



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 May 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 judgments of the Supreme Court of Appeal

*South African Retirement Annuity Fund v Pension Funds Adjudicator and Another (1163/2024)
[2026] ZASCA 79 (28 May 2026)*

Today, the Supreme Court of Appeal (SCA) dismissed, with costs, an appeal against the judgment and order of the Mpumalanga Division of the High Court, Mbombela, per Ratshibvumo DJP (the high court).

The South African Retirement Annuity Fund (the Fund) sought an order declaring invalid and incorrect the decision of the first respondent, the Pension Funds Adjudicator (the Adjudicator). On 23 June 2023, the Adjudicator, acting in terms of s 30P of the Pension Funds Act 24 of 1956 (the Act), found in favour of the second respondent, Mrs Sophia Viljoen (Mrs Viljoen). The high court upheld the decision of the Adjudicator and dismissed the contention by the Fund that s 37C (1)(a) and (c) of the Act obliges the Fund to pay the death benefit to the estate, if no dependent of the deceased is traced within 12 months from the date of his or her death.

It was common cause that the deceased, Mr Marius Viljoen (Mr Viljoen), died intestate on 26 December 2019. He was a member of the Fund, which is underwritten by Old Mutual Life Assurance Company (South Africa) Limited. He left a retirement annuity benefit in the sum of R52 120.53. Mr Viljoen had not nominated a beneficiary for the aforesaid death benefit. The value of his estate was below the statutory limit of R250 000, as a result no executor was appointed.

Mr Viljoen was survived by his wife, Mrs Viljoen, who relied solely on the state-funded old-age social relief grant. Before Mr Viljoen's demise, Mrs Viljoen was unaware of the existence of the retirement annuity benefit. The existence of the benefit was brought to Mrs Viljoen's attention by a broker. It was only on 28

March 2022, with the assistance of the aforesaid broker, that she submitted a claim to the Fund. This was approximately two years and three months following the demise of Mr Viljoen. The Fund repudiated Mrs Viljoen's claim. On 18 July 2022, it resolved to pay the death benefit to Mr Viljoen's estate. This was done despite the estate not having been reported to the relevant Master of the High Court. Aggrieved by this decision, Mrs Viljoen lodged a complaint with the Adjudicator. On 23 June 2023, the Adjudicator set aside the decision of the Fund. The Fund challenged the Adjudicator's determination in the high court; the high court dismissed the Fund's application with costs and confirmed the Adjudicator's order.

This raised a legal question whether the payment of death benefits should be made within 12 months of the date of the deceased's death or 12 months after the Fund becomes aware of the deceased's death. Applying the established principles of statutory interpretation, this Court held that the process of identifying and verifying dependants can only commence once the Fund becomes aware of the member's death. The Court emphasised that, in order to fulfil the objectives of s 37C, the Fund is required to identify dependants, determine an equitable distribution of the benefit, and decide upon an appropriate method of payment. These obligations cannot be fulfilled without first identifying the dependants.

The Court further held that payment into the deceased estate may only occur once all statutory avenues for tracing and identifying dependants and nominees have been exhausted. In terms of s 37C(1)(c), payment into the estate constitutes a residual mechanism applicable only where no dependants or nominees are identified. As a result, the appeal was dismissed with costs.

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