THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

JUDGMENT

Reportable

Case No: 332/2015

In the matter between:

REM **APPELLANT**

and

VM **RESPONDENT**

Neutral citation: *M v M* (332/2015) [2016] ZASCA 5 (9 March 2017)

Coram: Shongwe, Swain, Mathopo and Mocumie JJA and Dlodlo AJA

Heard: 10 November 2016

Delivered: 9 March 2017

Summary: Matrimonial Property Act 88 of 1984 – Marriage out of community of property with accrual – Antenuptual contract – Exclusion of defined assets from accrual – Proof of assets 'acquired by such party by virtue of the possession or former possession of such asset' – Particular asset, its proceeds and assets which replace the excluded asset, or acquired with its proceeds excluded – Trust Property Control Act 57 of 1988 – Unconscionable abuse of trust through fraud, dishonesty or improper purpose with object of avoiding accrual claim – piercing of trust veneer - spouse having standing to advance claim against husband as trustee – evidence not establishing such conduct.

ORDER

On appeal from: Gauteng Division of the High Court, Pretoria (Kubushi J sitting as court of first instance):

1 The appeal is upheld to the extent of the order contained in para 2 below.

2 Paragraph 2 of the order of the court a quo is set aside and substituted with the following order:
'The first defendant is to pay to the plaintiff the sum of R2 669 822.78'.

3 The respondent is ordered to pay the appellant's costs of the appeal.

JUDGMENT

Swain JA (Shongwe and Mathopo JJA and Dlodlo AJA concurring):

[1] It would be no exaggeration to describe the relationship between the appellant, REM, and his former wife, the respondent, VM, as tumultuous. They have been married and divorced three times. The proprietary consequences of the most recent divorce were the subject of a trial that was conducted before the Gauteng Division of the High Court, Pretoria (Kubushi J). The outcome of that trial is before this court by way of leave granted by the court a quo on certain issues, and thereafter leave having been granted by this court in respect of the whole judgment.

[2] The respondent as plaintiff in the court a quo advanced a number of proprietary claims based upon the terms of an antenuptual contract (ANC) concluded between the parties. This provided for a marriage out of community of property with

the accrual system in terms of the Matrimonial Property Act 88 of 1984 (the Act). Central to a resolution of the issues between the parties is an interpretation of certain provisions in the ANC, as well as a determination of whether certain trust assets form part of the accrual of the appellant's estate.

[3] The claims advanced by the respondent were as follows:

(a) Claim A was for the provision by the appellant of fixed property to the value of R300 000 escalated at the rate of 10 per cent per annum. This was based upon a provision in the ANC that in the event of an extramarital affair of the appellant being the cause of a divorce, the appellant would be obliged to furnish this asset to the respondent.

(b) Claims B, E and F were for orders declaring that the assets held by the Shajo Trust, the RMF Trust and Capmark Business Trust were the assets of the appellant. It was alleged that these assets were to be taken into account when determining the extent of the accrual of the appellant's estate for the purposes of the respondent's accrual claim, because they were not excluded from the accrual in terms of the ANC. In the alternative, it was alleged that the trusts were simply the alter ego of the appellant and the assets of the trusts were in reality the assets of the appellant.

(c) Claim C was for an order setting aside the transfer of the appellant's 50 per cent membership interest in Milcar Development CC (Milcar) to the Shajo Trust, based upon the appellant's fraudulent intent to defeat the respondent's accrual claim.

(d) Claim D was for an order declaring that 'contributions' made to the RMF Trust formed part of the estate of the appellant in terms of the ANC, which had to be taken into account when assessing the respondent's accrual claim.

[4] The defences raised by the appellant to these claims were as follows:

(a) In respect of claim A the appellant alleged that the respondent had failed to prove that the extramarital affair of the appellant was the 'cause' of the divorce, as required by the ANC.

(b) In respect of claims B, E and F the appellant alleged that the assets held by these trusts were excluded from the determination of the accrual of the appellant's estate by virtue of the provisions of clause 6 of the ANC. In the alternative, it was alleged that the respondent had not alleged that these trusts were a sham and without any evidence that the appellant had acted fraudulently in controlling these trusts, that these assets could not be regarded as forming part of the appellant's estate for the purposes of an accrual.

(c) In respect of claim C the appellant denied that the transfer of his interest in Milcar to the Shajo Trust, was done with the fraudulent intent to defeat the appellant's accrual claim.

(d) In respect of claim D the appellant alleged that properly interpreted, the term 'contribution' in the ANC, implied a positive act which benefits the contributee without there being a concomitant legal obligation to do so, and that these assets should not be regarded as part of the accrual system.

[5] The court a quo dealt with the claims of the respondent as follows:

(a) In respect of claim A, it held that the appellant's extramarital affair led to a breakdown in trust, which eventually caused the breakdown of the marriage and the ensuing divorce. The escalated amount awarded to the respondent, being the value of the immovable property that the appellant was obliged to provide to the respondent, was calculated as R1 144 004 as at 20 October 2011.

(b) In respect of claims B and F, it held that the assets in these trusts were not excluded from the accrual by the terms of the antenuptual contract. It had not been proved by the appellant that there was any causal connection between the initial assets excluded in terms of the ANC and these assets. As regards the alternative defences to claims B and F, it was held that the Shajo and Capmark Trusts were the

alter egos of the appellant, because the appellant had managed these trusts in an improper manner. The trust assets of these two trusts were accordingly to be taken into account when determining the accrual of the appellant's estate. As regards claim E in respect of the RMF Trust, the court a quo held that the appellant's beneficial interest in this trust was excluded for accrual purposes in terms of the ANC. The court a quo determined that the value of the assets in the Shajo Trust was R16 967 866 and the value of the assets held in the Capmark Business Trust was R517 054.

(c) In respect of claim C, the court a quo made no finding because of the conclusion it had reached in regard to claim B.

(d) In respect of claim D, it held that the use of the word 'contribution' in the ANC meant any asset that accumulated in the RMF Trust after the marriage, irrespective of how it was accumulated. It found that the total value of contributions made to the RMF Trust was R4 087 335.40. The respondent was entitled to 75 per cent of this amount being R3 065 501.58.

[6] I turn to deal with each of these claims. In respect of claim A the relevant clause in the ANC provides that:

'Should it be proven that the principal, REM be the cause of a future divorce through an extramarital relationship, he will effect that the principal VT obtains a fixed property to the value of R300 000 (Three Hundred Thousand Rand). Such property shall be given to the principal VT within 3 (three) months after dissolving of the marriage. REM shall pay the transfer and bond registration costs of the said fixed property as well as the monthly instalments on the said property, bonded by a financial institution. This figure of R300 000 (Three Hundred Thousand Rand), is to escalate at 10% (Ten Percent) per annum.'

[7] The clause must be interpreted in context and against the background in which it was concluded.[1] The parties had been divorced on two previous occasions which, according to the respondent, were caused by the appellant's involvement in extramarital affairs. Although these allegations are disputed by the appellant, the object of the clause must have been to deter the appellant from being involved in an extramarital affair in the future. I do not agree with the appellant's argument that the clause is *contra bonos mores* and unenforceable because it serves to encourage the dissolution of the marriage, instead of attempting to reconcile the parties.[2] The clause seeks to achieve the contrary objective, being the preservation of the marriage by discouraging an extramarital affair by the appellant.

[8] The appellant also submits that the requirement that the conduct be 'the cause' of the divorce must be interpreted narrowly, in the legal sense. In other words, the principles of legal causation must be applied. The appellant submits that the marriage of the parties on the evidence as a whole, never had a realistic prospect of continuing successfully and it is for this reason that the provisions must be narrowly construed.

[9] It is not helpful to import the rules of legal causation when the meaning of the phrase 'the cause of a future divorce' has to be determined. The respondent clearly believed that extramarital affairs of the appellant had caused the breakdown of their marriage on two previous occasions and wished to preserve their third marriage, by discouraging future infidelity on the part of the appellant. The appellant conceded during cross-examination that his extramarital affair destroyed the trust in their marriage. In my view, this concession viewed in the context of the purpose of the clause, established that his conduct was the cause of the divorce.

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[1] *Natal Joint Municipal Pension Fund v Endumeni Municipality* [2012] ZASCA 13; 2012 (4) SA 593 (SCA) para 18.
[2] See *Cumming v Cumming* 1984 (4) SA 588 (T) at 589F-I.

[10] I turn to consider claims B, E and F which relate to the Shajo Trust, RMF Trust and the Capmark Business Trust. I agree with the court a quo's conclusion that the appellant's beneficial interest in the RMF Trust was excluded for accrual purposes in terms of the ANC.[3] The enquiry is whether the court a quo was correct in concluding that the assets held by the Shajo Trust and the Capmark Business Trust were not excluded by the terms of the ANC. If these assets were not excluded, the further issue is whether they legitimately form part of the assets of these trusts and do not form part of the appellant's estate, for purposes of the accrual system.

[11] The relevant clause in the ANC provides as follows:

'That the assets of the parties herein contracting with each other, belonging to either of them, which are listed hereunder and having the values shown herein above, together with all liabilities presently associated with such assets, or any other asset acquired by such party by virtue of the possession or former possession of such asset, shall not be taken into account as part of the other party's estate and/or form part of the accrual system on the dissolution of the marriage.

All assets as referred to in this paragraph herein above under 4 (four) and 5 (five) shall be the assets of such party alone, and shall all loss and profit on such asset form the sole and exclusive profit and/or loss of such party without the other party having any right to any part and/or profit or loss on such asset, except for contributions made to the RMF Trust after date of marriage, which contributions and growth on such contributions will be subject to the accrual system.

The assets of

REM

so to be excluded are:

A beneficial interest in Vacation Investment Port Folio Trust and/or any other trust conducting business in the vacation time share property market.

Members interest in RM Consultants CC

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[3] Whether 'contributions' made to this trust after the parties' marriage form part of the accrual system is the subject of Claim D.

Beneficial interest in the RMF Trust, fixed property within RMF Trust Portion 400 of erf 375 RIETFONTEIN . . .'

[12] The excluded assets therefore comprise the listed assets, together with any assets acquired by a party by virtue of the possession, or former possession of these assets. The only excluded asset of relevance to the present enquiry is the Vacation Investment Portfolio Trust (VIP Trust), because the appellant stated in evidence that according to his recollection the only trust in which he held a 'beneficial interest' at the date of the marriage, was this trust.

[13] The appellant stated that at the time of the marriage, he was involved in the time share industry and during 2001 there was a dispute between the appellant and a certain Mr Ian Wilcox. The consequence of this was that a so-called asset swap agreement was concluded between them, in terms of which the appellant acquired the right to proceed with a business in Cape Town which was involved in the time share industry. In return, he relinquished his interests in certain assets specified in the agreement. The appellant's argument was that he was always involved in the timeshare industry and had not been involved in any other form of business. It was not disputed that the present interests of the appellant, whether in trusts or other entities, were funded solely from the appellant's involvement in the timeshare industry. The appellant accordingly contended that clause 6 of the ANC excluded from the accrual of his estate, any asset acquired as a result of his activities in the timeshare industry. I do not agree that the clause is capable of bearing such a wide meaning. It only provides for the exclusion of the appellant's beneficial interest in the VIP Trust, together with any asset acquired by virtue of his possession, or former possession of this asset.

[14] No evidence was led by the appellant to show any nexus between the assets held by the trusts in question and the assets held by the VIP Trust, at the time of the marriage. No mention is made in the asset swap agreement of the VIP Trust, which is not surprising as the appellant stated that it did not play a major role at that stage in his activities in the timeshare industry. I agree with the view of Professor Jacqueline Heaton, as to the meaning of the phrase 'any other asset acquired by

such party by virtue of the possession or former possession of such asset'. What is envisaged is 'the particular asset, its proceeds, and assets which replace the excluded asset or are acquired with its proceeds'.[4] This phrase in the ANC owes its origin to s 4(1)*(b)*(ii) of the Act which provides that:

'An asset which has been excluded from the accrual system in terms of the antenuptual contract of the spouses, as well as any other asset which he acquired by virtue of his possession of the first-mentioned asset, is not taken into account as part of that estate at the commencement or the dissolution of his marriage.'

The court a quo accordingly correctly concluded that the assets held by the Shajo Trust and Capmark Business Trust, were not excluded from the accrual of the appellant's estate in terms of the ANC.

[15] In support of the respondent's contention that the assets held by these trusts formed part of the appellant's estate the respondent sought orders declaring that these trusts were the alter ego of the appellant. The respondent alleged that the appellant established these trusts to conceal his assets and with the purpose of defeating the patrimonial claims of the respondent. It was also alleged that the appellant transferred personal assets to these trusts and in registering these assets in the trusts, did not intend to transfer ownership. He dealt with these assets as his own and were it not for the trusts would have acquired and owned these assets in his own name. It was also alleged that the appellant had failed properly to perform his fiduciary duties as a trustee. In support of these claims the respondent relied on a number of concessions made by the appellant when giving evidence. The appellant conceded that he had used the funds of these trusts to pay personal maintenance obligations. This was effected by crediting his loan accounts in these trusts, after he had made these payments. He would also utilise funds in the account of a trust to pay personal liabilities. He would then leave it to his accountant, a Mr Forssman, a joint trustee in the Shajo Trust, to reconcile these payments and allocate them to

[4] Jacqueline Heaton (ed) *The Law of Divorce and Dissolution of Life Partnerships in South Africa* (2014) at 82-83.

various entities. He also conceded that he shifted money between various accounts including his personal account and used the funds of the trusts to fund his business enterprises.

[16] It is also apparent that the appellant disposed of his 50 per cent member's interest in Milcar to the Shajo Trust without receiving value, as no payment was made for the transfer, it being a transaction on paper. This transfer took place after the respondent had instituted action for divorce. The respondent submits that the purpose of the transfer was to fraudulently exclude this asset from the reach of the respondent's accrual claim.

[17] The claim that the appellant used these trusts as his alter ego, necessarily involves an acceptance of the valid existence of the trusts.[5] The respondent did not claim that the trusts were a sham and therefor did not exist, with the consequence that the assets did not vest in them on this ground. The remedy of going behind a validly established trust form, or 'piercing its veneer' is correctly described as:

'an equitable remedy in the ordinary, rather than technical, sense of the term; one that lends itself to a flexible approach to fairly and justly address the consequences of an unconscionable abuse of the trust form in given circumstances. It is a remedy that will generally be given when the trust form is used in a dishonest or unconscionable manner to evade a liability, or avoid an obligation.'[6]

[18] The appellant early on in the development of his businesses in the timeshare industry on the advice of his accountant would create a new legal entity, whether in the form of a trust, close corporation or company to pursue any venture. The object was to isolate each business so that the financial demise of one, would not affect the financial viability of any of the others. This was obviously a legitimate business activity and the trusts in question must be viewed as part of the appellant's overall

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[5] *Van Zyl & another NNO v Kaye NO & others* 2014 (4) SA 452 (WCC) para 21.
[6] *Van Zyl* (above) para 22.

business strategy. The evidence accordingly does not support the respondent's contention that these trusts were established with the object of defeating any patrimonial claims of the respondent.

[19] The conduct of the appellant in allegedly transferring personal assets to these trusts, dealing with them as if they were assets of these trusts and not properly performing his fiduciary duties, all with the object of concealing these assets and thereby defeating the accrual claim of the respondent, are the central issues in determining whether the trust veneer should be pierced. Although the trust form is debased where it 'is employed not to separate beneficial interest from control, but to permit everything to remain "as before", though now on terms that privilege those who enjoy benefit as before while simultaneously continuing to exercise control,'[7] this court has held that these dicta 'pertaining to the importance of maintaining the functional separation between control (by trustees) and enjoyment (by beneficiaries) in family trusts, are premised upon the interests of third parties who transacted with the trust'.[8] A fiduciary responsibility would be owed by the trustees to third parties who transacted with the trust, as well as beneficiaries of the trust.[9] If the trust form is 'debased' in this sense, justice dictates 'that the veneer of the trust be pierced in the interests of creditors' and '[b]y analogous reasoning, unconscionable abuse of the trust form through fraud, dishonesty or an improper purpose will justify looking behind the trust form'.[10] The ambit of a claim of this nature must be considered with due regard for the provisions of the Trust Property Control Act 57 of 1988. Section 1 provides for the transfer of interest or ownership in property or assets to a designated person or class of persons, as well as control of such property or assets by a trustee or trustees in accordance with the provisions of the governing trust instrument. Section 12 provides that trust property does not form part of the personal

[7] *Land and Agricultural Bank of South Africa v Parker & others* 2005 (2) SA 77 (SCA) para 26.
[8] *WT & others v KT* [2015] ZASCA 9; 2015 (3) SA 574 (SCA) para 33.
[9] Ibid para 32
[10] Ibid para 31 citing *Parker* (above).

property of a trustee, except to the extent that a trustee is entitled to such trust property as a beneficiary in terms of the trust instrument.

[20] This Court has however held that a spouse, 'has no standing to challenge the management of the trust by her husband in the circumstances of the present case, either as a beneficiary of the trust or as third party who transacted with the trust.' [11] The respondent who was neither a beneficiary of, nor a third party transacting with these trusts would on this basis lack standing. I respectfully disagree with this conclusion which confines standing to advance such a claim to those to whom a fiduciary responsibility is owed by the trustee. There can be no basis in logic or principle for a distinction to be drawn between legal standing to advance a claim to pierce the veil of a trust, by a third party who transacts with the trust on the one hand, and a spouse who seeks to advance a patrimonial claim, on the other. Breach by the trustee of his or her fiduciary duties in the administration of the trust, is not the determining factor. In either case, a claim lies against the trust, or the errant trustee, on the basis that the unconscionable abuse of the trust form by the trustee, in his or her administration of the trust, through fraud, dishonesty or an improper purpose prejudices the enforcement of the obligation owed to the third party, or a spouse.[12] The respondent had to prove that the appellant transferred personal assets to these trusts and dealt with them as if they were assets of these trusts with the fraudulent or dishonest purpose of avoiding his obligation to properly account to the responent for the accrual of his estate and thereby evade payment of what was due to the respondent, in accordance with her accrual claim. If established a declaration could be made that the trust assets in question are to be used to calculate the accrual of the appellants estate, as well as satisfy any personal liability of the appellant to make payment to the respondent. Although the appellant administered the trusts with very little regard for his fiduciary duties as a trustee and without proper regard for the

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[11] *WT v KT* supra para 33

[12] See Iain M Shipley 'Trust assets and the dissolution of a marriage: a practical look at invalid trusts, sham trusts, and piercing the veneers of trusts/going behind the trust form' (2016) 28 *SA Merc LJ* 508.

essential dichotomy of control and enjoyment essential to the nature of a trust and although such conduct may have justified his removal as a trustee, or the appointment by the Master of an independent co-trustee in terms of s 7(2) of the Trust Property Control Act, the evidence did not prove that he transferred personal assets to these trusts and dealt with them as if they were assets of these trusts, with the fraudulent or dishonest purpose of avoiding his obligation to properly account to the respondent for the accrual of his estate. In addition it was not established that the transfer of assets to these trusts by the appellant was simulated with the object of cloaking them with the form and appearance of assets of the trusts, whilst in reality retaining ownership. The assets of these trusts are accordingly not to be taken into account in determining the accrual of the appellant's estate.

[21] In reaching this conclusion I do not overlook the conduct of the appellant in transferring his interest in Milcar to the Shajo Trust. He stated that it was always his intention that his shares in Milcar be registered in the name of the Shajo Trust, because his usual practice was to conduct his business through trusts. The respondent conceded that she could not dispute this but it was her belief that the appellant had done this to defeat her accrual claim. Although the appellant agreed that the ANC did not refer to any close corporations, except for RM Consultants CC as being excluded from the accrual of his estate, this does not detract from his general belief, albeit legally unfounded, that all of these assets were excluded in terms of the ANC. There would therefor be no reason for him to place his interest in Milcar in the Shajo Trust, to defeat the respondent's accrual claim. I am accordingly satisfied on a consideration of the evidence as a whole, that it was not established that the appellant fraudulently intended to deprive the respondent of a claim to any of his interests in Milcar, by this transaction.

[22] This conclusion that the appellant did not fraudulently intend to deprive the respondent of any interest in Milcar, disposes of claim C.

[23] I turn to consider claim D and whether the contributions to the RMF Trust fall within the accrual system in terms of the ANC. The relevant clause provides that

‘contributions made to the RMF Trust after date of marriage’, including ‘growth on such contributions will be subject to the accrual system’.

[24] The appellant submits that the ANC does not specify whether the use of the word ‘contribution’ was intended to mean a contribution by the parties and/or contributions by third parties. Because the parties did not use any other language such as donation, loan, service, income or the like, the ordinary meaning of the word applied. A positive act is required which benefits the contributee, without there being a concomitant legal obligation to do so.

[25] In my view, this interpretation of the word ‘contribution’ in the context of the ANC as a whole is far too narrow. I agree with the conclusion by the court a quo that the ANC does not state how, or by whom the contributions are to be made. What was envisaged was the accumulation of assets by contributions for the benefit of beneficiaries. By the use of the word ‘contribution’ what was meant was any asset that accumulated in the RMF Trust after the marriage, irrespective of how it was accumulated. It was not argued by either of the parties that the conclusion by the court a quo that the total contributions to the trust, including the growth of these contributions amounting to R4 087 335.40, was wrong. Neither was it argued that the finding that the respondent was entitled to 75 per cent of this amount, in the amount of R3 065 501.55, was wrong.

[26] Likewise, no argument was advanced by either of the parties, as to the correctness or otherwise of the manner in which the court a quo calculated the accrual of the appellant’s estate and the respondent’s entitlement to one half of the accrual. However, because the assets of the Shajo Trust and Capmark Trust do not form part of the accrual of the appellant’s estate, the amount due to the respondent requires recalculation, in the following manner:

Revised net asset value of appellant’s estate	R2 274 144.00
Contributions made to the RMF Trust	R3 065 501.55
	R5 339 645.55

The appellant's estate has accordingly accrued by an amount of R5 339 645.55. The respondent is entitled to one half of this amount in the sum of R2 669 822.78.

[27] The outcome of this appeal does not justify any variation in the costs order made by the court a quo. The respondent remains successful in certain of the claims advanced before that court. The appellant has, however, achieved substantial success in this appeal and is entitled to the costs of the appeal.

[28] In the result, the following order is made:

1 The appeal is upheld to the extent of the order contained in para 2 below.

2 Paragraph 2 of the order of the court a quo is set aside and substituted with the following order:

'The first defendant is to pay to the plaintiff the sum of R2 669 822.78'.

3 The respondent is ordered to pay the appellant's costs of the appeal.

K G B Swain
Judge of Appeal

Mocumie JA

[29] I have had the benefit of reading the judgment of my colleague, Swain JA, and agree with his reasoning and conclusion that the appeal should be upheld. I unfortunately cannot agree with him on the question of costs. My reasons for the disagreement are set out below.

[30] As much as the appellant has been substantially successful in this appeal, that is not the only consideration.[13] Other factors come into play including the nature

[13] A C Cilliers *Law of Costs* 3 ed (2008) para 14.09.

of the proceedings and how the one party came to lose the case in the determination of an appropriate costs order.

[31] Apart from the nature of the proceedings, further unique to this case, is the issue of trust property provided for in the antenuptial contract. In circumstances where, as in this case, the appellant is the only person in possession of all the facts relating to the assets in the trusts, it can never be expected of the respondent to say more than the little she knew. She could not be expected to be up to date with the affairs of trusts that she did not herself run or administer. Although she failed to discharge the onus which rested on her, such failure cannot be held against her at appeal level. In any event, the issue brought before us for determination i.e exclusion of trust property from the operation of an antenuptial contract has never been dealt with by this court. Neither was there any argument to the effect that the opposition of this appeal by the respondent was frivolously made. To the contrary, there was no certainty in respect of the legal position in the context of an antenuptial contract vis-à-vis trust property in the circumstances of this case. Both parties had to come to this court as directed by the court a quo to seek clarity from this court.[14] I am therefore of the view that, to order the respondent to pay the costs of the appeal would not only be inequitable but would also be inappropriate.[15] Thus each party should be ordered to pay its own costs and that is the order I would have made.

B C Mocumie

Judge of Appeal

[14] See *Buttner v Buttner* [2006] 1 All SA 429 (SCA) para 42.
[15] See *De Kock and Others v Van Rooyen* 2005 (1) SA 1 (SCA) at 15. See also *De Reuck v Director of Public Prosecutions (Witwatersrand Local Division) and Others* 2004 (1) SA 405 (CC) para 57; *Shilubana v Nwamitwa* 2009 (2) SA 66 (CC) para 92; and *Gcaba v Minister for Safety and Security* 2010 (1) SA 238 (CC) para 62.

Appearances:

For the Appellant:	P A van Niekerk SC
	Instructed by:
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	Honey Attorneys, Bloemfontein
For the Respondent:	C Woodrow
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