



## 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** 4 November 2016  
**STATUS** Immediate

*Please note that the media summary is for the benefit of the media and does not form part of the judgment.*

***Ndaba v Ndaba (600/2015) [2016] ZASCA 162 (4 November 2016)***

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#### **MEDIA STATEMENT**

The Supreme Court of Appeal today upheld an appeal against a judgment of the Gauteng Division of the High Court, Pretoria, concerning the entitlement of a non-member spouse in a marriage in community of property under subsections 7(7)(a) and 7(8)(a) of the Divorce Act 70 of 1979 in respect of pension interests. The question was whether a non-member spouse in a marriage in community of property is entitled to the pension interest of a member spouse in circumstances where the court granting the decree of divorce had not made an order declaring such pension interest to be part of the joint estate. The Supreme Court of Appeal held that on a proper construction of the s 7(7)(a) of the Divorce Act, which is clear and unequivocal, it vests in the joint estate the pension interest of the member spouse for the purposes of determining the patrimonial benefits to which the parties are entitled as at the date of their divorce – provided that their joint estate has yet to be divided between them – and that no order is required in terms of s 7(7)(a) as the court below had held. As the parties' joint estate has not been divided between them, the SCA held that the court a quo erred in dismissing the application.

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