THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
JUDGMENT

Reportable
Case no: 276/2024

In the matter between:

HASSODY KATHA **APPELLANT**

and

PRIMATHIE PILLAY N O **FIRST RESPONDENT**
KANDERUBY RAMOOTHY N O **SECOND RESPONDENT**
THE MASTER OF THE HIGH COURT, GAUTENG JOHANNESBURG **THIRD RESPONDENT**

Neutral citation: *Hassody Katha v Primathie Pillay N.O. and Others* (276/2024) [2025] ZASCA 106 (18 July 2025)

Coram: MATOJANE, KOEN JJA AND DLODLO, DAWOOD AND STEYN AJJA

Heard: 23 May 2025

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email, publication on the Supreme Court of Appeal website and released to SAFLII. The date and time for hand-down of the judgment is deemed to be 18 July 2025 at 11h00.

Summary: **Prescription** – Prescription Act 68 of 1969 (the Act) – whether death constitutes a superior force as contemplated in section 3(1)*(a)* of the Act, which suspends the running of acquisitive prescription.

ORDER

On appeal from: Gauteng Division of the High Court, Johannesburg (Moultrie AJ, sitting as court of first instance):

The appeal is dismissed.

JUDGMENT

Steyn AJA (Matojane and Koen JJA and Dlodlo and Dawood AJJA concurring):

Introduction

[1] Pivotal to this appeal is a claim to ownership of an immovable property located in the Benoni area. The ownership of the property has, at all relevant times, been registered in the name of Lutchmia Katha (Ms Katha), the mother-in-law of the appellant, Hassody Katha. After Ms Katha passed away on 18 August 2014 the appellant instituted an action in the Gauteng Division of the High Court, Johannesburg (the high court) alleging that she had acquired ownership of the property by acquisitive prescription, as contemplated in s 1 of the Prescription Act 68 of 1969 (the 1969 Act). The high court upheld the special plea raised by the first and second respondents, namely that the required prescription period was not completed, and stayed the remaining issues in the action for later determination. The appeal, with the leave of the high court, is against that order.

Background

[2] The appellant's claim that she has acquired ownership of the property by acquisitive prescription, is based on her having possessed the property since 1986, for more than 30 years, openly and as if she was the owner of the property, as provided in s 1 of the 1969 Act.[1] This claim was resisted by Ms Katha's two daughters, Primathie Pillay and Kanderuby Ramoothy, cited in their official capacities as the first and second

[1] Section 1 of the 1969 Act is quoted in paragraph 7 below.

respondents respectively. They are the executrixes of their mother's estate, having been appointed by letters of executorship issued by the Master of the High Court on 2 October 2017.

[3] The executrixes raised a special plea that, all the other requirements for acquisitive prescription aside, the appellant should fail in her claim, since the required statutory prescription period of 30 years had not been completed by the end of May 2016. Their special plea is grounded on the contention that the death of Ms Katha constituted a 'superior force', as prescribed in section 3(1)*(a)* of the 1969 Act, which served as an impediment to the completion of the prescription period.[2]

[4] The high court separated the special plea from all the other issues in the action. The parties agreed that no evidence would be led. The matter was instead decided on the crisp issue of whether the death of Ms Katha constituted a 'superior force' that served as an impediment which delayed the running of acquisitive prescription. The high court held that the running of the period was suspended on the date of Ms Katha's death, and that her death constituted a 'superior force'. The special plea to the appellant's claim of acquisitive prescription was accordingly upheld.[3] The issue before this Court is whether that conclusion was correct. The respondents have not participated in the appeal apart from filing a notice to abide by the decision of this Court.

Issues for determination

[5] The following issues require determination:

(a) Whether the interpretation of section 3(1)*(a)* of the 1969 Act, as determined by the high court, was correct;

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[2] It was pleaded that on a proper calculation, taking into account the date of death of Ms Katha, and section 3(1) of the 1969 Act, the 30-year period calculated from June 1986 would only have been completed by 1 October 2020.

[3] I consider it necessary for the sake of completeness to quote the entire order issued by the court:

'1. The first and second defendants' special plea to the plaintiff's main claim of acquisitive prescription is separated from, and is to be determined prior to, all other issues in the action.

2. The remaining issues in the action (including, if necessary, whether the plaintiff has possessed the property "openly" and as if the plaintiff was the owner thereof) shall be stayed until the first and second defendants' aforesaid special plea has been disposed of.

3. The first and second defendant's special plea to the plaintiff's main claim of acquisitive prescription is upheld.

4. Claim A, as pleaded in the plaintiff's particulars of claim (as amended) is dismissed with costs.'

(b) Whether the death of Ms Katha constituted a 'superior force' that delayed the running of the 30-year acquisitive prescription period.

Legislative framework

[6] The legislation in place before the 1969 Act was the Prescription Act 18 of 1943 (the 1943 Act). I consider its terms important in order to analyse the changes introduced by the 1969 Act. The law of prescription had been formalised by the adoption of the 1943 Act. Although the 1969 Act repealed the 1943 Act, it did not do so retrospectively. Accordingly, prescription claims commencing before 30 November 1970[4] have to comply with the requirements of the 1943 Act. Both the 1943 and 1969 Acts make provision for acquisitive prescription and the requirements are substantively the same. The 1969 Act however, in my view, simplified the text used in the 1943 Act and its context remains part of the contextual interpretation of the 1969 Act. It is necessary to scrutinise the applicable provisions of the 1969 Act to determine whether it lends itself to the interpretation followed by the high court.

[7] Section 1 of the 1969 Act stipulates as follows:

'(1) Acquisition of ownership by prescription

Subject to the provisions of this Chapter and of Chapter IV, a person shall by prescription become the owner of a thing which *he has possessed openly and as if he were the owner thereof for an uninterrupted period of thirty years* or for a period which, together with any periods for which such thing was so possessed by his predecessors in title, constitutes an uninterrupted period of thirty years.' (Emphasis added.)

[8] The type of possession contemplated in s 1 is civil possession. In *Glaston House (Pty) Ltd v Cape Town Municipality,* [5] Corbett J, stated:

'At common law acquisitive prescription confers ownership of property upon a person who has possessed it continuously for a period of 30 years *nec vi nec clam nec precario.* The possession required is *full juristic possession (possessio civilis),* i.e. the holding or detaining of the property in question with the intention of keeping it for oneself. (See *Welgemoed v Coetzer and Others*, 1946 T.P.D. 701 at pp. 712 - 3). Both the physical act of detention and the mental state must concur. The limited *possessio naturalis* of, for example, a lessee is not

[4] The date on which the 1969 Act came into operation was 1 December 1970.
[5] *Glaston House (Pty) Ltd v Cape Town Municipality* 1973 (4) SA 276 (C).

sufficient because he lacks the intention of acquiring and keeping the property for himself *(Welgemoed's* case, *supra*). It has not been suggested that successive Prescription Acts (Act 18 of 1943 and Act 68 of 1969) have in any way altered the position; nor do I think that they have.'[6] (Emphasis added.)[7]

[9] The common law, remains important in deciding on issues of prescription, since the two Acts did not codify prescription in our law.[8] This has been made clear in *President Insurance Co Ltd v Yu Kwam*[9] where the Court decided on the issue of extinctive prescription and stated in relation to the prescription legislation that it was: '. . . not intended to be, and in fact was not, an *exhaustive* codification of the law of prescription in South Africa…'.(Emphasis added.) In *Minnaar v Rautenbach,*[10] the court correctly confirmed that the 1943 Act did not change the common law requirements for acquisitive prescription.[11]

[10] Section 3(1) of the 1969 Act provides for the postponement of the completion of prescription in certain prescribed circumstances. It reads as follows:

'If–

(a) *the person against whom the prescription is running* is a minor or is insane, or is a person under curatorship, *or is prevented by superior force from interrupting the running of prescription as contemplated in section 4*; or

(b) …

(c) the period of prescription would, but for the provisions of this subsection, be completed before or on, or *within three years after, the day on which the relevant impediment referred to in paragraph (a) or (b) has ceased to exist*,

the period of prescription shall not be completed before the expiration of a period of three years after the day referred to in paragraph *(c)*.' (Emphasis added.)

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[6] Ibid at 281C-F.

[7] Section 2 of the 1943 Act was similar to s 1 of the 1969 Act. The main difference lies in the initial requirement of *nec vi*, *nec clam*, *nec precario* in the 1943 Act having been replaced with the formulation of 'openly and as if he was the owner thereof', in the 1969 Act. The Acts apply to both movable and immovable things.

[8] *Pienaar v Rabie* 1983 (3) SA 126 (A) at 134H – 135B and the authorities listed by the court.

[9] *President Insurance Co Ltd v Yu Kwam*[9] 1963 (3) SA 766 (A) at 774B-C.

[10] *Minnaar v Rautenbach* [1999] 1 All SA 571 (NC) (*Minnaar*).

[11] The court in *Minnaar* dealt with the requirements of prescription in terms of section 2 of the 1943 Act and did not interpret section 3(1)*(a)* of the 1969 Act and the outcome of this appeal is dependent on the interpretation of section 3 of the 1969 Act.

[11] Section 4 of the 1969 Act provides for the judicial interruption of prescription and for the sake of completeness, I quote it:

'(1) The running of prescription shall, subject to the provisions of subsection (2), be interrupted by the service on the possessor of the thing in question of any process whereby any person claims ownership in that thing.

(2) …

(3) If the running of prescription is interrupted as contemplated in subsection (1), a new period of prescription shall commence to run, if at all, only on the day on which final judgment is given.

(4) For the purposes of this section "process" includes a petition, a notice of motion, a rule *nisi* and any document whereby legal proceedings are commenced.'

Interpretation of the 1969 Act

[12] The high court in applying the trite principles of interpretation concluded that the text, purpose and context of s 3(1)*(a)* of the 1969 Act favour the conclusion that the death of Ms Katha constituted a superior force and that the acquisitive prescribed period of 30 years had not been completed. Accordingly, the approach followed by the high court is now considered. It remains necessary to re-affirm the importance of the context of the words used in s 3(1)*(a)* of the 1969 Act and why I did not consider it necessary, despite being invited by counsel for the appellant to analyse the memorandums that preceded the Act, as interpretive aids, in my decision of the meaning of the words used. In my view the published memorandum of Prof J C de Wet, should not form part of the interpretation process. This view is based on this Court's repeated endorsement of the principles of interpretation as stated in *Natal Joint Municipal Pension Fund v Endumeni Municipality* (*Endumeni*).[12]

[13] As to the meaning of words in the specific context that it is used, Wallis JA stated the following in *Endumeni*:

'[T]he present state of the law can be expressed as follows. Interpretation is the process of attributing meaning to the words used in a document, be it legislation, some other statutory instrument, or contract, having regard to the context provided by reading the particular provision or provisions in the light of the document as a whole and the circumstances attendant upon its coming into existence. Whatever the nature of the document, consideration must be given to the language used in the light of the ordinary rules of grammar and syntax; the context

[12] *Natal Joint Pension Fund v Endumeni Municipality* 2012 (4) SA 593 (SCA) (*Endumeni*).

in which the provision appears; the apparent purpose to which it is directed and the material known to those responsible for its production. Where more than one meaning is possible each possibility must be weighed in the light of all these factors. The process is objective not subjective. A sensible meaning is to be preferred to one that leads to insensible or unbusinesslike results or undermines the apparent purpose of the document. Judges must be alert to, and guard against, the temptation to substitute what they regard as reasonable, sensible or businesslike for the words actually used. To do so in regard to a statute or statutory instrument is to cross the divide between interpretation and legislation. In a contractual context it is to make a contract for the parties other than the one they in fact made. The 'inevitable point of departure is the language of the provision itself', read in context and having regard to the purpose of the provision and the background to the preparation and production of the document.'[13] (Footnotes omitted)

[14] This Court then went further and departed from the golden rule of interpretation, that existed, and that we were all taught to follow during our years as young law students namely the intention of the Legislature which was regarded as the cardinal rule of statutory interpretation. Wallis JA regards this legislative intent as unrealistic and misleading.[14] The court in rationalising the conclusion stated the following reasons:

'Unlike the trial judge I have deliberately avoided using the conventional description of this process as one of ascertaining the intention of the legislature or the draftsman, nor would I use its counterpart in a contractual setting, 'the intention of the contracting parties', because these expressions are misnomers, insofar as they convey or are understood to convey that interpretation involves an enquiry into the mind of the legislature or the contracting parties. The reason is that the enquiry is restricted to ascertaining the meaning of the language of the provision itself. Despite their use by generations of lawyers to describe the task of interpretation it is doubtful whether they are helpful. Many judges and academics have pointed out that there is no basis upon which to discern the meaning that the members of Parliament or other legislative body attributed to a particular legislative provision in a situation or context of which they may only dimly, if at all, have been aware. Taking Parliament by way of example, legislation is drafted by *legal advisers in a ministry, redrafted by the parliamentary draftsmen, subjected to public debate in committee, where it may be revised and amended, and then passed by a legislative body, many of whose members have little close acquaintance with its terms and are motivated only by their or their party's stance on the broad principles in the*

[13] *Endumen*i para 18.
[14] *Endumeni* para 21.

legislation. In those circumstances to speak of an intention of parliament is entirely artificial. The most that can be said is that in a broad sense legislation in a democracy is taken to be a reflection of the views of the electorate expressed through their representatives, although the fact that democratically elected legislatures sometimes pass legislation that is not supported by or unpopular with the majority of the electorate tends to diminish the force of this point. The same difficulty attends upon the search for the intention of contracting parties, whose contractual purposes have been filtered through the language hammered out in negotiations between legal advisers, in the light of instructions from clients as to their aims and financial advice from accountants or tax advisers, or are embodied in standard form agreements and imposed as the terms on which the more powerful contracting party will conclude an agreement.[15] (Footnotes omitted, emphasis added)

[15] Given the conclusion reached in this judgment I avoid seeking the intention of the Legislature or to consider the legislative history, which in my view would have included the published notes of Prof J C de Wet. What were followed were the conventional principles post *Endumeni* in determining the meaning of the words 'superior force' in s 3(1) of the 1969 Act.

[16] Any interpretation of a statute should be in accordance with the provisions of the Constitution.[16] Section 39(2) thereof provides that 'when interpreting any legislation . . . every court . . . must promote the spirit, purport and objects of the Bill of Rights'. In *Makate v Vodacom (Pty) Ltd,*[17] the Constitutional Court emphasised the importance of section 39(2) of the Constitution when it held:

'Since the coming into force of the Constitution in February 1997, *every court that interprets legislation is bound to read a legislative provision through the prism of the Constitution.*' (Emphasis added and footnote omitted.)

[17] I accordingly commence the process of interpretation by measuring the acquisition of property through acquisitive prescription against the protection offered in the Constitution. Acquisitive prescription remains a method to obtain ownership of property. The jurisprudential tension is between a registered owner on the one hand,

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[15] *Endumeni* para 20.
[16] The Constitution of the Republic of South Africa, 1996.
[17] *Makate v Vodacom Ltd* [2016] ZACC 13; 2016 (4) SA 121 (CC); 2016 (6) BCLR 709 (CC) para 87.

who stands to be deprived of his/her property, and a prospective owner who claims an entitlement by acquisitive prescription to the property possessed.

[18] The right to own property is protected in terms of s 25(1) of the Constitution.[18] Accordingly, an owner is entitled as of right to protect their rights to the property when it is claimed. Effectively, any deprivation of property,[19] including property obtained through the process of acquisitive prescription, needs to comply with legislative prescripts. In *casu,* the registered owner's right was protected by her daughters, who defended the claim against her estate. As the executrixes of her estate, they have to ensure that her assets are properly administered and distributed in accordance with her wishes.[20] There can be no doubt that the immovable property owned by Ms Katha remained an asset in her estate.

[19] Regarding the interpretation of s 3(1)*(a)* of the 1969 Act, the following statement by the Constitutional Court in *AmaBhungane Centre for Investigative Journalism NPC v President of the Republic of South Africa*[21] as a guide to interpretation is instructive: 'As always, in interpreting any statutory provision, *one must start with the words, affording them their ordinary meaning*, bearing in mind that statutory *provisions should always be interpreted purposively, be properly contextualised and must be construed consistently with the Constitution.* This is a unitary exercise. The context may be determined by considering other subsections, sections or the chapter in which the key word, provision or expression to be interpreted is located. Context may also be determined from the statutory instrument as a whole. A sensible interpretation should be preferred to one that is absurd or leads to an unbusinesslike outcome.'[22] (Emphasis added and footnotes omitted.)

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[18] Section 25(1) reads: 'No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property'.
[19] See *First National Bank of SA Ltd t/a Wesbank v Commissioner, South African Revenue Service and another; First National Bank of SA Ltd t/a Wesbank v Minister of Finance* 2002 (4) SA 768 (CC); 2002 (7) BCLR 702 (CC) para 57 where the Constitutional Court held that deprivation would encompass all species of where right or title to property would be affected.
[20] *Gross and others v Pentz* 1996 (4) SA 617 (A) at 625B where Corbett CJ re-affirmed that executors act in legal proceedings on behalf of a deceased estate.
[21] *AmaBhungane Centre for Investigative Journalism NPC v President of the Republic of South Africa* [2022] ZACC 31; 2023 (2) SA 1 (CC); 2023 (5) BCLR 499 (CC).
[22] *Ibid* para 36. Also see *Minister of Police and others v Fidelity Security Services (Pty) Ltd and others* [2022] ZACC 16; 2022 (2) SACR 519 (CC); 2023 (3) BCLR 270 (CC) para 34.

[20] This Court in *Capitec Bank Holdings Limited and Another v Coral Lagoon Investments 194 (Pty) Ltd and Others*[23] emphasised the importance of the meaning of words as follows:

'*Endumeni* simply gives expression to the view that the words and concepts used in a contract and their relationship to the external world are not self-defining. The case and its progeny emphasise that the meaning of a contested term of a contract (or provision in a statute) is properly understood not simply by selecting standard definitions of particular words, often taken from dictionaries, but also by understanding the words and sentences that comprise the contested term as they fit into the larger structure of the agreement, its context and purpose. Meaning is ultimately the most compelling and coherent account the interpreter can provide, making use of these sources of interpretation. It is not a partial selection of interpretational materials directed at a predetermined result.'[24]

In order to determine the purpose of the legislation regard must be had to the context in which the words appear in section 3 of the 1969 Act.

[21] The appellant's counsel submitted further that death had not been included as a factor by the Legislature in s 3 of the 1969 Act, which refers to a 'superior force'. Accordingly, if it were to be considered as a factor delaying the operation of prescription, then the Legislature would have expressly defined it as such. This argument relies, inter alia, on the Legislature having expressly referred to death as a factor in terms of s 13 of the 1969 Act, in the context of extinctive prescription. This submission is however misplaced.

[22] Section 3, read in its context, is aimed at protecting the rights of various owners of property, ie minors, the insane, those under curatorship and those prevented from protecting their rights due to a superior force. The class is not a closed category, if consideration is given to the words used at the beginning of the section, namely the reference to 'the person'. In the context of acquiring ownership through acquisitive prescription, it is clear that prescription cannot run against a person who is not able to interrupt the completion of the running of the prescriptive period.[25] Thus the section

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[23] *Capitec Bank Holdings Ltd and another v Coral Lagoon Investments 194 (Pty) Ltd and others* [2021] ZASCA 99; 2022 (1) SA 100 (SCA); [2021] 3 All SA 647 (SCA).
[24] Ibid para 50.
[25] The authors of *Lawsa* 3 ed Prescription para 231 also contend that this reasoning 'is in line with the well-established Roman-Dutch maxim *contra non valentem agere nulla currit praescriptio'.* Loosely translated as prescription does not run against a person unable to protect his or her rights.

provides for an equitable balance between the rights of owners of property and the possessors of the property who want to acquire ownership through acquisitive prescription.

[23] The term 'prevented by superior force' is, as Jones J concluded in *Gqamane v The Multilateral Motor Vehicle Accident's Fund,*[26] susceptible to a wide variety of meanings. He held, albeit in the context of section 13(1)*(a)* of the 1969 Act, that:

'either he must act in a particular way, or he cannot act in a particular way, because he has no choice in the matter …. In *Knysna Hotel CC v Coetzee NO* 1998 (2) SA 743 (SCA) the Supreme Court of Appeal did not give a definitive exposition of the term "superior force" as used in the subsection. It says no more than that it has to be a superior force which, objectively regarded, prevents the debtor from enforcing his claim by summons. Any attempt at an exhaustive definition is probably counter-productive.'[27]

There should be no distinction between the interpretation of the words used in section 3(1)*(a)* and section 13(1)*(a)* of the 1969 Act. The words used in section 3(1)*(a)* of the 1969 Act are clear, unambiguous and should be given their ordinary grammatical meaning.

[24] Given the tension between the rights of the owner of the property and the rights of the possessor, who aims at obtaining ownership of the property registered in the name of another, 'superior force' must be interpreted as an occurrence beyond the control of the registered owner; in other words, an event that inhibits the owner from acting. 'Superior force' is little or no different to the concept of *force majeure*, which principally finds its footprint in contractual obligations.[28] Death is not a foreseeable event, nor is it an event controlled by anyone.[29]

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[26] *Gqamane v The Multilateral Motor Vehicle Accidents Fund* [1999] 3 All SA 671 (SE).
[27] Ibid at 686G - J.
[28] In *MV Snow Crystal Transnet Ltd t/a National Ports Authority v Owner of MV Snow Crystal* [2008] ZASCA 27; 2008 (4) SA 111 (SCA) para 28, Scott JA said the following about the defence of impossibility, albeit in reference to vis major:
'. . . As a general rule impossibility of performance brought about by *vis major* or *casus fortuitus* will excuse performance of a contract. But it will not always do so. In each case it is necessary to "look to the nature of the contract, the relation of the parties, the circumstances of the case, and the *nature of the impossibility invoked* by the defendant, to see whether the general rule ought, in the particular circumstances of the case, to be applied.' (Emphasis added.)
[29] Under French law, *force majeure* is an event that is unforeseeable, unavoidable and external that makes execution impossible. The term has it origin in the Code of Napoleon of France. https://www.lexisnexis.co.uk/legal/glossary/force-majeure, accessed on 23 June 2025.

[25] Although the appellant advanced a number of grounds of appeal, there is a central theme to them. This theme is that if death is regarded as a 'superior force' for the purposes of s 3(1)*(a)* of the 1969 Act, then it is an impediment that only ceases to exist upon the appointment of the executor of the estate of the owner of the property, and this would have a detrimental effect in delaying the completion of the prescribed period of acquisitive prescription. The appellant submitted in argument that this could ultimately result in an indefinite period during which ownership cannot be obtained due to the continued existence of the impediment. This, so the argument went, would lead to legal uncertainty and the potential of a multiplicity of lawsuits to enforce the right.

[26] That argument is however based on a very narrow interpretation of section 3(1)*(a)* of the 1969 Act. It also does not consider the class of people listed in terms of section 3(1)*(a)* of the 1969 Act. The same result will obtain in respect of, for example the period of insanity of an insane person, which could be for an undetermined period.

[27] It was also submitted during oral argument that this Court's findings in *Standard Bank of South Africa Limited v July and others*[30] support the appellant's argument that an heir may step into the shoes of the executor. We were specifically referred to paragraph 2 of that judgment which reads:

'The high court held that although as a general rule only an executor can claim on behalf of an estate, there is an exception to this principle, known as the *Beningfield* exception, which allows beneficiaries of an estate to claim where the executor will not or cannot. Dawood J considered that since the executor of the estate was himself deceased, the beneficiaries could make claims against a person who had taken transfer of immovable property when not entitled to do so. She held that the applicants had *locus standi* to make the claims. A referral to oral evidence is pending the decision of this court on the respondents' *locus standi*. Only the bank, raised the issue of *locus standi* and only it has appealed against the order, with Dawood J's leave. The other respondents in the high court abide the decision of this court.'[31]

That judgment however merely confirmed that in exceptional circumstances, beneficiaries have *locus standi* to claim assets from a person in possession of the assets. No such exceptional circumstances were raised in the current appeal.

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[30] *Standard Bank of South Africa Limited v July and others* [2018] ZASCA 85.
[31] Ibid para 2.

Conclusion

[28] The context and purpose of s 3(1)*(a)* of the 1969 Act is to avoid any arbitrary and capricious deprivation of rights of ownership. Accordingly, 'superior force' on a proper construction of the phrase, in the context of the 1969 Act and having regard to its purpose, would include an occurrence of death and it will suspend the running of acquisitive prescription.

[29] The high court was not misdirected in its interpretation of the provision. It correctly upheld the special plea raised by the respondents. The respondents elected not to participate in this appeal. It would be just in the circumstances not to make any order as to costs.

[30] In the result, I make the following order:

The appeal is dismissed.

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E J S STEYN

ACTING JUDGE OF APPEAL

Appearances

For the Appellant: M Karolia
Instructed by: DP Attorneys Inc, Johannesburg
Honey & Partners Inc, Bloemfontein

For the Respondents: No appearance.

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