

**REPUBLIC OF SOUTH AFRICA
SUPREME COURT OF APPEAL**

BULLETIN 3 OF 2020

CASES ENROLLED FOR HEARING: AUGUST - SEPTEMBER 2020

1. Andile Lungisa v The State

(696/2019)

Appealed from ECG

Date to be heard: 17 August 2020

Maya P, Dambuza JA, Nicholls JA, Weiner AJA, Mabindla-Boqwana AJA

Criminal law and procedure – appeal against sentence – the appellant was convicted in the Port Elizabeth Magistrate’s Court of assault with intent to do grievous bodily harm - whether the trial court incorrectly exercised its discretion in sentencing the appellant to direct imprisonment of three years of which 1 year was suspended.

2. Zakhele Derrick Mbatha v The State

(928/2018)

Appealed from: GJ

Date to be heard: 17 August 2020

Maya P, Dambuza JA, Nicholls JA, Weiner AJA, Mabindla-Boqwana AJA

Criminal law and procedure – application in terms of s 17(2)(f) of the Superior Courts Act 10 of 2013 the appellant’s matter has been referred for the hearing of oral argument – whether special leave should have been granted – whether the sentence imposed was appropriate.

3. Thabang Phakula v Minister of Safety and Security

(454/2019)

Appealed from: GP

Date to be heard: 17 August 2020

Petse DP, Mocumie JA, Dlodlo Ja, Eksteen AJA, Poyo-Dlwati AJA

Criminal law and procedure – s 49 of the Criminal Procedure Act 51 of 1977 – Judicial Matters Second Amendment Act 122 of 1998 – whether the court a quo misdirected itself in finding that the appellant’s shooting was reasonably necessary and complied with s 49(2) of the Criminal Procedure Act, as amended by s 7 of the Judicial Matters Second Amendment Act

– whether the court a quo erred in finding that the appellant may have sustained other injuries in the house during the shooting – whether the court a quo erred in rejecting the appellant’s version that other police officers who were situated at the balcony fired shots at the appellant – whether the onus rested on the appellant to prove that the alleged injuries sustained were caused by bullets fired by the other police officers – whether the court a quo erred in finding that De Klerk’s shooting was justified.

4. Pieter Doorewaard and Phillip Schutte v The State

(908/2019)

Appealed from: NWM

Date to be heard: 17 August 2020

Ponnan JA, Molemela JA, Ledwaba AJA

Criminal law and procedure – appeal against conviction – whether Bonakele Pakisi was a credible and reliable State Witness – whether the trial court ought to have invoked the provisions of s 186 of the Criminal Procedure Act 105 of 1977.

5. N A Tiry, P Sangweni, S A Tshabalala, S A Nyamusa, M G Mthethwa, Q A Buthelezi, V M Sithole, S Nkosi and J Moisi v The State

(52/2018 and 149/2019)

Appealed from: FB

Date to be heard: 17 August 2020

Wallis JA, Makgoka JA, Plasket JA

Criminal law and procedure – appeal against convictions and sentences – whether the appellants’ right to a fair trial was violated – whether the guilt of the appellants was proved beyond reasonable doubt – whether the trial was tainted with judicial bias – whether the appellants were rightly convicted.

6. The Premier for the Province of Gauteng, The Executive Council for the Province of Gauteng and MEC for Co-operative Governance and Traditional Affairs, Gauteng v Democratic Alliance and 17 Others

(394/2020)

Appealed from: GP

Zondi JA, Van der Merwe JA, Schippers JA, Matojane AJA, Goosen AJA

Civil procedure – urgent appeal in terms of s 18(4) of the Superior Courts Act 10 of 2013 – appeal arose from a decision of the Gauteng Executive Committee to dissolve the Tshwane City Council and appointed an administrator in terms of s 139(1)(c) of the Constitution on 4 March 2020 – that decision was reviewed and set aside by the full bench of the high court on 29 April 2020 - whether the Democratic Alliance satisfied the strict requirements for interim enforcement of a judgment pending appeal under s 18.

7. Johannes Jacobus Venter v The State

(779/2018)

Appealed from: GP

Date to be heard: 18 August 2020

Cachalia JA, Mocumie JA, Molemela JA, Mabindla-Boqwana AJA, Poyo-Dlwati AJA

Criminal law and procedure – appeal against conviction – whether the complainant was sexually assaulted and raped by the appellant – whether the complainant was a reliable witness – whether the evidence of the complainant was corroborated on material aspects – whether the court a quo and the court of appeal misdirected itself in rejecting the appellant’s version and the evidence of the defence witnesses.

8. Moshidi Danny Leshilo v The State

(345/2019)

Appealed from: GP

Date to be heard: 18 August 2020

Dambuza JA, Van der Merwe JA, Nicholls JA, Ledwaba AJA, Goosen AJA

Criminal law and procedure – special leave to appeal granted on petition against conviction and sentence in respect of counts 2 and 3 (unlawful possession of a prohibited firearm and unlawful possession of ammunition respectively) – whether the trial court and appeal court misdirected itself in the application of the doctrine of common purpose – whether the appeal court misdirected itself in holding that the appellant jointly possessed a firearm with his co–accused.

9. William Mzamani Bilankulu and Jansen Thapelo Mokoena v The State

(188/2020)

Appealed from: GP

Date to be heard: 18 August 2020

Petse DP, Makgoka JA, Nicholls JA, Eksteen AJA, Mabindla-Boqwana AJA

Criminal law and procedure – appeal against conviction and sentence – whether the appellants were properly convicted – whether the cellular phone records should have been admitted into evidence – whether the recommendations in s 252A of the Criminal Procedure Act 51 of 1977 were complied with by the trial court – whether the high court found correctly that both appellants (including the rhino shooter) had the necessary legal intention to cause the death of the deceased in the form of *dolus eventualis* – whether the sentence imposed on the appellants was appropriate.

10. Kedumetse MacWilliam Ngakantsi v The State

(1020/2020)

Appealed from: NWM

Date to be heard: 18 August 2020

Ponnan JA, Schippers JA, Ledwaba AJA

Criminal law and procedure – appeal against conviction and sentence – whether there was a reasonable prospect of success in the envisaged appeal in light of the findings in *De Almeida v S* [2019] ZASCA 84.

11. The Director of Public Prosecutions: Gauteng Division, Pretoria v Tokologo Mbonani

(1198/2018)

Appealed from: GP

Date to be heard: 18 August 2020

Cachalia JA, Zondi JA, Matojane AJA

Criminal law and procedure – petition application referred for oral argument – whether the trial court correctly dismissed the applicant’s application for the reservation of questions of law in terms of s 319 of the Criminal Procedure Act 51 of 1977.

12. Gavin Anthony Breetzke NO, Michael John Breetzke NO and Margaret Ann Breetzke

NO v Robert Edward Alexander, Ziningi Properties (Proprietary) Limited, Rodney John Trotter NO, Brett Dennis Berriman NO and Angela Claire Alexander NO

(232/2019)

Appealed from: KZP

Date to be heard: 18 August 2020

Wallis JA, Mbha JA, Mocomie JA, Molemela JA, Dlodlo JA

Delict – civil procedure – exception for not disclosing a cause of action – whether the second respondent knowingly participated in the first respondent’s breach of fiduciary obligation which he owed to the SH Trust – whether individuals or entities without applicable fiduciary duties may be subject to accessory liability for knowingly participating in a breach of trust – whether plaintiff was to plead wrongfulness and prove a legal duty not to act unlawfully in cases of intentional participation in a breach of trust – whether knowing participation in a breach of trust was sufficient to sustain a delictual cause of action – whether the appellants’ amended particulars of claim, which included an alternative claim based on the existence of a legal duty and negligence, rendered the proposed appeal moot.

13. Vusi Petros Sibanyoni v The State

(951/2019)

Appealed from: GP

Date to be heard: 18 August 2020

Saldulker JA, Plasket JA, Sutherland AJA

Criminal law and procedure – appeal against conviction and sentence – whether the conviction on six counts of robbery with aggravating circumstances was in accordance with the law – whether the sentence imposed on the appellant was appropriate.

14. The Standard Bank of South Africa Limited, Nedbank Limited & FirstRand Bank Limited v Ezra Makikole Mpongo, Myra Geraldine Wooditadpersad, Radesh Wooditadpersad, Joyce Hluphekile Nkwini, Karin Madiu Samantha Lempa, Neelsie Goeieman, Angeline Rose Goeieman, Julia Mampuru Thobejane, Aubrey Ramorabane Sonko, Onesimus Solomon Matome Malatji & three others (South African Human Rights Commission & The Department of Justice and Constitutional Development as *Amici*)

(999/2019, 38/2019 and 47/2019)

Appealed from: GP

Date to be heard: 21 August 2020

Maya P, Petse DP, Dambuza JA, Plasket JA, Sutherland AJA

Civil procedure – concurrent jurisdiction – access to court – access to justice – Superior Courts Act 10 of 2013 – whether a high court could decline to exercise its concurrent jurisdiction because a plaintiff might have sued out of the magistrate’s court instead – whether it necessarily constituted an abuse of process to allow a matter which could be decided in a

magistrates' court, or a Local Division of the High Court, to be heard in the Provincial Division simply because it had concurrent jurisdiction – whether all litigants, including financial institutions, were obliged to consider the question of access to justice when actions or applications were issued – whether courts had a duty to ensure that access to justice was ensured by exercising appropriate judicial oversight – whether a high court could *mero motu* transfer a matter to either a magistrate's court or to the local or provincial divisions if it was in the interests of justice to do so – whether the court a quo erred by exceeding its powers to regulate its own process under s 173 of the Constitution – whether the court a quo developed the common law in a manner inconsistent with the constitutional requirements therefor.

15. Municipal Employees' Pension Fund, Akani Retirement Fund Administrators (Pty) Ltd & Akani Properties (Pty) Ltd v Chrisal Investments (Pty) Ltd, Takou Investments (Pty) Ltd, Procrops 60 (Pty) Ltd & Adamax Property Projects Menlyn (Pty) Ltd (792/2019)

Appealed from: GP

Date to be heard: 20 August 2020

Cachalia JA, Wallis JA, Mbha JA, Eksteen AJA, Weiner AJA

Contract Law – sale contract – liquidation – co-ownership agreement – whether the *actio communi dividundo* was a remedy which was available to the respondents given the existence and terms of the co-ownership agreement (the COA) – whether the respondents satisfied the pre-requisites in order to invoke and rely on the action, given the factual allegations made by the appellants, which De Villiers AJ was obliged to accept as correct for purposes of determining the relief sought in the application – whether an adverse order for costs should have been made by the court a quo – whether a case for an interdict had been made out on the papers in the court a quo against Erf 344.

16. Vrystaat Munisipale Pensioenfonds v The Minister of Finance & others (1161/2018)

Appealed from: GP

Date to be heard: 21 August 2020

Navsa JA, Zondi JA, Van der Merwe JA, Nicholls JA, Unterhalter AJA

Pension Funds Act 24 of 1956 – regulation 35(4) – interpretation – whether the appellant's review application was a review application under the Promotion of Administrative Justice Act 3 of 2000 or a collateral challenge – whether the delay rule was applied correctly in the raising

of a collateral challenge – whether the making of a regulation was reviewable under the Promotion of Administrative Justice Act 3 of 2000 or under the principle of legality – whether the refusal to grant condonation by the court a quo was correct – whether the review application should have been dismissed on the merits – whether reg 35(4) of the regulations made in terms of the Pension Funds Act 24 of 1956 should be reviewed and set aside – whether reg 35(4) was *ultra vires*.

AND

**Southern Sun Group Retirement Fund v The Registrar of Pension Funds & others
(215/2019)**

Administrative Law – review – Pension Funds Act 1956 – whether the impugned regulation, reg 35(4), promulgated by the Minister to impose on the board of a fund the obligation to create a ‘contingency reserve account’ and place an amount of money corresponding to the pension benefit enhancement calculated for the benefit of certain former members whom the fund could not trace in order to make payment of the enhancement in question, was *ultra vires* or irrational

AND

**Hortors Pension Fund v The Financial Sector Conduct Authority and The Minister of Finance
(54/2020)**

Administrative Law – review – Pension Funds Act 1956 – the appellant brought a collateral review challenge under PAJA, alternatively the principle of legality against reg 35(4) of the Pension Fund Regulations – whether reg 35(4) was reviewable under PAJA or the principle of legality – whether the impugned regulation, reg 35(4), promulgated by the Minister was done by fair procedure – whether reg 35(4) was *ultra vires* – whether reg 35(4) was irrational and unreasonable – whether reg 35(4) resulted in the arbitrary deprivation of property.

**17. Lepelle Industrial and Mining Supplies CC v Streaks Ahead Investments (Pty) Ltd, Boroka Filling Station CC, Erf 344 Ontwikkeling (Pty) Ltd, The Controller of Petroleum Products, Ba-Phalaborwa Local Municipality, The Minister of Energy National Government, The MEC, Department of Economic Development, Environment and Tourism, Limpopo Province, The MEC for Local Government and Housing, Limpopo Province & The Registrar of Deeds
(429/2019)**

Appealed from: GP

Date to be heard: 21 August 2020

Ponnan JA, Saldulker JA, Makgoka JA, Schippers JA, Goosen AJA

Civil Procedure – interdicts – Petroleum Products Act 12 of 1977 (PPA) – whether the site license as envisaged in the PPA applied for by the owner of land and accepted by the Controller of petroleum products whilst the owner of land was still the owner of land, but issued to that owner after it already transferred the land to a third party, was automatically invalid – whether, it was apparent from the facts of the case that the Controller of petroleum products decided to allow the continuation of the holding of the site licenses in circumstances where the third respondent contravened the PPA by not, within 6 months after becoming the owner of the land, applying for a transfer of the site license in circumstances where the discretion and decision not to instruct a cessation of petroleum products fell within the competencies of the Controller – whether appropriate circumstances existed to interdict the prima facie lawful conduct of the second respondent pending various legal proceedings aimed at impugning the retail license in terms of which the second respondent conducted its business – whether the interim interdict granted by the high court was of a temporary nature, to such an extent that it was not final and appealable – whether the site licence and metal licenses were intertwined and invalidity of the one also affected the validity of the other.

18. Altech Radio Holdings (Pty) Ltd, Thobela Telecoms (RF) (Pty) Ltd and Absa Bank Limited v City of Tshwane Metropolitan Municipality (1104/2019)

Appealed from: GP

Date to be heard: 24 August 2020

Ponnan JA, Wallis JA, Dambuza JA, Molemela JA, Sutherland AJA

Civil procedure - administrative law – contract – the respondent sought the review and setting aside of its own decisions to procure agreements known as the ‘BOT Agreement’ and ‘Tripartite Agreement’ and declarations of invalidity of the agreements – whether the respondent delayed unreasonably in applying for the review and setting aside of contracts concluded between the parties – whether the irregularities alleged in the tender process were material.

19. Pepkor Holdings Limited, Pepkor Speciality (Pty) Ltd and Tekkie Town (Pty) Ltd v AJVH Holdings (Pty) Ltd, Full Team Sure Trade (Pty) Ltd, Aquilam Holdings (Pty) Ltd, Liber Decimus (Pty), Xanado Trade and Investments 327, Steinhoff International Holdings N.V. and Town Investments (Pty) Ltd

(205/2020)

And

Steinhoff International Holdings N.V, Town Investments (Pty) Ltd v AJVH Holdings (Pty) Ltd, Full Team Sure Trade (Pty) Ltd, Aquilam Holdings (Pty) Ltd and Liber Decimus, Xanado Trade and Investments 327, Pepkor Holdings Ltd, Pepkor Speciality (Pty) Ltd and Tekkie Town (Pty) Ltd

(217/2020)

Appealed from: WCC

Date to be heard: 24 August 2020

Cachalia JA, Zondi JA, Mocumie JA, Schippers JA, Goosen AJA

Civil procedure – interdictory relief – the appellants contended that the first to fifth respondents failed to demonstrate the right to interdictory relief granted on the basis of the application of the *res litigiosa* doctrine, as there was no *lis* pending between the appellants and first to fifth respondents – whether, on the basis of the application of the principles relating to *res litigiosa*, the first to fifth respondents were entitled to the interdictory relief granted.

20. President of the Republic of South Africa and Minister of Justice and Constitutional Development v Women’s Legal Centre Trust, Minister of Home Affairs, Speaker of the National Assembly, Chairperson of the National Council of Provinces, Lajnatun Nisaa-il Muslima (Association of Muslim Women of South Africa), United Ulama Council of South Africa, South African Human Rights Commission and Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities

United Ulama Council of South Africa – First Amicus Curiae

Law Society of South Africa – Second Amicus Curiae

South African Lawyers for Change – Third Amicus Curiae

Muslim Assembly (Cape) – Fourth Amicus Curiae

Islamic Unity Convention – Fifth Amicus Curiae

Commission for Gender Equality – Sixth Amicus Curiae

Jamiatul Ulama KwaZulu-Natal – Seventh Amicus Curiae

AND

The Minister of Justice and Constitutional Development v Tarryn Faro, Marjorie Bingham NO (In her capacity as the Executor of the deceased Estate of Moosa Ely –

Estate No 4190/2010), Mujaid Ely, Shariff Ely, Tashrick Ely, Muslim Judicial Council, Imam Ib Saban and Master of the High Court

AND

The Minister of Justice and Constitutional Development v Ruwayda Esau, Magamat Riethaw Esau, The Cabinet of the Republic of South Africa, Government Employees Pension Fund, Muslim Judicial Council and Muneebah Jacobs

(612/2019)

Appealed from: GP

Date to be heard: 25 August 2020

Maya P, Saldulker JA, Van der Merwe JA, Plasket JA, Weiner AJA

Constitutional law – Muslim marriages – whether in failing to prepare, initiate, introduce, enact and bring into operation legislation recognising marriages solemnised in accordance with the tenets of Sharia law (Muslim marriages) as valid marriages and to regulate the consequences of such recognition, the President of the RSA and cabinet infringed ss 9, 10 and 34 of the Constitution – whether there was a constitutional obligation on the State to enact legislation recognising Muslim marriages – in the event that a breach of a constitutional obligation has been established, what the appropriate remedy was and in particular whether the rectification ordered by the court of first instance constituted competent and appropriate relief.

21. Sybrand Smit, Sybrand Smit NO, Solje Susan Smit NO and Enid Elizabeth Mulder NO v Origize 166 Strand Real Estate (Pty) Ltd, O’Neil Brendal Jacobs and Hanro Erasmus Steffen

(710/2019)

Appealed from: WCC

Date to be heard: 25 August 2020

Petse DP, Makgoka JA, Nicholls JA, Ledwaba AJA, Eksteen AJA

Contract – immovable property rights – the enforcement and irrevocability of two powers of attorney furnished by the first respondent to the first appellant in two company resolutions which expressly declared them to be irrevocable – the resolutions were passed as the appellants had granted loans to the first respondent to provide what was intended to be a short-term bridging finance for the first respondent’s purchase of certain immovable property – whether the ‘irrevocable’ mandate provided to the first appellant by the first respondent was in law irrevocable – whether the mandate authorised the sale of the immovable property rights even where the first respondent had refused to consent to the sale.

22. President of the Republic of South Africa and Minister of Justice and Constitutional Development v Women’s Legal Centre Trust, Minister of Home Affairs, Speaker of the National Assembly, Chairperson of the National Council of Provinces, Lajnatun Nisaa-il Muslima (Association of Muslim Women of South Africa), United Ulama Council of South Africa, South African Human Rights Commission and Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities

United Ulama Council of South Africa – First Amicus Curiae

Law Society of South Africa – Second Amicus Curiae

South African Lawyers for Change – Third Amicus Curiae

Muslim Assembly (Cape) – Fourth Amicus Curiae

Islamic Unity Convention – Fifth Amicus Curiae

Commission for Gender Equality – Sixth Amicus Curiae

Jamiatul Ulama KwaZulu-Natal – Seventh Amicus Curiae

AND

The Minister of Justice and Constitutional Development v Tarryn Faro, Marjorie Bingham NO (In her capacity as the Executor of the deceased Estate of Moosa Ely – Estate No 4190/2010), Mujaid Ely, Shariff Ely, Tashrick Ely, Muslim Judicial Council, Imam Ib Saban and Master of the High Court

AND

The Minister of Justice and Constitutional Development v Ruwayda Esau, Magamat Riethaw Esau, The Cabinet of the Republic of South Africa, Government Employees Pension Fund, Muslim Judicial Council and Muneebah Jacobs

(612/2019)

Appealed from: GP

Date to be heard: 26 August 2020

Maya P, Saldulker JA, Van der Merwe JA, Plasket JA, Weiner AJA

Constitutional law – Muslim marriages – whether in failing to prepare, initiate, introduce, enact and bring into operation legislation recognising marriages solemnised in accordance with the tenets of Sharia law (Muslim marriages) as valid marriages and to regulate the consequences of such recognition, the President of the RSA and cabinet infringed ss 9, 10 and 34 of the Constitution – whether there was a constitutional obligation on the State to enact legislation recognising Muslim marriages – in the event that a breach of a constitutional

obligation has been established, what the appropriate remedy was and in particular whether the rectification ordered by the court of first instance constituted competent and appropriate relief.

23. Malcolm Wentzel v Discovery Life Limited, Joachim Hendrik Botha NO, Reinette Steynburg NO, Zolile Abel Dlamini NO and The Master of the High Court, Pretoria *In Re: Cross–Appeal Joachim Hendrik Botha NO, Reinette Steynburg NO, Zolile Abel Dlamini NO v Malcolm Wentzel* (1001/2019)

Appealed from: GP

Date to be heard: 26 August 2020

Navsa JA, Mbha JA, Molemela JA, Eksteen AJA, Unterhalter AJA

Wills and Estates – contract – insolvency law – whether the death of an insolvent spouse married in community of property could alter the ordinary consequences of insolvency and result in a modification of the Insolvency Act to allow for the surviving spouse to receive and own property that was beyond the reach of the trustees – which of the parties was entitled to the proceeds of the risk only life insurance policy.

24. Milestone Beverage CC, The Trustees for the time being of the T and S Haupt Family Trust and Sean Peter Haupt v The Scotch Whiskey Association, Chivas Brothers Ltd, Chivas Holdings (IP) Ltd and Pernod Ricard South Africa (Pty) Ltd (1037/2019)

Appealed from: GP

Date to be heard: 26 August 2020

Ponnan JA, Makgoka JA, Schippers JA, Sutherland AJA, Poyo-Dlwati AJA

Intellectual property – get-up – unlawful competition in the whisky industry – whether the get-up of the first appellant’s ROYAL DOUGLAS and KING ARTHUR products misled potential customers about the nature, origin or quality of the aforesaid products – the respondents relied on a claim of unlawful competition based on the alleged misrepresentation and breach of various statutory provisions ie s 41 of the Consumer Protection Act 68 of 2008 and ss 11 and 12 of the Liquor Products Act 60 of 1989.

25. Wilhelm George Huysamen & Constantia Tonia Huysamen v ABSA Bank Ltd, Jarod Kolman, Philip du Plessis, Registrar of Deeds, Pretoria, The Sheriff Sandton South & Investec Bank Limited

(660/2019)

Appealed from: GP

Date to be heard: 26 August 2020

Cachalia JA, Dambuza JA, Dlodlo JA, Nicholls JA, Matojane AJA

Insolvency law – application for condonation – appellants published notice of surrender in terms of the provisions of the Insolvency Act 24 of 1936 – whether the sale of and transfer of the appellants’ immovable property to the whether the sale of and transfer of the appellants’ immovable property to the second and third respondents was unlawful and should be set aside.

26. Former Way Trade & Invest (Pty) Ltd v Bright Idea Projects 66 (Pty) Ltd

(1341/2018)

Appealed from: KZP

Date to be heard: 26 August 2020

Wallis JA, Zondi JA, Mocumie JA, Goosen AJA, Mabindla-Boqwana AJA

Civil procedure – interpretation – the applicant seeks the reconsideration of the dismissal of its application for leave to appeal by Justices Cachalia JA and Matojane AJA in terms of s 17(2)(f) of the Superior Courts Act 10 of 2013 for which it was granted leave for the reconsideration – whether the court of first instance failed to appreciate that the decision in *Business Zone 1010 CC t/a Emmarentia Convenience Centre v Engen Petroleum Limited and Others* [2017] ZACC 2; 2017 (6) BCLR 773 (CC) prevented a high court from adjudicating issues that have been ordered by the Controller of Petroleum Products in terms of s 12B of the Petroleum Products Act 120 of 1977 to be decided by a compulsory arbitration – interpretation of the judgment in *Business Zone*.

27. Eskom Holdings Soc Limited v Resilient Properties (Pty) Ltd, Changing Tides 91

(Pty) Ltd, Retraction Props 7 (Pty) Ltd, Mogwele Trading 278 (Pty) Ltd, Emalahleni Local Municipality, MEC: Co-operative Governance and Traditional Affairs, Minister of Energy and National Energy Regulator of South Africa

(663/2019)

And

Eskom Holdings Soc Limited v Sabie Chamber of Commerce and Tourism, Lydenburg Chamber of Commerce and Tourism, Graskop Chamber of Commerce and Tourism, Thaba Chewu Local Municipality, Municipal Manager: Thaba Chewu Local

Municipality, Executive Mayor: Thaba Chewu Local Municipality, Chief Financial Officer: Thaba Chewu Local Municipality, National Energy Regulator of SA, Minister of Energy, MEC: Co-operative Governance and Traditional Affairs and Minister: Co-operative Governance and Traditional Affairs

Sakeliga NPC – Amicus Curiae

664/2019

And

Thaba Chewu Local Municipality, Municipal Manager: Thaba Chewu Local Municipality, Executive Mayor: Thaba Chewu Local Municipality, Chief Financial Officer: Thaba Chewu Local Municipality v Sabie Chamber of Commerce and Tourism, Lydenburg Chamber of Commerce and Tourism, Graskop Chamber of Commerce and Tourism, Eskom Holdings Soc Limited, National Energy Regulator of SA, Minister of Energy, MEC: Co-operative Governance and Traditional Affairs, Minister: Co-operative Governance and Traditional Affairs and The Premier of Mpumalanga Province

Sakeliga NPC – Amicus Curiae

583/2019

Appealed from: GP

Date to be heard: 27 August 2020

Petse DP, Cachalia JA, Van der Merwe JA, Mocomie JA, Ledwaba AJA

Administrative Law – interpretation of statutes – Intergovernmental Relations Framework Act 13 of 2000 (IFRA) – Promotion of Administrative Justice Act 3 of 2000 – the appellant interrupted the supply of electricity to the fifth respondent – whether the fifth respondent’s failure to make payment of charges it admitted it owed to the appellant for bulk electricity supplied to it constituted a dispute as contemplated in IFRA – whether the finding that the appellant’s interruption decision should be reviewed and set aside – whether the appellant failed to exhaust internal remedies.

28. Sivalutchmee Moodliar, Trevor Philip Glaum and Keitumetse Taunyane v Recycling and Economic Development Initiative of South Africa NPC, Bowman Gilfillan and The Master of the High Court, Western Cape Division, Cape Town

AND

Stephen Malcolm Gore and Trevor Philip Glaum v Kusaga Taka Consulting (Pty) Ltd, Bowman Gilfillan, Francis Tjale and The Master of the High Court, Western Cape Division, Cape Town

(977/2019)

Appealed from: WCC

Date to be heard: 27 August 2020

Navsa JA, Mbha JA, Mokgohloa JA, Plasket JA, Unterhalter AJA

Company law – trust account – whether on the discharge of a final liquidation order, the provisional liquidator was entitled to recover his or her reasonable remuneration from the assets of the company and, to this end, whether sufficient assets of the company could be retained in an interest bearing trust account pending taxation or agreement in respect thereof – whether Bowman Gilfillan, in whose trust account the assets were held, did so as a stakeholder – whether the appellants were entitled to a declaratory order that the first respondent was liable for their remuneration.

29. Jacob Gedleyihlekisa Zuma v The Office of the Public Protector, The Public Protector, Economic Freedom Fighters, The United Democratic Movement, The Congress of the People, The Democratic Alliance, Mabel Petronella Mentor and the Council for the advancement of the South African Constitution.

(1447/2018)

Appealed from: GP

Date to be heard: 28 August 2020

Maya P, Zondi JA, Dambuza JA, Schippers JA, Unterhalter AJA

Civil Procedure – personal costs order on an attorney and client scale – court’s discretion – whether the court a quo erred in dismissing the applicant’s application for condonation for the late filing of the appeal – whether there were exceptional circumstances for the adjudication of the appeal on the issue of costs alone – whether the court a quo was correct in refusing leave to appeal – whether the appeal bears prospects of success and whether the costs order was proper – whether it was reckless for the appellant, in his capacity as the Head of State, faced with remedial action whose constitutionality was doubted, to approach a court of law for the review of remedial action contained in the State Capture Report.

30. Eskom Holdings Soc Limited v Resilient Properties (Pty) Ltd, Changing Tides 91 (Pty) Ltd, Retraction Props 7 (Pty) Ltd, Mogwele Trading 278 (Pty) Ltd, Emalahleni Local Municipality, MEC: Co-operative Governance and Traditional Affairs, Minister of Energy and National Energy Regulator of South Africa

(663/2019)

And

Eskom Holdings Soc Limited v Sabie Chamber of Commerce and Tourism, Lydenburg Chamber of Commerce and Tourism, Graskop Chamber of Commerce and Tourism, Thaba Chewu Local Municipality, Municipal Manager: Thaba Chewu Local Municipality, Executive Mayor: Thaba Chewu Local Municipality, Chief Financial Officer: Thaba Chewu Local Municipality, National Energy Regulator of SA, Minister of Energy, MEC: Co-operative Governance and Traditional Affairs and Minister: Co-operative Governance and Traditional Affairs

Sakeliga NPC – Amicus Curiae

664/2019

And

Thaba Chewu Local Municipality, Municipal Manager: Thaba Chewu Local Municipality, Executive Mayor: Thaba Chewu Local Municipality, Chief Financial Officer: Thaba Chewu Local Municipality v Sabie Chamber of Commerce and Tourism, Lydenburg Chamber of Commerce and Tourism, Graskop Chamber of Commerce and Tourism, Eskom Holdings Soc Limited, National Energy Regulator of SA, Minister of Energy, MEC: Co-operative Governance and Traditional Affairs, Minister: Co-operative Governance and Traditional Affairs and The Premier of Mpumalanga Province

Sakeliga NPC – Amicus Curiae

583/2019

Appealed from: GP

Date to be heard: 27 August 2020

Petse DP, Cachalia JA, Van der Merwe JA, Mocomie JA, Ledwaba AJA

Administrative Law – interpretation of statutes – Intergovernmental Relations Framework Act 13 of 2000 (IFRA) – Promotion of Administrative Justice Act 3 of 2000 – the appellant interrupted the supply of electricity to the fifth respondent – whether the fifth respondent’s failure to make payment of charges it admitted it owed to the appellant for bulk electricity supplied to it constituted a dispute as contemplated in IFRA – whether the finding that the appellant’s interruption decision should be reviewed and set aside – whether the appellant failed to exhaust internal remedies.

31. The Minister: Western Cape Department of Social Development v Basil Esau obo Janeca Esau, Overberg District Municipality, The Minister: Western Cape Department of Social Development and Babel and Krabbel Kleuterskool

(379/2019)

Appealed from: WCC

Date to be heard: 28 August 2020

Ponnan JA, Wallis JA, Makgoka JA, Dlodlo JA, Nicholls JA

Delict – damages – whether a provincial department of social development was responsible in delict for injuries sustained by a child attending a privately owned and run day care centre, where such injuries were as a result of defective equipment at the centre – if so, whether such department could look to the relevant municipality for indemnification in regard to such damages.

32. Melissa van Heerden v Annalise Bronkhorst

(846/2019)

Appealed from: MMB

Date to be heard: 28 August 2020

Saldulker JA, Molemela JA, Eksteen AJA

Civil procedure – rescission – whether condonation was required for the filing of the rescission application – whether there was a procedural error leading to the judgment being erroneously sought and granted, specifically where the respondent was entitled to use a hybrid notice of motion and whether it complied with rule 6(5)(f) of the Uniform Rules of Court – if not, whether the appellant provided good cause for the rescission of judgment, specifically on the presumption of *cum animo revocandi* applying in favour of the appellant.

33. Investec Bank Limited v Erf 436 Elandspoort (Pty) Ltd, Cecilia Joubert NO, Erf 1081 Arcadia (Pty) Ltd, Remaining Extent 764 Brooklyn (Pty) Limited and Erf 22 Hillcrest (Pty) Ltd

(410/2019)

Appealed from: MMB

Date to be heard: 31 August 2020

Petse DP, Saldulker JA, Dambuza JA, Plasket JA, Poyo-Dlwati AJA

Civil procedure – prescription – whether the finding of the high court that the appellant had failed to prove that the running of prescription was interrupted by an express or tacit acknowledgment of liability, as provided for in s 14(1) of the Prescription Act 68 of 1969 was correct.

34. Martrade Shipping and Transport GmbH v United Enterprises Corporation and MV ‘UNITY’

(1085/2019)

Appealed from: KZP

Date to be heard: 31 August 2020

Navsa JA, Makgoka JA, Schippers JA, Eksteen AJA, Goosen AJA

Admiralty – civil procedure – interpretation – special leave granted – the second respondent was arrested at the instance of the appellant in terms of s 5(3) of the Admiralty Jurisdiction Regulation Act 105 of 1983 (Admiralty Act) to provide security for the appellant’s claims against the first respondent in London arbitration proceedings – the proper interpretation of the order made by Henriques J in the KwaZulu–Natal Division on 23 December 2016 in an application for counter–security in terms of ss 5(2)(b) and 5(2)(c) of the Admiralty Act – whether the registrar’s determination as to the form of security was null and void for the reason that it was made out of the 15 day time period stipulated in the order.

35. Anna Mmakodi Thipe & 286 Denneboom Traders v City of Tshwane Metropolitan Municipality, Isibonelo Property Services (Pty) Ltd, The Municipal Manager: City of Tshwane Metropolitan Municipality, The Mayor: City of Tshwane Metropolitan Municipality, The CEO of Isibonelo Property Services (Pty) Ltd, Moeketsi Mosola, Solly Msimanga & Shadrack Mthethwa

(254/2019)

Appealed from: GP

Date to be heard: 31 August 2020

Ponnan JA, Zondi JA, Molemela JA, Weiner AJA, Sutherland AJA

Administrative Law – an appeal against an exception that was upheld on 23 October 2018 which emanated from an urgent application that was brought to hold the respondents in contempt of court and was thereafter referred to trial – whether a plaintiff’s pleading contains sufficient averments to answer to a claim arising from contempt, having regard to the fact that the criminal standard of proof will be applicable and the following protections are to be afforded to an accused person in ss 35(1) and 35(3) of the Constitution, Act 108 of 1996; the rights to remain silent, not to be compelled to make any confession or admission that could be used in evidence against that person and to be presumed innocent, to remain silent, and not to testify during the proceedings – whether the appellants defined their cause of action in the

appropriate pleading in the court of first instance, to inform the mayor and the municipal manager of the case they had to meet, and of the relief sought against them in court.

36. Jacob Resetlhake Daniel Modise and Batsomi Power (Pty) Ltd v Tladi Holdings (Pty) Ltd

(307/2019)

Appealed from: GP

Date to be heard: 31 August 2020

Cachalia JA, Wallis JA, Nicholls JA, Ledwaba AJA, Matojane AJA

Company law – alleged misappropriation of an alleged corporate entity by the appellants which the respondent avers belonged to it – whether the opportunity to take up shares in ARB Electrical Wholesalers (Pty) Ltd was ever a corporate opportunity belonging to the respondent – whether the appellants were liable to account to the respondent for the second appellant taking up shares in ARB on the basis of an alleged claim for an alleged appropriation of a corporate opportunity or the so called ‘no profit rule’ – whether the claim for an accounting from the second appellant had prescribed – whether a case for the piercing of the veil of the second appellant was made out.

37. Brocsand (Pty) Ltd v Tip Trans Resources (Pty) Ltd, Full Score Trading CC and Global Pact Trading 370 (Pty) Ltd

(925/2019)

Appealed from: WCC

Date to be heard: 31 August 2020

Mbha JA, Van der Merwe JA, Mocomie JA, Mabindla-Boqwana AJA, Unterhalter AJA

Civil procedure – exception – cause of action – whether the appellant’s particulars of claim disclosed a cause of action or was excipiable – whether the high court was correct to uphold the exception raised by the respondent to the appellant’s particulars of claim – whether the high court was correct in dismissing the appellant’s application to amend its particulars of claim.

38. Barend Petrus Jones v Christina Helena Pretorius NO (in her capacity as executrix)

(281/2019)

Appealed from: GP

Date to be heard: 1 September 2020

Saldulker JA, Van der Merwe JA, Dlodlo JA, Goosen AJA, Mabindla-Boqwana AJA

Administration of Estates Act 66 of 1965 – whether the respondent was entitled to recover the unlawful payments which the appellant caused the estate of the deceased to make to the appellant – whether ss 50 and 51(4) of the Administration of Estates Act 66 of 1965 only applied to an executor – whether the appellant’s claim was justified in terms of the common law.

39. Thembinkosi Mawonga & Institute for Local Government v Walter Sisulu Local Municipality, The Member of the Executive Council for Cooperative Governance and Traditional Affairs NO & The Administrator of the Walter Sisulu Local Municipality (574/2019)

Appealed from: ECG

Date to be heard: 2 September 2020

Petse DP, Mbha JA, Nicholls JA, Eksteen AJA, Unterhalter AJA

Local Government – municipal law – Local Government: Municipal Systems Act 32 of 2000 – whether the renewal of an employment contract of a municipal manager prior to the expiry of the fixed term of five years of the Municipal Systems Act (MSA) rendered the requirement of national advertisement for the vacant post inapplicable – whether the provisions of the appellant’s employment contract as Municipal Manager of the respondent stipulated the terms of its renewal within the meaning of that expression in s 57(6)(c) of the MSA – whether the appellant’s employment contract was validly renewed by way of the resolution of the respondent.

40. Off-Beat Holiday Club & Flexi Holiday Club v Sanbonani Holiday Spa Shareblock Ltd, Sanbonani Development Ltd, Hans Michael Harri, Hans Michael Harri NO, Heleen Duporetha Harri NO, Vincent Christopher Calaca NO, Sanbonani Hotel Management (Pty) Ltd & The Registrar of Companies (655/2019)

Appealed from: GP

Date to be heard: 2 September 2020

Navsa JA, Dambuza JA, Schippers JA, Matojane AJA, Sutherland AJA

Company law – s 252 of the Companies Act 61 of 1973 – amendment of articles of incorporation invalid – implementation of decisions taken under the amended articles operated unfairly, unjustly and inequitably – whether the appellants, as minority shareholders, suffered unreasonable prejudice or inequity subject to s 252 of the Companies Act.

41. The Nkandla Local Municipality, The Council of Nkandla Municipality and Langelihle Siphwokuhle Jili v The MEC for the Department of Co-operative Governance and Traditional Affairs

AND

The Mthonjaneni Municipality, The Council of Mthonjaneni Municipality and Philani Philemon Sibiya v The MEC for the Department of Co-operative Governance and Traditional Affairs

(485/2019)

Appealed from: KZP

Date to be heard: 2 September 2020

Ponnan JA, Zondi JA, Molemela JA, Makgoka JA, Poyo-Dlwati AJA

Local Government – labour law – administrative law – appeal against an order reviewing and setting aside the appointment of two municipal managers in the Nkandla and Mthonjaneni Municipalities – whether s 157 read with s 158 of the Labour Relations Act 66 of 1995 granted the labour court exclusive jurisdiction over the orders sought by the MEC, which had the effect of terminating the employment of the third appellants as municipal managers of their respective municipalities – the effect of the *South African Municipal Workers' Union v Minister of Co-operative Governance and Traditional Affairs* 2017 (5) BCLR 641 (CC) that declared s 54A(8) of the Local Government Municipal Systems Act unconstitutional – whether the high court's conclusion that the municipal managers failed to meet the minimum requirement of five years' experience at senior management level was justified.

42. Christiaan Jacobus van Meyeren v Jerald Cloete

(636/2019)

Appealed from: ECP

Date to be heard: 2 September 2020

Cachalia JA, Wallis JA, Mocumie JA, Ledwaba AJA, Weiner AJA,

Delict – actio de pauperie – conduct of a third party causatively contributing to injury being suffered – whether the facts in the present matter fell within the wider exception to pauperien liability as it was described in *Lever v Purdy* 1993 (2) SA 17 (A).

43. Transnet National Ports Authority v Reit Investments (Pty) Ltd and M C Seota NO (1159/2019)

Appealed from: GP

Date to be heard: 3 September 2020

Petse DP, Saldulker JA, Plasket JA, Dlodlo JA, Matojane AJA
Contract – sale and lease – property law – whether the second respondent, who was mandated as an expert, to review two market related rental valuations to determine which was the more appropriate, did so honestly – whether the second respondent’s determination was final and binding.

44. SA Airlink (Pty) Limited v South African Airways (SOC) Limited (In Business Rescue) and Leslie Matuson NO and Siviwe Dongwana NO (238/2020)

Appealed from: GP

Date to be heard: 4 September 2020

Maya P, Dambuza JA, Van der Merwe JA, Makgoka JA, Schippers JA

Company Law – business rescue proceedings – whether the appellant required leave of the court to litigate against the first respondent – whether revenue collected by the first respondent from the sale of tickets on behalf of the appellant was held by the first respondent in its own right or on behalf of the appellant – whether the appellant’s claim for revenue generated before business rescue was a pre or post business rescue claim and whether the first respondent, in business rescue elected to abide by the agreements concluded before business rescue.

45. City of Cape Town v Fatiema Carelse, Quinton Eksteen and Dylan Adrian Eksteen (296/2019)

Appealed from: WCC

Date to be heard: 4 September 2020

Navsa JA, Mocumie JA, Dlodlo JA, Eksteen AJA, Poyo-Dlwati AJA

Civil procedure – leave to appeal – damages – the first respondent was bitten by a dog at the Harmony Park Day Camp, a beach camp under the control of the City of Cape Town – the dog belonged to the second respondent and was brought to the area by the third respondent in contravention of the City’s by-laws and the day camp rules – the high court held the City liable for damages that the first respondent may prove – the second respondent was liable to contribute 50 % of the proven damages – on 31 May 2019 the Supreme Court of Appeal ordered

that the application be referred to oral argument in terms of s 17(2)(d) of the Superior Courts Act 10 of 2013 and further the parties must be prepared if called upon to do so to address the court on the merits – whether leave to appeal should be granted – whether there were reasonable prospects of success – reasonableness of imposing liability on the City – whether the high court erred in its application of legal principles in relation to delictual liability, specifically in terms of its application of wrongfulness and negligence.

46. Government Employees Medical Scheme, Guvant Goolab and Marthinus Johannes Kruger v The Public Protector of the Republic of South Africa, Joel Moagl Tumelo Benedict Ngwato, The Registrar of Medical Schemes and The Council for Medical Schemes

(1000/2019)

Appealed from: GP

Date to be heard: 4 September 2020

Ponnan JA, Mbha JA, Zondi JA, Goosen AJA, Mabindla-Boqwana AJA

Administrative law – whether the first appellant was an organ of state or a government component – did the first appellant exercise a public power or perform a public function – whether the first respondent had the statutory power to investigate the complaint – was the first respondent *functus officio*.

47. Zorah Banoo Khan v Salim Mahomed Shaik

(641/2019)

Appealed from: GP

Date to be heard: 4 September 2020

Cachalia JA, Saldulker JA, Nicholls JA, Matojane AJA, Sutherland AJA

Family law – universal partnership – prescription – the appellant contended that the high court erred in finding that her claim to declare the existence of a universal partnership between her and the respondent had prescribed – whether the claim for a declaration of a universal partnership and dissolution of such partnership could prescribe – whether a claim for ownership of property could prescribe.

48. Central Developments Tshwane (Pty) Ltd & Wilcoprop 202 (Pty) Ltd v The Body Corporate of Twee Riviere Aftree Oord Sectional Title Scheme (No SS0052110)

(635/2019)

Appealed from: GP

Date to be heard: 4 September 2020

Wallis JA, Molemela JA, Plasket JA, Ledwaba AJA, Unterhalter AJA

Property law – sectional title – failure to adopt special resolution before the institution of action against the developer – interpretation of ss 2(7) read with 2(7)(e) of the Sectional Title Scheme Management Act 8 of 2011 (the Act) – whether failure to procure special resolution as envisaged in the Act prior to the institution of the action was capable of ratification.

49. The Public Servants Association of South Africa, James Kilgour van Wyk and Benson Boy Ishmael Olifant v Government Employees Pension Fund, Minister of Finance, Minister of Public Service and Administration, Democratic Nursing Association of South Africa, South African Medical Association, Public Allied Workers’ Union of South Africa, South African State and Allied Workers’ Union, Health and Other Services Personnel Trade Union of South Africa, National African Teachers’ Union, National Union of Public Service and Allied Workers and 12 Others (886/2019)

Appealed from: GP

Date to be heard: 7 September 2020

Navsa JA, Saldulker JA, Schippers JA, Dlodlo JA, Goosen AJA

Administrative law – civil procedure – pension fund – the appellants challenged the first respondent’s (GEPF) decision to amend the actuarial interest factors used to calculate members’ premature exit benefits, without consultation, as required by rule 14.4.2 of the GEPF’s rules – whether rule 14.4.2 required the GEPF to consult with employee organisations before adopting and implementing the amendment to the actuarial interest factors – whether the GEPF’s decision to amend the actuarial interest factors was reviewable as administrative action, or on the grounds of legality – whether the remedies proposed by the appellants were appropriate.

50. Kingsley Jack Whiteaway Seale, Ontspan Beleggings (Pty) Ltd, Hi Frank Components (Pty) Ltd and Schoemansville Oewerklub v Minister of Public Works, Minister of Water and Sanitation, Premier of the North West Province, Transvaal Yacht Club and Registrar of Deeds, Pretoria (899/2019)

Appealed from: GP

Date to be heard: 7 September 2020

Ponnan JA, Zondi JA, Dambuza JA, Van der Merwe JA, Weiner AJA

Property law – contract – servitude – whether the first appellant as owner of Erf 463, which adjoined the Hartebeespoort Dam, was entitled to have a praedial servitude of access to the dam registered over the foreshore in front of Erf 263 – whether the claim was based on rights under an agreement which had lapsed – whether the claim was based on an incorrect interpretation of a sale agreement concluded in 1918 and a notarial agreement concluded in 1922.

51. Fletcher, Warren John v McNair, Gillian Claire

(1350/2019)

Appealed from: GP

Date to be heard: 7 September 2020

Cachalia JA, Makgoka JA, Plasket JA, Eksteen AJA, Sutherland AJA

Trust law – the appellant and the respondent (and the first respondent in the court a quo ‘Gerald’) were trustees of the McNair Family Trust - whether the court a quo was correct in ordering the removal of the appellant as a trustee on the basis that his continuance in office would have prevented the Trust being properly administered or would be detrimental to the welfare of the Trust beneficiaries.

52. Minister of Public Works v Roux Property Fund (Pty) Ltd

(779/2019)

Appealed from: GP

Date to be heard: 7 September 2020

Wallis JA, Mocumie JA, Molemela JA, Nicholls JA, Matojane AJA

Civil procedure – s 3(4)(a) of the Institution of Legal Proceedings against Certain Organs of State Act 40 of 2002 – application for the condonation of non-compliance with s 3(1) – appeal against an order granting condonation to respondent in terms of s 3(4) – whether the court a quo erred in condoning the failure of a creditor to give notice prior to legal proceedings being instituted – whether the respondent’s non-compliance with s 3(1) ought to be condoned in terms of s 3(4) – whether the condonation power granted in terms of s 3(4) permits condonation for non-compliance with the provisions of ss 3(1) and 3(2)(b), or is merely competent in respect of non-compliance with s 3(2)(a) – whether the court a quo misdirected itself in relation to being satisfied of the condonation application requirements in terms of s

3(4)(b) – whether the court a quo misdirected itself in exercising the discretion conferred where the respondent failed to explain a delay of more than three and a half years in bringing an application in terms of s 3(4).

53. Mitsubishi Hitachi Power Systems Africa (Pty) Ltd v Murray & Roberts Power & Energy a trading division of Murray and Roberts Ltd and Eskom Holdings Soc Limited (1011/2019)

Appealed from: GP

Date to be heard: 8 September 2020

Navsa JA, Dlodlo JA, Nicholls JA, Poyo-Dlwati AJA, Unterhalter AJA

Contract – appeal against the whole of the judgment and order of the high court, which upheld the first respondent’s claim and granted an order directing that the appellant disclose certain agreement and information to the first respondent – whether the first respondent failed to establish a contractual entitlement to the order – whether the first respondent circumvented PAIA – whether the high court wrongly exercised its discretion to order specific performance which would force the appellant to breach its confidentiality obligation to the second respondent.

54. Afribusiness v Minister of Finance (1050/2019)

Appealed from: GP

Date to be heard: 8 September 2020

Ponnan JA, Zondi JA, Dambuza JA, Eksteen AJA, Goosen AJA

Administrative law – Preferential Procurement Regulations 2017 - the appellant contended that the regulations were illegal because the respondent overstepped his powers and resorted to law making without following a rational procedure resulting in the issuing of irrational and unreasonable regulations – whether the respondent acted ultra vires of the powers conferred on him by the Preferential Procurement Policy Framework Act 5 of 2000 – whether the regulations were rational and fair.

55. Linda Holden v Assmang Limited (1277/2019)

Appealed from: KZP

Date to be heard: 10 September 2020

Ponnan JA, Molemela JA, Dlodlo JA, Eksteen AJA, Unterhalter AJA
Delict – damages – prescription – whether, in an action based on malicious proceedings, prescription began to run before or only when the proceedings had terminated in the plaintiff’s (appellant) favour – whether the court could find that the plaintiff’s particulars of claim did not disclose a cause of action where the defendant had not raised that issue in pleadings.

56. The Electoral Commission of South Africa v The Democratic Alliance, The Good Party and The African National Congress

(1068/2019)

Appealed from: EC

Date to be heard: 11 September 2020

Maya P, Zondi JA, Schippers JA, Goosen AJA, Sutherland AJA

Administrative Law – the appeal arises from a complaint by the first respondent against the second respondent in that it breached item 9(1)(b) of the Electoral Code of Conduct (the Code) – the first issue on appeal concerns the proper interpretation and effect of item 9(1)(b) of the Code – the second issue concerns the powers of the Electoral Commission to deal with complaints by political parties that are in breach of the Code and whether the Electoral Commission had the power to impose the sanction it imposed on the first respondent.

57. Women in Capital Growth (Pty) Ltd and Akhona Trade and Investments Proprietary Limited v v Mpho Innocent Scott and Abdoolrawoof Ahmed and African Legend Investment Proprietary Limited

(1193/2019)

Appealed from: GJ

Date to be heard: 11 September 2020

Wallis JA, Mbha JA, Nicholls JA, Weiner AJA, Unterhalter AJA

Company Law – whether the first appellant was bound by a written irrevocable undertaking signed by it in favour of the first and second respondents – whether the irrevocable undertaking ought to be set aside as it contravened ss 71(2) and 58(8)(c) of the Companies Act 71 of 2008.

58. Rotondwa Mulaudzi v Petronella Matodzi Mudau, Thomas Avhashoni Mudau and The Registrar of Deeds, Polokwane

(1034/2019)

Appealed from: LP

Date to be heard: 11 September 2020

Van der Merwe JA, Makgoka JA, Plasket JA, Ledwaba JA, Mabindla-Boqwana AJA

Family law – property law – ownership – contract - both the appellant and the first respondent claimed ownership of immovable property situate at Thohoyandou – the second respondent became the owner of immovable property during 2002 – the first and second respondents were married in community of property on 6 June 2003 – their marital relationship deteriorated and the first respondent left the communal home thereafter instituting divorce proceedings during August 2012 – the appellant and second respondent concluded an agreement in terms of which the appellant purchased the immovable property from the second respondent who averred he was single – the interpretation of ss 15(2)(a) and 15(9)(a) of the Matrimonial Property Act 88 of 1984 – whether the appellant was entitled to protection in terms of s 15(9)(a) and to retain the immovable property notwithstanding the fact that it was sold by the second respondent without his wife’s (first respondent) knowledge.

59. Joint Venture between Aveng (Africa) and Strabag International GmbH v South African National Roads Agency SOC Ltd (SANRAL) & Lombard Insurance Company Limited
(577/2019)

Appealed from: GP

Date to be heard: 14 September 2020

Navsa JA, Saldulker JA, Makgoka JA, Goosen AJA, Unterhalter AJA

Contract law – performance guarantee – whether a beneficiary under a performance guarantee and retention money guarantee could be prevented from demanding payment under the guarantee in circumstances where the demand would render the beneficiary in breach of its obligations in terms of the underlying contract – whether a contractor was entitled on the basis of a right to specific performance to interdict the employer from making demand on a performance guarantee before the employer had established an entitlement to payment in terms of the contract – whether the relief sought by the appellant was interim or final in effect.

60. Comcare Wellness Medical Scheme v Registrar of Medical Schemes and Others
(267/2020)

Appealed from: GP

Date to be heard: 14 September 2020

Cachalia JA, Schippers JA, Plasket JA, Ledwaba AJA, Matojane AJA

Administrative law – interpretation – s 23(1)(c) of the Medical Schemes Act 131 of 1998

– whether the court a quo erred in finding that the name change of the applicant is likely to mislead the public – whether the court a quo erred in the interpretation in terms of s 23(1)(c) of the Act in holding it does not empower the Registrar to approve a name change – whether the court a quo misdirected itself in finding that it was not possible to supervise or ensure compliance with the tendered conditions as medical schemes are all subject to inspections in terms of s 44 of the Act and administrators have to renew their accreditation every two years in terms of Regulation 17(7).

61. Katie Moyeni v Johannes Petrus De Vries NO and Rudi Dawid Strydom NO, Johan Willem Meyer NO, Tanya De Vries NO and Johannes Petrus De Vries

808/2019

Appealed from: LCC

Date to be heard: 15 September 2020

Navsa JA, Mocumie JA, Makgoka JA, Eksteen AJA, Goosen AJA

Property Law – interpretation – eviction – Extension of Security of Tenure Act 62 of 1997

- whether the appellant was an occupier as defined in s 1 of ESTA – whether the appellant was a ‘protected occupier’ as contemplated in s 8(4) of ESTA – whether the appellant’s right of residency can only be terminated if the provisions of ESTA were violated – whether the eviction of the appellant was just and equitable.

62. Renette Whitehead & Jacobus Hercules Du Preez v Trustees of the Insolvent Estate of Dennis Charles Riekert, Alvin Henry Fuhri, Desmion Louien Fuhri, ABSA Bank Limited, The Registrar of Deeds, Mpumalanga, The Minister of Agriculture, Forestry and Fisheries, The Sheriff of the High Court, Mbombela, Yolande Thèresa Naidoo & Shan Vishnu Naidoo

(567/2019)

Appealed from: MMB

Date to be heard: 16 September 2020

Navsa JA, Mbha JA, Mocumie JA, Sutherland AJA, Poyo-Dlwati AJA

Property law – passing of ownership – s 3 of the Subdivision of Agricultural Land Act 70 of 1970 – whether the contravention of the Subdivision of Agricultural Land Act affected the

validity and lawfulness of a sale agreement and the subsequent registration of transfer of property and mortgage bond – whether the agreement was valid for the sale of agricultural land in which title vested thereafter in undivided shares in two persons – whether the agreement was in contravention of s 3(b) of the Subdivision of Agricultural Land Act – whether the agreement was null and void.

63. President of the Republic of South Africa and Minister of Justice and Constitutional Development v Women’s Legal Centre Trust, Minister of Home Affairs, Speaker of the National Assembly, Chairperson of the National Council of Provinces, Lajnatun Nisaa-il Muslima (Association of Muslim Women of South Africa), United Ulama Council of South Africa, South African Human Rights Commission and Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities

United Ulama Council of South Africa – First Amicus Curiae

Law Society of South Africa – Second Amicus Curiae

South African Lawyers for Change – Third Amicus Curiae

Muslim Assembly (Cape) – Fourth Amicus Curiae

Islamic Unity Convention – Fifth Amicus Curiae

Commission for Gender Equality – Sixth Amicus Curiae

Jamiatul Ulama KwaZulu-Natal – Seventh Amicus Curiae

AND

The Minister of Justice and Constitutional Development v Tarryn Faro, Marjorie Bingham NO (In her capacity as the Executor of the deceased Estate of Moosa Ely – Estate No 4190/2010), Mujaid Ely, Shariff Ely, Tashrick Ely, Muslim Judicial Council, Imam Ib Saban and Master of the High Court

AND

The Minister of Justice and Constitutional Development v Ruwayda Esau, Magamat Riethaw Esau, The Cabinet of the Republic of South Africa, Government Employees Pension Fund, Muslim Judicial Council and Muneebah Jacobs (612/2019)

Appealed from: GP

Date to be heard: 30 September 2020

Maya P, Saldulker JA, Van der Merwe JA, Plasket JA, Weiner AJA

Constitutional law – Muslim marriages – whether in failing to prepare, initiate, introduce, enact and bring into operation legislation recognising marriages solemnised in accordance with the tenets of Sharia law (Muslim marriages) as valid marriages and to regulate the consequences of such recognition, the President of the RSA and cabinet infringed ss 9, 10 and 34 of the Constitution – whether there was a constitutional obligation on the State to enact legislation recognising Muslim marriages – in the event that a breach of a constitutional obligation has been established, what the appropriate remedy was and in particular whether the rectification ordered by the court of first instance constituted competent and appropriate relief.