refusing leave to appeal and, if necessary, variation thereof.

The SCA held that by his conduct, the first applicant has tarnished the image of the profession. What the SCA emphasised is that an attorney, as any officer of the court, belongs to an honourable profession. The profession scrupulously demands absolute honesty, reliability and integrity from its members. Equally, the members of the public who entrust their affairs to an attorney are entitled to assume that their affairs will be handled honestly, meticulously and with the requisite skill. This entails that where an attorney receives money on behalf of his or her client the money will not be used for any other purpose than for the purpose and benefit of the clients. And that the attorney will pay moneys due to his or her client within a reasonable time. It is totally unacceptable for an attorney to use money received on behalf of a client for his or her personal needs as has been witnessed in this case whilst, in the interim, the attorney misrepresents the true state of affairs to the client in relation to such moneys.

The SCA held further that whilst the order of the full court was apparently granted by agreement between the parties, this fact does not mitigate the potential adverse consequences of allowing the first applicant to resume practice given the extent and scale of his infractions. Such an order should never have been granted in the first place. This is so because officers of the court, like attorneys, are accountable to the courts that preside over them. This entails that the court alone is the final arbiter as to whether legal practitioners are still fit and proper persons to remain on the roll.

The SCA held that there were no compelling and substantial factors in this case to warrant variation of what is otherwise a final decision of the two judges of this Court under s 17(2)(d) of the SC Act in terms of which the applicants' application for leave to appeal was dismissed.

Accordingly, the SCA dismissed the application for reconsideration with costs on an attorney and client scale and ordered that the operation and execution of the order granted by the high court on 30 August 2023 suspending the first applicant from practising as a legal practitioner with immediate effect shall not be suspended or stayed pending the decision of any application or appeal that the applicants might institute in future.

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