



## 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:** 14 December 2023

**Status:** Immediate

*The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal*

*South African Legal Practice Council v Mokhele* (1138/2022) [2023] ZASCA 177 (14 December 2023)

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The Supreme Court of Appeal (SCA) today struck from the roll the appellant's appeal and made no order as to costs. The appeal was against the judgment of the Free State Division of the High Court, Bloemfontein (the high court), which made an order dismissing the urgent application made by the appellant to have the respondent suspended from legal practice, pending the finalisation of a disciplinary inquiry. The inquiry had established *prima facie* evidence of trust shortages in the respondent's trust account following complaints from the public.

The core issues before the SCA were whether the court may hear a matter that has become moot, and the correct interpretation of s 43 of the Legal Practice Act 28 of 2014.

The respondent has since been suspended pending a striking application, and judgment is awaited in his striking off application. Despite the matter now being moot, the appellant sought clarity on the interpretation of s 43, claiming inconsistency in its application across the different divisions of the high court, and its importance to the appellant and the public. The SCA found that the appeal was moot and inappropriate for this Court to consider a declaratory relief which was not foreshadowed in the papers. The SCA held that the appellant should bring an application for appropriate relief in the high court, citing all interested parties, who were not before the SCA. As a result, the SCA struck the matter from the roll with no order as to costs.

It is worthy to note that the SCA criticised the conduct of the respondent and his legal representative. Heads of argument were not filed, the legal representative arrived late at court and made incomprehensible submissions, and there were allegations of death threats by the respondent towards the complainants. The SCA placed emphasis on the need for adhering to proper legal procedure and condemned unprofessional conduct by legal practitioners and their representatives that are instructed in a matter.

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