



## SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

**FROM** The Registrar, Supreme Court of Appeal

**DATE** 5 May 2020

**STATUS** Immediate

#### ***Montanari v Montanari (1086/2018) [2020] ZASCA 48 (5 May 2020)***

*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.*

The issue was whether the respondent's Personal Portfolio Living Annuities purchased from Glacier Financial Solutions (Pty) Ltd, a member of the Sanlam Group (Glacier by Sanlam), which he purchased prior to his divorce action against his wife, were assets in his estate and subject to his wife's accrual claim.

The SCA reaffirmed that on a proper interpretation of the relevant legislation, the living annuities were not a pensionable interest as defined in the Divorce Act 70 of 1979 and that the ownership of their underlying capital vests in Sanlam from which they were purchased.

The SCA further held that the respondent has a clear right to the investment returns yielded by his capital re-investment with Sanlam, in the form of future annuity income which he draws from the agreement; that such annuity income is an asset in his estate which can be valued and that it is subject to accrual.

The SCA ordered a remittal of the matter to the trial court for the leading of evidence on the value of the respondent's right to receive future payments in respect of the living annuities.

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