

**REPUBLIC OF SOUTH AFRICA
SUPREME COURT OF APPEAL
BULLETIN 3 OF 2018
CASES ENROLLED FOR HEARING: AUGUST/SEPTEMBER 2018**

1. Truworths Limited v Primark Holdings (989/2017)

Appealed from GP

Date to be heard: 15 August 2018

Maya P, Wallis JA, Willis JA, Dambuza JA, Van der Merwe JA

Trade Marks Act 194 of 1993 – whether mark falls to be expunged in terms of section 27(1)(a) and (b) – whether mark registered without any bona fide intention to use it – whether mark is well known and therefore entitled to protection from expungement in terms of section 27(5).

2. Ntshaveheni Samuel Ndwambi v The State (168/2018)

Appealed from LT

Date to be heard: 15 August 2018

Lewis JA, Saldulker JA, Mothle AJA

Criminal Law and procedure – conviction and sentence - whether the State proved its case beyond reasonable doubt – whether the state satisfied all the requirements of common purpose – whether the trial court erred in finding that the appellant is guilty purely on the evidence of accused.

3. Oupa Stanley Maphanga v The State (607/2017)

Appealed from GJ

Date to be heard: 15 August 2018

Ponnan JA, Tshiqi JA, Mbha JA

Criminal Law and procedure – appeal against the dismissal by the High Court of a petition for leave to appeal in terms of section 309B of the Criminal Procedure Act 51 of 1977.

4. Kutluoano Uriah Maleka v The State (1209/2017)

Appealed from GJ

Date to be heard: 15 August 2018

Ponnan JA, Tshiqi JA, Mbha JA

Criminal Law and procedure – appeal against the dismissal of an appeal in terms of section 309C of the Criminal Procedure Act 59 of 1977.

5. The Black Sash Trust & others v The Chief Executive of the South African Social Security Agency & others (752/2017)

Appealed from GP

Date to be heard: 16 August 2018

Navsa JA, Cachalia JA, Tshiqi JA, Wallis JA, Schippers JA

Appeal by the Black Sash and six individual beneficiaries of social grants against the dismissal of their application for leave to intervene in matter nr 7..

6. The Minister of Social Development of the Republic of South Africa & others v Net 1 Applied Technologies South Africa (Pty) Ltd & others (825/2017)

Appealed from GP

Date to be heard: 16 August 2018

Navsa JA, Cachalia JA, Tshiqi JA, Wallis JA, Schippers JA

Constitutional law - social grants – regulations 21 and 26A of the Regulations Under the Social Assistance Act 13 of 2004 – whether Minister of Social Development obliged to implement measures to protect social grant beneficiaries from social grant exploitation – whether section 20 of the Act confers the necessary power on the Minister to limit electronic fund transfers – whether Regulations 21 and 26(A) restrict beneficiaries in the operation of their bank accounts – whether the regulations are ultra vires.

7. MEC for Health, Western Cape v Sinethemba Qole obo Iminathinkosi Qole (928/2017)

Appealed from WCC

Date to be heard: 16 August 2018

Lewis JA, Ponnann JA, Majiedt JA, Dambuza JA, Mathopo JA

Delict – medical negligence – whether medical practitioners and nursing staff were negligent – whether such conduct causally contributed to the respondent's baby being born with cerebral palsy.

8. The Black Sash Trust & others v The Chief Executive of the South African Social Security Agency & others (752/2017)

Appealed from GP

Date to be heard: 17 August 2018

Navsa JA, Cachalia JA, Tshiqi JA, Wallis JA, Schippers JA

Appeal by the Black Sash and six individual beneficiaries of social grants against the dismissal of their application for leave to intervene in matter nr 9.

9. The Minister of Social Development of the Republic of South Africa & others v Net 1 Applied Technologies South Africa (Pty) Ltd & others (825/2017)

Appealed from GP

Date to be heard: 17 August 2018

Navsa JA, Cachalia JA, Tshiqi JA, Wallis JA, Schippers JA

Constitutional law - social grants – regulations 21 and 26A of the Regulations Under the Social Assistance Act 13 of 2004 – whether Minister of Social Development obliged to implement measures to protect social grant beneficiaries from social grant exploitation – whether section 20 of the Act confers the necessary power on the Minister to limit electronic fund transfers – whether Regulations 21 and 26(A) restrict beneficiaries in the operation of their bank accounts – whether the regulations are ultra vires.

10. Hans Seuntjie Matoto v Free State Gambling and Liquor Authority & others (987/2017)

Appealed from FB

Date to be heard: 17 August 2018

Ponnann JA, Zondi JA, Van der Merwe JA, Makgoka JA, Nicholls AJA

Administrative Law - Promotion of Administrative Justice Act 3 of 2000 - whether the court erred and failed to exercise its discretion in terms of section 9 of PAJA judicially when it declined to extend the 180 days as prescribed in section 7(1) of PAJA – whether the first respondent's decision in respect of the appellant's application for the permanent removal of a tavern registration certificate is reviewable under section 6(2) of PAJA – whether the appellant made out a case for the extension of the 180 day period.

11. Ishmael Jiyane v The State (943/2017)

Appealed from GP

Date to be heard: 17 August 2018

Seriti JA, Saldulker JA, Mbha JA, Molemela JA, Mokgohloa AJA

Criminal law and procedure – appeal against conviction and sentence – whether presiding officer improperly descended into the arena resulting in the denial of a fair trial.

12. Life Healthcare Group (Pty) Ltd v Dr Abdool Samad Suliman (529/2017)

Appealed from KZD

Date to be heard: 20 August 2018

Shongwe ADP, Majiedt JA, Seriti JA, Wallis JA, Saldulker JA

Delict - medical negligence – child suffering birth asphyxia and developing cerebral palsy – hospital accepting negligence on the part of its nursing staff and settling with plaintiffs, then seeking to recover a contribution from the attending doctor in terms of the Apportionment of Damages Act – whether causal link established between Doctor's negligence and the cerebral palsy.

13. Special Pensions Appeal Board & another v Nathaniel Mashilo Masemola (1171/2017)

Appealed from GP

Date to be heard: 20 August 2018

Navsa JA, Tshiqi JA, Swain JA, Mathopo JA, Mothle AJA

Special Pensions Act 66 of 1996 - respondent's pension terminated consequent upon his conviction of fraud – subsequently granted a Presidential Pardon – whether respondent entitled to the reinstatement of his pension upon the grant of the Presidential Pardon – whether the appeal board had the necessary competence to make the order sought – whether the court was correct in substituting the decision of the appeal board.

14. The Road Accident Fund v Christopher Michael Kerridge (1024/2017)

Appealed from ECG

Date to be heard: 21 August 2018

Shongwe ADP, Dambuzza JA, Mocomie JA, Schippers JA, Nicholls AJA

Delict – damages – proof of - claim against the RAF – loss of earning capacity – whether claim established.

15. Commissioner for the South African Revenue Service v Digicall Solutions (Pty) Ltd (927/2017)

Appealed from WCC

Date to be heard: 21 August 2018

Navsa JA, Majiedt JA, Swain JA, Zondi JA, Mokgohloa AJA

Income Tax Act 58 of 1962 – whether section 103(2) entitled the Commissioner to disallow set off of certain assessed losses against the taxpayer's income.

16. Sasol Oil Proprietary Limited v The Commissioner for the South African Revenue Services (923/17)

Appealed from Tax Court

Date to be heard: 21 August 2018

Lewis JA, Ponnann JA, Cachalia JA, Makgoka JA, Mothle AJA

Income Tax – whether agreements are genuine – whether amounts properly excluded from net income for the purposes of section 9D on the basis that the requirements of paragraph (A) of the Proviso to section 9D(9)(b)(ii)(aa) – whether the requirements of section 103(1) were satisfied – whether liability for penalties and interest.

17. Leola Sharon Meyer N O & others v Big Five Developments (Pty) Ltd & another (1017/2017)

Appealed from GJ

Date to be heard: 23 August 2018

Shongwe ADP, Dambuza JA, Mathopo JA, Mocumie JA, Molemela JA

Property Law – whether joint venture agreement subject to the Alienation of Land Act 68 of 1981.

18. The Commissioner for the South African Revenue Services v Respublica (Pty) Ltd (1025/2017)

Appealed from GP

Date to be heard: 23 August 2018

Ponnan JA, Wallis JA, Mbha JA, Makgoka JA, Mokgohloa AJA

Value-Added Tax Act 89 of 1991 – whether the supply of a physical building and related goods and services to a University in terms of a written lease agreement constitutes the supply of ‘commercial accommodation’ as defined in section 1 of the Act.

19. Nkosingisizile Patrick Mnthungwa v The State (123/2018)

Appealed from MP

Date to be heard: 24 August 2018

Shongwe ADP, Majiedt JA, Van der Merwe JA, Molemela JA, Makgoka JA

Criminal Law and procedure – attempted robbery – sentence – whether minimum sentence correctly imposed in terms of section 51 of the Criminal Law Amendment Act 105 of 1997.

20. Lesiba Simon Kekana v The State (37/2018)

Appealed from LP

Date to be heard: 24 August 2018

Shongwe ADP, Majiedt JA, Van der Merwe JA, Molemela JA, Makgoka JA

Criminal Law and procedure – appeal against sentence – appellant convicted on his plea of guilty for the murder of four of his children – sentenced to an effective term of 52 years’ imprisonment – whether sentence induces a sense of shock.

21. The Commissioner for the South African Revenue Service v Mustek Limited (1010/2017)

Appealed from GP

Date to be heard: 24 August 2018

Lewis JA, Ponnan JA, Cachalia JA, Mbha JA, Mathopo JA

Customs and Excise Act 91 of 1964 – proper tariff classification in terms of section 47(8)(a) of a computer assembly, known as a ‘bare bone base’.

22. Odette Botha v The State (1074/2017)

Appealed from GJ

Date to be heard: 24 August 2018

Tshiqi JA, Seriti JA, Zondi JA, Schippers JA, Mokgohloa AJA

Criminal Law and procedure – appeal against conviction and sentence – the appellant was convicted by the Regional Court on a charge of murder and sentenced to fifteen years’ imprisonment – on appeal, the full bench confirmed the conviction but reduced the sentence to twelve years.

23. Nederburg Wines (Pty) Ltd v Frans Nero & others (1084/2017)

Appealed from LCC

Date to be heard: 27 August 2018

Shongwe ADP, Majiedt JA, Mbha JA, Mocumie JA, Makgoka JA

Property Law – eviction – appeal against the dismissal by the Land Claims Court of an application for eviction in terms of the Extension of Security of Tenure Act 62 of 1997.

24. Four Wheel Drive Accessory Distributors CC v Leshni Rattan N O (1048/2017)

Appealed from KZD

Date to be heard: 27 August 2018

Lewis JA, Zondi JA, Molemela JA, Schippers JA, Mokgohloa AJA

Contract – whether appellant is entitled to damages relating to the use of a courtesy vehicle which, when returned, was damaged.

25. John Owen Brankin v Granville Essafrau & others (934/2017)

Appealed from GJ

Date to be heard: 27 August 2018

Ponnan JA, Tshiqi JA, Swain JA, Mothle AJA, Nicholls AJA

Vindictory action – application for retransfer of shares - whether shares transferred in contravention of articles of association – whether alienation of shares complied with section 16 of the Share Blocks Control Act of 1980 – whether transfer as a result of executory donation, which is invalid for want of compliance with section 5 of the General Laws Amendment Act 1956.

26. Shelley Pather v Ismail Dockrat (941/2017)

Appealed from GP

Date to be heard: 28 August 2018

Maya P, Saldulker JA, Swain JA, Mocumie JA, Molemela JA

Family Law – best interest of the child – whether appellant should be granted leave to relocate together with the minor child born of their marriage and, if so, the extent of the respondent's access to the child.

27. Ajay Sooklal v Thales South Africa (Pty) Ltd (866/2017)

Appealed from GJ

Date to be heard: 28 August 2018

Navsa JA, Tshiqi JA, Dambuza JA, Van der Merwe JA, Nicholls AJA

Arbitration – attorney's fees – application to make arbitration award an order of court in terms of section 31 of the Arbitration Act 1965 – whether relationship between the parties a normal attorney client relationship – whether relationship tainted by a legality.

28. The Minister of Safety and Security & another v Marius Schuster & another (114/2018)

Appealed from ECG

Date to be heard: 28 August 2018

Cachalia JA, Majiedt JA, Willis JA, Mathopo JA, Schippers JA.

Delict – claim for damages – whether arrest and subsequent detention unlawful – whether award of damages is reasonable – whether an order that damages is payable from the date of summons is appropriate.

29. Ngobeni Tsundzuka Emmanuel v The State (1041/2017)

Appealed from GJ

Date to be heard: 29 August 2018

Shongwe ADP, Majiedt JA, Wallis JA, Mbha JA, Mathopo JA

Criminal Law and procedure – appeal against conviction and sentence – whether putative self defence should have been upheld – whether there were valid grounds for increasing the sentence on appeal.

30. Johannes Petrus Louis Grimbeek v Mziwandile Alfred Jakobo (922/17)

Appealed from FB

Date to be heard: 29 August 2018

Lewis JA, Tshiqi JA, Saldulker JA, Swain JA, Mothle AJA

Delict – special plea of prescription – attorney failing to timeously prosecute claim against the Road Accident Fund – whether claim against the attorney had prescribed – whether court erred in proceeding to determine the merits of the claim.

31. Dumisani Innocent Sima v The State (166/2018)

Appealed from KZP

Date to be heard: 29 August 2018

Seriti JA, Willis JA, Dambuza JA, Makgoka JA, Mokgohloa AJA

Criminal Law and procedure – appellant convicted in the Regional Court on one count each of murder and robbery, the matter then transferred to the High Court, where he was sentenced to life imprisonment – his appeal against conviction and sentence was dismissed by the High Court. The only issue now raised is that the trial court was not properly constituted inasmuch as the Regional Magistrate had not sat with assessors as required by section 93(ter) of the Magistrates' Court Act.

32. The Refugee Appeal Board of South Africa & others v Paul Joseph Mutombo Mukungubila (185/2018)

Appealed from GP

Date to be heard: 30 August 2018

Maya P, Wallis JA, Mbha JA, Schippers JA, Mothle AJA

Administrative law – Refugees Act – whether an application for extradition in terms of section 10 of the Extradition Act 76 of 1976 could be considered and determined whilst an application for asylum was pending and all appeals and reviews had not yet been exhausted under the Refugees Act.

33. The Attorneys' Fidelity Fund Board of Control v Prevrance Capital (Pty) Ltd (917/17)

Appealed from GP

Date to be heard: 30 August 2018

Navsa JA, Mathopo JA, Van der Merwe JA, Mocumie JA, Molemela JA

Attorneys Act 53 of 1979 – loss through misappropriation of moneys paid into the trust account of an attorney – whether moneys are moneys as contemplated by section 47(1)(g) of the Attorneys Act 53 of 1979.

34. Andile Silatha v Minister of Corrections Services (1040/2017)

Appealed from ECP

Date to be heard: 30 August 2018

Ponnan JA, Seriti JA, Willis JA, Zondi JA, Dambuza JA

Delict – action for damages – arising from detention in a single cell – separated issue – whether the fact that the decision to accommodate the appellant in a single cell has not been set aside, is a bar to the appellant contending that his detention was unlawful and wrongful.

35. Buffalo City Metropolitan Municipality v Nurcha Development Finance (Pty) Ltd & others (378/2017)

Appealed from ECE

Date to be heard: 31 August 2018

Lewis JA, Seriti JA, Makgoka JA, Mokgohloa AJA, Nicholls AJA

Contract – whether the first and second respondents had discharged the onus of proving a tacit agreement with the appellant municipality – whether the third respondent had ceded its rights in terms of the agreement.

36. Langstone Rexson Gumbi & others v The State (414/2017)

Appealed from GP

Date to be heard: 31 August 2018

Ponnan JA, Wallis JA, Mocumie JA, Molemela JA, Mothle AJA

Criminal Law and procedure – unfair trial – before criminal trial could be finalised the presiding Judge became incapacitated and had to retire, as a result the matter proceeded before another Judge - judgment delivered on the record in terms of section 215 of the Criminal Procedure Act 51 of 1977 – whether that resulted in a failure of justice – whether there should be a permanent stay of prosecution.

37. Nieuco Properties 1005 (Pty) Ltd & another v Trustees for the time being of the Inkululeko Community Trust & others (872/2017)

Appealed from GP

Date to be heard: 31 August 2018

Cachalia JA, Saldulker JA, Dambuza JA, Van der Merwe JA, Schippers JA

National Veld and Forrest Fire Act 101 of 1998 – stated case - separated issue for adjudication, namely - whether the provisions of the Act and more particularly the duties imposed on an owner referred to in the various sections apply in relation to State land where the Minister of the Government Department (the Second Defendant) concluded a lease agreement with a third party whereby possession and control of such land are given and made over to the lessee in terms of the provisions of the lease agreement including clauses 11.6 and 11.16 of the lease agreement.

38. M Du Bruyn N O & others v Andreas Stefanus Jacobus Karsten (929/2017)

Appealed from GP

Date to be heard: 3 September 2018

Shongwe ADP, Makgoka JA, Schippers JA, Mokgohloa AJA, Nicholls AJA

National Credit Act 34 of 2005 – whether credit provider obliged to be registered as such in terms of section 40 – whether agreement, as a consequence, unlawful and void to the extent provided in section 89.

39. The Commissioner for the South African Revenue Services v Amawele Joint Venture CC (908/2017)

Appealed from GP

Date to be heard: 3 September 2018

Lewis JA, Wallis JA, Mbha JA, Dambuza JA, Van der Merwe JA

Value Added Tax – Interpretation of section 11(2)(s) (read with section 8(23)) of the VAT Act and section 3(5)(a) of the Housing Act 107 of 1987 – whether services rendered in terms of a housing subsidy scheme referred to in section 3(5)(a) of the Housing Act – whether such services attract VAT at a 0 rate in terms of section 11(2)(s) read with section 8(23) of the VAT Act.

40. Apiwe Magqeya obo Kwanga Magqeya v Member of the Executive Council for Health, Eastern Cape (699/2017)

Appealed from ECM

Date to be heard: 3 September 2018

Ponnan JA, Tshiqi JA, Majiedt JA, Swain JA, Zondi JA

Delict – medical negligence – claim for damages – child suffering cerebral palsy as a result of hypoxic event during labour – whether medical staff negligent.

41. Meshack Famanda v The State (930/2017)

Appealed from GJ

Date to be heard: 4 September 2018

Maya P, Van der Merwe JA, Nicholls AJA

Criminal Law and procedure – appeal against the dismissal by the High Court of a petition for leave to appeal in terms of section 309B of the Criminal Procedure Act 51 of 1977.

42. Nico Manuel Khoza & another v The State (1267/2017)

Appealed from NWM

Date to be heard: 4 September 2018

Maya P, Van der Merwe JA, Nicholls AJA

Criminal Law and procedure – appeal against sentence – whether trial court misdirected itself in invoking the Minimum Sentence Act, where the appellants had not been forewarned of its applicability.

43. Sentinel Retirement Fund & another v Richard Masoanganye & others (1003/2017)

Appealed from GJ

Date to be heard: 4 September 2018

Lewis JA, Cachalia JA, Saldulker JA, Mbha JA, Makgoka JA

Pension - Section 37A(1) of the Pensions Fund Act 24 of 1956 – whether a member's pension benefit can be subject to a restraint order under the Prevention of Organised Crime Act 121 of 1998 whilst the benefit is still in the hands of the fund.

44. Gavin Charlton Harvey N O & others v Georgina Elizabeth Crawford N O & others (1016/2017)

Appealed from WCC

Date to be heard: 4 September 2018

Ponnan JA, Tshiqi JA, Zondi JA, Dambuza JA, Molemela JA

Law of Succession – Trust Deed – interpretation of – whether the court should declare the words 'children', 'descendant', 'issue' and 'legal descendants' to include adopted children for the purposes of the receiving of a benefit under the deed.

45. The Attorneys Fidelity Fund Board of Control v Joost Heystek van der Westhuizen (1379/2016)

Appealed from GP

Date to be heard: 5 September 2018

Maya P, Majiedt JA, Wallis JA, Mocumie JA, Molemela JA

Attorneys Act 53 of 1979 – claim founded on section 26(a) of the Act – whether claim excluded by section 47(1)(g) of the Act.

46. Andre Fischer v Ubomi Ushishi Trading CC & others (1085/2017)

Appealed from WCC

Date to be heard: 5 September 2018

Shongwe ADP, Cachalia JA, Saldulker JA, Schippers JA, Mothle AJA

Land – effect of decree of divorce on property rights of spouses – whether individual half share in immovable property can be declared specially executable.

47. Yellow Star Trading 1154 (Pty) Limited v Minister of Agriculture, Forestry and Fisheries & another (1124/2017)

Appealed from WCC

Date to be heard: 5 September 2018

Navsa JA, Willis JA, Swain JA, Zondi JA, Mathopo JA

Marine Living Resources Act 18 of 1998 – PAJA review – whether appellant contravened or failed to comply with a condition imposed in its fishing right as provided for in section 28(1)(b) of the Act – if so, whether the revocation of the appellant's right in terms of section 28(3)(a) of the Act was an appropriate sanction.

48. The Commissioner of the South African Revenue Services v Volkswagen of South Africa (Pty) Ltd (1028/2017)

Appealed from Tax Court

Date to be heard: 6 September 2018

Navsa JA, Seriti JA, Wallis JA, Willis JA, Mathopo JA

Income Tax Act 58 of 1962 – Interpretation and application of section 22(1)(a) of the Act – whether certain specified amounts had been properly excluded in the valuation of trading stock.

49. Estelle Rossouw v Jacobus Petrus Hanekom (741/2017)

Appealed from WCC

Date to be heard: 6 September 2018

Lewis JA, Tshiqi JA, Van der Merwe JA, Mothle AJA, Nicholls AJA

Contract – sale of immovable property – voetstoets clause – whether the seller had represented to the purchaser that a leaking roof had been repaired and would no longer occur – whether seller intentionally concealed the fact that he had failed to obtain approval in terms of the National Building Regulations and Building Standards Act 103 of 1977.

50. Umfolozi Sugar Planters Ltd & others v Isimangaliso Wetland Park Authority & others (873/2017)

Appealed from KZN

Date to be heard: 6 September 2018

Ponnan JA, Mbha JA, Dambuza JA, Makgoka JA, Mokgohloa AJA

Land – whether the appellants have a right to compel the respondents to breach the mouth of a river to alleviate back flooding on their land.

51. Centre for Child Law & others v Media 24 Ltd & others (871/2017)

Appealed from GP

Date to be heard: 7 September 2018

Maya P, Willis JA, Swain JA, Van der Merwe JA, Mocomie JA

Constitutional Law – best interest of the child – proper interpretation and constitutionality of section 154(3) of the Criminal Procedure Act 51 of 1977 – whether section permits the media to publish the identity of children who are victims of crime, but have not yet testified – whether protection afforded by section terminates as soon as the child turns 18.

52. Steven Ngomane & 27 others v City of Johannesburg Metropolitan Municipality & another (734/2017)

Appealed from GP

Date to be heard: 10 September 2018

Maya P, Dambuza JA, Van der Merwe JA, Schippers JA, Nicholls AJA

Prevention of Illegal Eviction from and Unlawful Occupation of Land Act No 19 of 1998 ('PIE') – whether materials employed to construct a shelter constituted a 'home' – whether the cleanup operation undertaken by the respondents constituted an eviction to which the provisions of PIE applied.

53. The Commissioner for the South African Revenue Services v Rynette Pieters & others (1026/2017)

Appealed from WCC

Date to be heard: 10 September 2018

Navsa JA, Tshiqi JA, Majiedt JA, Willis JA, Swain JA

Tax – upon winding up, the employment contracts of employees were terminated in terms of section 38 of the Insolvency Act. After considering the claims, the liquidators of the company considered it appropriate to make awards to the former employees. SARS objected on the basis that provision had not been made for PAYE in terms of paragraph 2(1) of the fourth schedule of the Income Tax Act - whether SARS' claims in respect of PAYE ranks in the winding up.

54. Gesiena Maria Botha N O & another v The National Director of Public Prosecutions (920/17)

Appealed from NCK

Date to be heard: 11 September 2018

Majiedt JA, Swain JA, Mathopo JA, Schippers JA, Mokgohloa AJA

Prevention of Organised Crime Act 121 of 1998 – whether court correctly finding that immovable property and shares constituted proceeds of unlawful activities as contemplated by section 50(1)(b) – whether court erred in declaring the entire property forfeit.

55. A B & another v Pridwin Preparatory School & others (1134/2017)

Appealed from GJ

Date to be heard: 12 September 2018

Shongwe ADP, Cachalia JA, Mocomie JA, Schippers JA, Motlale AJA

Constitutional law – contract – termination of Parent Contract - whether the legality of the termination of the Parent Contract falls to be determined in accordance with contract law read with s 28(2) of the Constitution - whether it instead falls to be determined in accordance with broader constitutional rights and administrative principles inter alia under the Promotion of Administrative Justice Act 3 of 2000 - whether the termination of the Parent Contract was substantively and procedurally lawful – whether clause 9.3 of the contract is valid and enforceable – whether clause 9.3 is unenforceable as a result of being in violation of public policy.

56. AFGRI Operations Limited v Dipaleseng Local Municipality (708/2017)

Appealed from GJ

Date to be heard: 12 September 2018

Navsa JA, Wallis JA, Mbha JA, Dambuza JA, Van der Merwe JA

Administrative Law - Municipal electricity charges - whether the evidence of the appellant's expert witness was admissible - whether the demand charge levied by the respondent was lawful - in the alternative, whether the respondent overcharged the appellant for maximum demand because of a calculation, reading, or metering error.

57. Mzimkhulu Martiens Monde v Jacobus Johannes Viljoen N O & others (1162/2017)

Appealed from LCC

Date to be heard: 13 September 2018

Maya P, Swain JA, Mocomie JA, Schippers JA, Motlale AJA

Constitutional law – Extension of Security of Tenure Act 62 of 1997 (ESTA) - interpretation – the issue on appeal is the proper interpretation of ss 8(1), 8(2), 9(3) and 10 of ESTA and the legal status of requirements of ‘meaningful engagement’ and ‘alternative accommodation’ – whether the respondents have satisfied the requirements for an eviction order in terms of ss 9(2) of ESTA – whether the appellant’s right of residence was directly linked to his employment on the farm – whether the court a quo was correct in granting an order of eviction.

58. Propell Specialised Finance (Pty) Ltd v Attorneys Insurance Indemnity Fund NPC (1147/2017)

Appealed from WCC

Date to be heard: 13 September 2018

Lewis JA, Saldulker JA, Zondi JA, Mathopo JA, Mokgohloa AJA

Contract Law - Cession – whether the court a quo erred in upholding both the second and third special pleas raised by the respondent and dismissing the appellants action with costs – whether the court a quo correctly held that a firm of attorneys’ rights of recourse in terms of an automatic standard indemnification insurance policy held with the statutory respondent is incapable of cession to the appellant on the basis of a *delectus personae*; a *pactum de non cedendo* and the prejudice that would be caused to the respondent by such a cession – whether the court a quo correctly remarked that it would have upheld the further special plea raised by the respondent i.e. that the appellant’s action against the respondent should be stayed pending the finalisation of an action between the attorneys and an entity called Ashtons.

59. CTP Limited & others v The Director–General Department of Basic Education & others (447/2018)

Appealed from GP

Date to be heard: 14 September 2018

Shongwe ADP, Willis JA, Zondi JA, Mathopo JA, Mokgohloa AJA

Constitutional law – contract – tender - basic education – whether the first respondent’s decision not to award the tender RT22-2016 for the Department of Basic Educations to the appellants was unconstitutional and unlawful – whether the tender to the third and fifth respondents is reviewable – whether the contract entered into between the first respondent and the Department of Education and the third to fifth respondents pursuant to the award of the tender is constitutionally valid.

60. James Churchill Haslam & another v Matthew Robert Lester (1167/2017)

Appealed from ECG

Date to be heard: 14 September 2018

Navsa JA, Cachalia JA, Dambuza JA, Molemela JA, Mothle AJA

Administrative law – demolition orders – contempt of court - whether a court order which is not subject to appeal or review may be varied by a court of equal standing – whether such variation requires the development of the common law - whether in the circumstances of this case, a proper case was made out for the extension of the common law and the consequent variation of the court order – whether the decision of accepting an engineering report which contemplated a demolition not in accordance with the terms of a court order and directing the respondent to seek the variation of the initial court order by order of court constituted administrative action subject to review - whether such decision took precedence over the initial order of court.