



THE SUPREME COURT OF APPEAL REPUBLIC OF SOUTH AFRICA

Selota v SALPC (Case no 658/2020) [2021] ZASCA 169

From: The Registrar, Supreme Court of Appeal

Date: 3 December 2021

Status: Immediate

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

Today the Supreme Court of Appeal (SCA) provided reasons for an order made on 19 November 2021 dismissing an application for condonation and reinstatement of an appeal with costs and striking the main matter from the roll with costs.

The appeal was about the appellant, Mr Mamolatelolo Alfred Selota, an admitted attorney. During June 2018, the respondent, the South African Legal Practice Council established under s 4 of the Legal Practice Act 28 of 2014 (the LPA), launched an application in the Gauteng Division of the High Court, Pretoria for an order removing the appellant from the roll of attorneys and for ancillary relief (the main application). One of the grounds of application was that the appellant had practised as an attorney without a Fidelity Fund certificate in contravention of s 84(1) and (2) of the LPA.

The application was brought on an urgent basis, to be heard together with the main application. The appellant essentially prayed for an order declaring that he was entitled to a Fidelity Fund certificate for the year 2019. The application was dismissed with costs on the attorney and client scale, by Van Olst AJ, and the appellant was granted leave to appeal to this Court. The appellant failed to timeously file heads of argument in this Court and the appeal lapsed. In the meantime, Rabie J and Avvakoumides AJ issued an order suspending the appellant from practising as an attorney pending the finalisation of the main application (the suspension order) and refused leave to appeal against the suspension order, as did this Court. The Constitutional Court turned down an application for leave to appeal.

The relief sought on appeal was that the order of Van Olst AJ be set aside and replaced with an order declaring that the appellant was entitled to a Fidelity Fund certificate for 2019 in terms of s 85 of the LPA. The question was whether the decision sought on appeal would have any practical result or effect within the meaning of s 16(2)(a)(i) of the Superior Courts Act 10 of 2013. The sole contention of the appellant was that it could have an effect on the suspension order. The SCA found the submission untenable and held that the respondent rightly pointed out that the decision sought would not change the fact that the appellant had practised without a Fidelity Fund certificate. Thus, the main pillar on which the suspension order had been founded would remain in place notwithstanding success for the appellant on appeal. As a result, the SCA dismissed the application for condonation and reinstatement appeal with costs and struck the main matter from the roll with costs.