

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 27 May 2020

STATUS Immediate

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

Monyepao v Ledwaba & others (1368/2018) [2020] ZASCA 54 (27 May 2020)

MEDIA STATEMENT

The Supreme Court of Appeal (SCA) today dismissed the appeal of Ms Matsatsi Dinah Tiny Monyepao against Ms Mokgaetji Maria Ledwaba. Both parties had been married in terms of customary law to the late Mr Tlou Coliphta Phago. On his death, both were appointed as co-executors of his deceased estate. Ms Monyepao brought an application in the Limpopo Division of the High Court, Polokwane for orders, inter alia, declaring that the customary marriage between Ms Ledwaba and Mr Phago had been dissolved prior to his death or, in the alternative, that Ms Ledwaba forfeit the benefits of the marriage. The court of first instance granted the alternative relief, Ms Ledwaba appealed successfully to a full court of the Limpopo Division and the Supreme Court of Appeal granted Ms Monyepao special leave to appeal against the full court's decision.

The Supreme Court of Appeal, in dismissing Ms Monyepao's appeal, found that she had not proved that the customary marriage of Ms Ledwaba to Mr Phago had been dissolved by divorce; that Ms Ledwaba's civil marriage to a third party while still married to Mr Phago was invalid but it had no effect on the validity of her customary marriage to Mr Phago; and that an order for the forfeiture of the benefits of a marriage was not competent except as an adjunct to divorce proceedings.