



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY

From: The Registrar, Supreme Court of Appeal

Date: 13 May 2026

Status: Immediate

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Mary Fisher and Another v The Silverbirch Estate Homeowners' Association (NPC) and Others
(447/2024) [2026] ZASCA 69 (13 May 2026)

Today, the Supreme Court of Appeal (SCA) considered an application in terms of s 17(2)(f) of the Superior Courts Act 10 of 2013 for the reconsideration of an earlier refusal of special leave to appeal. The dispute arose from a long-running conflict within the Silverbirch Estate Homeowners' Association (SEHA) concerning the control and composition of its board. The litigation centred on allegations that Ms Mary Fisher (Ms Fisher) had unlawfully caused the records of the Companies and Intellectual Property Commission (CIPC) to be amended to reflect herself and others as directors of SEHA, after which she allegedly assumed control of the board outside the procedures prescribed by the association's constitution. Ms Fisher disputed these allegations and maintained that the appointments were lawful.

The Gauteng Division of the High Court, Pretoria (high court), ruled in favour of SEHA and ordered the removal of Ms Fisher and others from the CIPC records as directors of the association, while directing that the name of Mr Johannes Heyneke be inserted as a director. The high court also made adverse credibility findings against Ms Fisher and ordered her to pay costs. Her application for leave to appeal was refused by the high court and thereafter by two judges of the SCA on petition.

Ms Fisher subsequently approached the SCA under s 17(2) (f), contending that a grave injustice would result if the refusal of leave to appeal was not reconsidered. She argued, among other things, that the high court had denied her a fair hearing, misapplied company law principles, failed to refer disputes to oral evidence, and wrongly made adverse credibility findings against her.

A central feature of the case before the SCA was the interpretation and application of s 17(2)(f) of the Superior Courts Act, which permits the President of the SCA to refer a refusal of leave to appeal for reconsideration in circumstances where a grave failure of justice would otherwise result or where the administration of justice may be brought into disrepute. The matter also highlighted recent divisions within the SCA concerning the proper approach to reconsideration applications and the effect of earlier judgments dealing with the section.

In the main judgment, written by Cloete AJA, the Court held that the reconsideration application could not succeed because the appeal had become moot. The Court found that Ms Fisher had failed initially to disclose that she had already resigned as a director of SEHA before the earlier petition order refusing leave to appeal had been granted. As a result, even if leave to appeal were granted, the appeal would have no practical legal effect because the dispute over the CIPC records had effectively fallen away. The Court concluded that the application for reconsideration should therefore be struck from the roll with costs.

Mocumie JA, with Molefe JA concurring, agreed that the reconsideration application should fail, but held that the proper order was to dismiss the application rather than strike it from the roll. In a detailed separate judgment, Mocumie JA addressed the ongoing debate within the SCA regarding the interpretation of s 17(2)(f), emphasising the importance of finality in litigation and cautioning against approaches that may permit unsuccessful litigants repeatedly to revive matters already conclusively determined.

Goosen JA, with Opperman AJA concurring, agreed with the outcome proposed by Cloete AJA and delivered a separate judgment dealing extensively with the doctrine of precedent and the recent conflicting judgments of the SCA concerning s 17(2)(f). The judgment reaffirmed the binding nature of earlier SCA authority and stressed the importance of consistency and legal certainty in the application of reconsideration proceedings.

The order of the Court is that the application for reconsideration is struck from the roll with costs, save for the costs occasioned by the respondents' late filing of heads of argument, which they were ordered to pay.