



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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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

Road Accident Fund v Newnet Properties (Pty) Ltd t/a Sunshine Hospital and Another (616/2024) [2026] ZASCA 15 (11 February 2026)

Today, the Supreme Court of Appeal (SCA) dismissed, with costs, including the costs of two counsel, 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 Gauteng Division of the High Court, Pretoria (the high court).

This matter arises from an application launched by the Road Accident Fund (RAF) in terms of rule 45A of the Uniform Rules of Court (the Uniform Rules), wherein the RAF sought to stay the sale in execution of various items listed in three notices on the basis that it was not liable for any claims submitted to it by Newnet Properties (Pty) Ltd t/a Sunshine Hospital (Sunshine). The RAF and Sunshine had concluded a cooperation agreement in terms of which the RAF assigned its staff to assist Sunshine and road accident victims in submitting third party claims under the Road Accident Fund Act 56 of 1996 (RAF Act).

The cooperation agreement introduced the practice of including the doctors' and service providers' claims with Sunshine's claims when lodging claims with the RAF (combined claims), a practice that continued until the RAF wrote a letter to Sunshine terminating the cooperation agreement and it stopped making payments to Sunshine with effect from 4 April 2020 due to concerns (overcharging the RAF, touting patients from other hospitals, and over-servicing patients) it had in respect of the validity of claims submitted by Sunshine. The three notices the RAF sought to stay listed 181 writs of execution which Sunshine was seeking to satisfy. Having evaluated the RAF's application, the high court found the application to suspend the writs was an abuse of court process, as there was no evidence that supported the concerns raised by the RAF. The high court granted a punitive costs order against the RAF.

The RAF's subsequent application for leave to appeal in the high court was also dismissed on a punitive scale on 30 January 2024. An application for leave to appeal to this Court, was likewise dismissed with costs on 2 May 2024. The RAF thus brought an application in terms of s 17(2)(f) of the SC Act for reconsideration and, if necessary, variation, which was granted by the President on 6 August 2025.

Even though the issue before the SCA concerned the RAF's application for reconsideration, Sunshine raised a point in limine in that the application for reconsideration had become moot, and the RAF brought an application to tender new evidence. This Court found that because the sale in execution, which was the focus of the urgent application, had since taken place, it was beyond any doubt that any appeal therein had become moot. In relation to the RAF's application to adduce further evidence, the

SCA held that the application was unnecessary and an abuse of the process, as the new facts and evidence sought to be adduced were clearly wrong and without factual basis.

In relation to the reconsideration application, the SCA noted that s 17(2)(f) explicitly confers a discretion on the President, the power of referral, as one likely to be exercised only when the President believes that some matter of importance has possibly been overlooked or grave injustice will otherwise result. More so, this Court expressed that it is the President who holds the discretion, which must be exercised judiciously, to decide whether there are exceptional circumstances that justify a referral of the matter for reconsideration and, if necessary, variation.

The SCA further emphasised that it is the President of the Court in whom the power conferred by the proviso to s 17(2)(f) vests, and therefore, there is no basis whatsoever for any need to attempt to wander into the realm of determining whether any 'threshold' in terms of s 17(2)(f) has been met as that aspect has already been determined by the President. The Court pointed out that what remains for it to do is to 'step into the shoes' of the two judges who dismissed the applicant's petition for leave to appeal and determine whether variation of the decision refusing leave is warranted.

The SCA was of the view that the contentions by the RAF, which it pursued in its s 17(2)(f) application, were raised and thoroughly dealt with before the high court and during the applications for leave to appeal. Having considered all the relevant facts in the matter and the reasoning of the high court, the SCA was unable to find fault with the reasoning of the high court in any of its findings. Similarly, the SCA was in complete agreement that there are no reasonable prospects of success on appeal and that there is no other compelling reason why an appeal should be heard.

As a result, the SCA dismissed the application to adduce new evidence on appeal, together with the reconsideration application. In both instances, the RAF was directed to pay costs, including the costs of two counsel.

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