



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

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Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

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ANDREW KINLOCH BUTTERS v NOMSA VIRGINIA MNCORA

The SCA today dismissed with costs an appeal by Mr Butters who was resisting an order to varying another order made by the Eastern Cape High Court (Port Elizabeth).

The high court declared that a universal partnership existed between Mr Butters and Ms Mncora and that all assets acquired by them during the period 1998 to 15 November 2007 be shared, with Ms Mncora getting 30 per cent of the nett proceeds of the assets. This Court, on appeal confirmed this order.

Ms Mncora, subsequently approached the high court requesting that the year date 1998 be substituted with 1988. The application was granted, albeit opposed.

The varied order was the subject of this appeal. The appeal was dismissed because the date upon which the universal partnership was alleged to have commenced was of the narrative of events, rather than a vital element of the partnership. It was therefore held that the year date of commencement of the partnership was irrelevant, only the termination was germane.

It was further held that the general rule is that once a court has duly pronounced a final judgment it has no authority to correct, alter or supplement it because its jurisdiction in the

case has ceased. The exception being that, if needs be, provided the sense and substance is not altered. Alternatively, in terms of Rule 42(1) of the Uniform Rules of Court, a court may, out of its own, or upon an application by any affected party vary or rescind an order or judgment erroneously granted or a patent error or omission or as a result of a mistake common to all the parties.