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MARCH 2016

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JUDGMENTS OF INTEREST IN THE MARCH EDITIONS OF THE *SALR AND SACR LAW REPORTS*

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SOUTH AFRICAN LAW REPORTS

Surrogacy agreement requiring gamete from parent

A single woman wished for a surrogate mother to bear her a child conceived from donated male and female gametes. But she was barred by s 294 of the Children's Act 38 of 2005 which provided that at least one gamete must come from a commissioning parent. She challenged the provision as unconstitutional and irrational. *AB and Another v Minister of Social Development* 2016 (2) SA 27 (GP)

Burned by low-hanging power line

The plaintiff suffered electrical burns when he cycled into a low-hanging live power line under Eskom's control. The court decided whether to apply the strict liability under Consumer Protection Act for harm caused by supplying unsafe, defective or hazardous goods, product failure or inadequate warning of possible hazards arising from its use. Did protection extend only to consumers, or to any person? *Halstead-Cleak v Eskom Holdings Ltd* 2016 (2) SA 141 (GP)

Injured at the gym

Plaintiff tried to follow her son through the drop-arm barrier at the gym and was injured after the arm rose. Was the way that such barriers work familiar to all people, and could the gym have foreseen that the plaintiff would try to exit in such a way? *Deacon v Planet Fitness Holdings (Pty) Ltd* 2016 (2) SA 236 (GP)

SOUTH AFRICAN CRIMINAL LAW REPORTS

The oath for witnesses

If an oath was not properly administered to a witness in terms of the prescripts of s 162 of the Criminal Procedure Act 51 of 1977 then what was said by the witness lacked the status and character of evidence and was inadmissible. *S v Pilane* 2016 (1) SACR 247 (NWM)

Modern cellphones as evidence

Smartphones were in essence minicomputers containing facilities such as word-processing software; search engines, information storage, music and photographs. In this case, certain evidence was not excluded because of the 'fruits of the poisoned tree' doctrine, because the investigation of crime was so necessary in our country, with its notoriously high crime rate and disregard for the rights of others. *S v Miller and Others* 2016 (1) SACR 251 (WCC)

Victim participation in plea and sentence agreement

A father of a young man killed in a car accident contended that the prosecution had failed to address in the agreement the aggravating factor that the accused had travelled at an excessive speed. *Wickham v Magistrate, Stellenbosch and Others* 2016 (1) SACR 273 (WCC)

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Kind Regards

The Juta Law Reports Team

SOUTH AFRICAN LAW REPORTS

MARCH 2016

TABLE OF CASES

- De Lange v Methodist Church and Another 2016 (2) SA 1 (CC)
- AB and Another v Minister of Social Development 2016 (2) SA 27 (GP)
- S v Jezile 2016 (2) SA 62 (WCC)
- JH v Health Professions Council of South Africa and Others 2016 (2) SA 93 (WCC)
- Terblanche v Minister of Safety and Security and Another 2016 (2) SA 109 (SCA)
- Land and Agricultural Development Bank of South Africa v Chidawaya and Another 2016 (2) SA 115 (GP)
- Centre for Child Law v Hoërskool Fochville and Another 2016 (2) SA 121 (SCA)
- Halstead-Cleak v Eskom Holdings Ltd 2016 (2) SA 141 (GP)
- Miracle Mile Investments 067 (Pty) Ltd and Another v Standard Bank of SA Ltd 2016 (2) SA 153 (GJ)
- Blair Atholl Homeowners Association and Others v Tshwane City 2016 (2) SA 167 (SCA)
- Merafong City v AngloGold Ashanti Ltd 2016 (2) SA 176 (SCA)
- Kgomo and Another v Standard Bank of South Africa and Others 2016 (2) SA 184 (GP)
- Aurecon South Africa (Pty) Ltd v Cape Town City 2016 (2) SA 199 (SCA)
- Mubake and Others v Minister of Home Affairs and Others 2016 (2) SA 220 (GP)
- MC v JC 2016 (2) SA 227 (GP)
- Deacon v Planet Fitness Holdings (Pty) Ltd 2016 (2) SA 236 (GP)
- Tshwane City v Uniqon Wonings (Pty) Ltd 2016 (2) SA 247 (SCA)
- Absa Bank Ltd v Ferreira NO and Others 2016 (2) SA 258 (ECP)
- Mvelaphanda Holdings (Pty) Ltd and Another v JS and Others 2016 (2) SA 266 (GJ)
- Werner v Florauna Kwekery BK and Others 2016 (2) SA 282 (SCA)
- Randburg Management District v West Dunes Properties 141 (Pty) Ltd and Another 2016 (2) SA 293 (SCA)
- Unica Iron & Steel (Pty) Ltd and Another v Mirchandani 2016 (2) SA 307 (SCA)

FLYNOTES

DE LANGE v METHODIST CHURCH AND ANOTHER (CC)

MOGOENG CJ, MOSENEKE DCJ, CAMERON J, JAFTA J, KHAMPEPE J, MADLANGA J, MATOJANE AJ, NKABINDE J, VAN DER WESTHUIZEN J and ZONDO J
2015 AUGUST 28; NOVEMBER 24
[2015] ZACC 35

Voluntary association—Disciplinary proceedings—Minister announcing she would marry same-sex partner—Church policy to recognise only heterosexual marriages—Church instituting disciplinary proceedings for breach of policy and terminating ministry—Minister referring decision to arbitration—Later applying to High Court to set arbitration agreement aside—Also applying for declaration that decision unlawful in being based on unfairly discriminatory policy—Minister abandoning discrimination claim—Both High Court and Supreme Court of Appeal refusing to set aside arbitration agreement—Appeal against refusal to Constitutional Court—Attempt to revive discrimination claim—Whether leave to appeal to be granted.

Equality legislation—Discrimination—Matter involving discrimination question and other question—Semble: Appropriate for same High Court to decide both questions, sitting alternately as High Court and Equality Court—Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.

AB AND ANOTHER v MINISTER OF SOCIAL DEVELOPMENT (GP)

BASSON J
2015 AUGUST 12

Children—Parents—Surrogate mother—Requirement that child, to be borne by surrogate mother, be conceived with gamete of at least one of commissioning parents—Constitutionality—Children's Act 38 of 2005, s 294.

S v JEZILE (WCC)

YEKISO J, SALDANHA J and CLOETE J
2014 AUGUST 22; OCTOBER 24; DECEMBER 5; 2015 MARCH 23

Criminal law—General principles of liability—Defences—Justification—Customary practice—Ukuthwala—Practices associated with aberrant form of ukuthwala that sanctions abduction and rape not recognised nor protected under our law.

Criminal law—Rape—Defences—Customary practice of ukuthwala—Practices associated with aberrant form of ukuthwala that sanctions abduction and rape not protected under our law—Belief in such cannot justify rape.

JH v HEALTH PROFESSIONS COUNCIL OF SOUTH AFRICA AND OTHERS (WCC)

ROGERS J
2015 NOVEMBER 18, 25

Administrative law—Administrative action—Review—Grounds—Failure to furnish adequate reasons for action—Whether failure to provide reasons within required time meant administrator, unless such period extended, precluded in review proceedings from adducing evidence to show action taken with good reason—Promotion of Administrative Justice Act 3 of 2000, s 5(3).

Motor vehicle accident—Claim against Road Accident Fund—Limits—'Serious injury' threshold for general damages—'Serious injury'—Meaning of discussed—Road Accident Fund Act 56 of 1996, s 17(1); and the Road Accident Fund Regulations, 2008, reg 3(1)(b)(iii).

TERBLANCHE v MINISTER OF SAFETY AND SECURITY AND ANOTHER (SCA)

NAVSA ADP, PILLAY JA, SALDULKER JA, FOURIE AJA and MAYAT AJA
2015 MARCH 13, 27
[2015] ZASCA 48

Delict—Specific forms—Loss of earning capacity—Plaintiff having to employ additional labour to substitute for aspects of his functions he could no longer perform due to injuries negligently caused by defendant—Plaintiff entitled to be compensated for cost of substituted labour.

LAND AND AGRICULTURAL DEVELOPMENT BANK OF SOUTH AFRICA v CHIDAWAYA AND ANOTHER (GP)

BAQWA J
2015 SEPTEMBER 8, 11

Credit agreement—Consumer credit agreement—Debt enforcement—Preliminary proceedings—Notice of default—Delivery—Requirements—Whether service of s 129 notice by attaching it to summons constituting compliance with s 129 of the NCA—National Credit Act 34 of 2005, s 129.

CENTRE FOR CHILD LAW v HOËRSKOOL FOCHVILLE AND ANOTHER (SCA)

PONNAN JA, THERON JA, MAJIEDT JA, MBHA JA and GORVEN AJA
2015 SEPTEMBER 28; OCTOBER 8
[2015] ZASCA 155

Discovery and inspection—Production of documents—Application to compel production—Onus in such application—Court's discretion to order production—Proper exercise of—Uniform Rules of Court, rules 30A and 35(12).

Discovery and inspection—Production of documents—Application to compel production of questionnaires—Children completing questionnaires and their representative using these as basis for summary of their views in its affidavit—Uniform Rules of Court, rules 30A and 35(12).

HALSTEAD-CLEAK v ESKOM HOLDINGS LTD (GP)

BAQWA J
2015 JUNE 1

Consumer protection—Supplier—Strict liability under CPA for harm caused by supplying unsafe, defective or hazardous goods, product failure or inadequate warning of possible hazards arising from its use—Ambit of supplier's liability—Not limited to consumers as defined in CPA or in contractual sense—Extending to liability for harm suffered by any person as result of such goods—Consumer Protection Act 68 of 2008, s 61.

Electricity—Supply—Supplier—Strict liability under CPA for harm caused by supplying unsafe, defective or hazardous goods, product failure or inadequate warning of possible hazards arising from its use—Ambit of—Whether extending to liability for harm not suffered in the course of utilising electricity as consumer—Consumer Protection Act 68 of 2008, s 61.

MIRACLE MILE INVESTMENTS 67 (PTY) LTD AND ANOTHER v STANDARD BANK OF SA LTD (GJ)

GAIBIE AJ
2014 OCTOBER 28; DECEMBER 11

Prescription—Extinctive prescription—Period of prescription—Commencement—Bank granting debtor credit facility—Repayable in monthly instalments—On failure to pay instalment, bank entitled to accelerate payment of balance and claim it via written notice to debtor—Prescription running from date bank entitled to enforce payment of balance—Fact that bank failed to give required notice irrelevant to running of prescription—Prescription Act 68 of 1969, s 12(1).

Prescription—Extinctive prescription—Period of prescription—Surety registering mortgage bond over property to secure principal debt—Surety's debt remaining accessory—Hence principal debt not one secured by mortgage bond—Prescribing in three years—Prescription Act 68 of 1969, s 11.

Prescription—Extinctive prescription—Interruption—By acknowledgment of liability—'Acknowledgment of liability' meaning acknowledgment to creditor or its agent—Where acknowledgment made to another creditor in sequestration proceedings brought by such other creditor, acknowledgment not interrupting prescription.

Prescription—Extinctive prescription—Interruption—By acknowledgment of liability—Acknowledgment made after debt had already prescribed—Acknowledgment must refer to existing liability and not to one that had existed in past—Acknowledgment made after debt has prescribed having no effect and not interrupting running of prescription—Prescription Act 68 of 1969, s 14(1).

BLAIR ATHOLL HOMEOWNERS ASSOCIATION AND OTHERS v TSHWANE CITY (SCA)

LEWIS JA, CACHALIA JA, TSHIQI JA, PILLAY JA and DAMBUZA JA

2015 NOVEMBER 13; DECEMBER 1

[2015] ZASCA 195

Local authority—Rates—Imposition—Rates policy—Housing development refused exemption from payment of rates, despite providing and maintaining services at own cost—Whether equitable—Relationship between rates and services examined—Local Government: Municipal Property Rates Act 6 of 2004, s 3(3)(a).

MERAFONG CITY v ANGLOGOLD ASHANTI LTD (SCA)

MAYA JA, MAJIEDT JA, MBHA JA, SCHOEMAN AJA and VAN DER MERWE AJA

2015 MAY 19, 28

[2015] ZASCA 85

Local authority—Water—Tariff—Increase—Water for industrial use—Minister, citing its unreasonableness, upholding mine's appeal against 62% increase—Municipality ignoring minister's ruling on ground that it was unlawful—Not entitled to do so—Must approach court.

Administrative law—Administrative action—Invalidity—Consequences—Administrative act, even if unlawful, still exists and has legal consequences—Cannot simply be disregarded—Court must be approached to set it aside.

Administrative law—Decision of functionary—Collateral challenge to validity of decision—Not available to organ of state.

KGOMO AND ANOTHER v STANDARD BANK OF SOUTH AFRICA AND OTHERS (GP)

DODSON J

2015 MAY 4; JUNE 10

Credit agreement—Consumer credit agreement—Debt enforcement—Preliminary procedures—Notice of default—Default judgment entered, despite non-compliance with NCA's delivery requirements—Rescission of in terms of Uniform Rule 42(1)(a)—Whether such non-compliance dilatory defence not giving rise to judgment 'erroneously sought or granted in absence of party affected thereby'—Uniform Rules of Court, rule 42(1)(a); National Credit Act 34 of 2005, ss 129(1)(a) and 130.

Practice—Judgments and orders—Default judgment—Rescission—Default judgment entered, despite non-compliance with NCA's notice-of-default requirements—Whether such non-compliance dilatory defence not giving rise to judgment 'erroneously sought or granted in absence of party affected thereby'—Uniform Rules of Court, rule 42(1)(a); National Credit Act 34 of 2005, ss 129(1)(a) and 130.

AURECON SOUTH AFRICA (PTY) LTD v CAPE TOWN CITY (SCA)

MAYA ADP, LEWIS JA, BOSIELO JA, PETSE JA and WILLIS JA

2015 AUGUST 21; DECEMBER 9

[2015] ZASCA 209

Administrative law—Administrative action—Review—Application—When to be brought—Whether 180-day time limit within which application to be launched started running only from date when party seeking review first becoming aware administrative action tainted by irregularity—Promotion of Administrative Justice Act 3 of 2000, s 7(1).

Government procurement—Procurement process—Fairness—Appellant, a firm of consulting engineers, preparing prefeasibility study into redevelopment of site of defunct power station and draft scope of work relating to decommissioning of power station—Whether appellant precluded under city's supply chain management policy and applicable regulations from

bidding for subsequent tender pertaining to decommissioning of power station based on draft scope of work.

MUBAKE AND OTHERS v MINISTER OF HOME AFFAIRS AND OTHERS (GP)

MAKGOKA J

2015 MARCH 11; JULY 9

Immigration—Refugee—Asylum seeker—Dependant of—Includes child cared for by asylum seeker who is not child's parent—Refugees Act 130 of 1998, s 1.

MC v JC (GP)

JANSEN J and SEMENYA AJ

2015 JULY 24

Marriage—Divorce—Proprietary rights—Forfeiture of patrimonial benefits of marriage—Whether provision unconstitutional—Divorce Act 70 of 1979, s 9(1).

DEACON v PLANET FITNESS HOLDINGS (PTY) LTD (GP)

LOUW J

2014 AUGUST 11, 12; OCTOBER 6

Delict—Elements—Unlawfulness or wrongfulness—Liability for omission—Failure to warn that only one person could exit drop-arm barrier at time.

TSHWANE CITY v UNIQON WONINGS (PTY) LTD (SCA)

LEWIS JA, CACHALIA JA, THERON JA, WALLIS JA and SALDULKER JA

2015 NOVEMBER 2, 25

[2015] ZASCA 162

Local authority—Rates—Imposition—Township—Rates payable by township owner to be calculated over extent or remaining extent of township as single entity, not on unsold erven separately.

Local authority—Municipal service charges—Municipal clearance certificate—Rates payable by township owner when erven sold—Determination of—Municipal Systems Act 32 of 2000, s 118(1).

ABSA BANK LTD v FERREIRA NO AND OTHERS (ECP)

REVELAS J

2015 MARCH 10; OCTOBER 8

Constitutional law—Human rights—Language rights—Litigation—Though defendants and respondents may plead and conduct cases in official language of their choice, they may not demand that other parties follow suit—Practical considerations taking precedence in striking balance between parties' language rights—Party not entitled to demand that judge write judgment in particular language.

MVELAPHANDA HOLDINGS (PTY) LTD AND ANOTHER v JS AND OTHERS (GJ)

BERGER AJ

2015 MAY 25; SEPTEMBER 17

Evidence—Subpoena duces tecum—Persons who can 'properly' produce documents—Superior Courts Act 10 of 2013, s 36(5)(b).

Evidence—Subpoena duces tecum—Whether required to be accompanied by tender of costs—Superior Courts Act 10 of 2013, s 35(2)(a).

Evidence—Subpoena duces tecum—Can be abuse of process even where documents sought relevant to action concerned.

WERNER v FLORAUNA KWEKERY BK AND OTHERS (SCA)

MPATI P, MAJIEDT JA, PILLAY JA, SCHOEMAN AJA and VAN DER MERWE AJA

2015 MARCH 10, 26

[2015] ZASCA 46

Right of way—Servitude of right of way—Mere fact that servitude area depicted on Surveyor-General's subdivisional diagram relating to particular piece of land not converting temporary access road into servitude of right of way.

RANDBURG MANAGEMENT DISTRICT v WEST DUNES PROPERTIES 141 (PTY) LTD AND ANOTHER (SCA)

LEACH JA, TSHIQI JA, THERON JA, WILLIS JA and MATHOPO JA

2015 SEPTEMBER 2, 30

[2015] ZASCA 135

Local authority—City Improvement District—Formation under Gauteng City Improvement Districts Act 12 of 1997—Delegation by municipal council to mayoral committee of authority to approve City Improvement District impermissible—If authority so delegated, City Improvement District not lawfully established and levies imposed under Act 12 of 1997 unenforceable—Local Government: Municipal Systems Act 32 of 2000, s 59(2)(a), read with Constitution s 160(2)(c).

Local authority—Rates—Imposition—Legality—Levies imposed under Gauteng City Improvement Districts Act 12 of 1997 lacking legality by virtue of being authorised by provincial legislation and not national legislation—Constitution, s 229(1)(b).

UNICA IRON AND STEEL (PTY) LTD AND ANOTHER v MIRCHANDANI (SCA)

LEWIS JA, SHONGWE JA, LEACH JA, ZONDI JA and BAARTMAN AJA

2015 SEPTEMBER 3; OCTOBER 1

[2015] ZASCA 150

Contract—Interpretation—Permissible use of background or surrounding circumstances.

Contract—Interpretation—Particular situations—Parties signing written document containing words 'subject to signing of agreement'—Whether agreement only binding on signature of further formal contract—Parties' implementation, post-signature, of terms of written document indicating they considered themselves bound thereby, and that their agreement not subject to conclusion of further formal agreement.

SOUTH AFRICAN CRIMINAL LAW REPORTS

FEBRUARY 2016

TABLE OF CASES

- Minister of Correctional Services and Others v Seganoe 2016 (1) SACR 221 (SCA)
- S v Dlamini 2016 (1) SACR 229 (KZP)
- S v Govender 2016 (1) SACR 236 (KZP)
- S v Mathikinca 2016 (1) SACR 240 (WCC)
- S v Pilane 2016 (1) SACR 247 (NWM)
- S v Miller and Others 2016 (1) SACR 251 (WCC)
- Wickham v Magistrate, Stellenbosch and Others 2016 (1) SACR 273 (WCC)
- S v Nkosi 2016 (1) SACR 301 (SCA)
- National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another 2016 (1) SACR 308 (SCA)
- S v Ndzola and Another 2016 (1) SACR 320 (WCC)

FLYNOTES

MINISTER OF CORRECTIONAL SERVICES AND OTHERS v SEGANOE (SCA)

MAYA ADP, LEACH JA, PILLAY JA, ZONDI JA and MATHOPO JA
2015 AUGUST 25; OCTOBER 1
[2015] ZASCA 148

Prisons—Prisoner—Parole—Lengthy term of imprisonment—Offences committed before coming into operation of Correctional Services Act 111 of 1998 but sentences imposed thereafter—Eligibility for parole determined by s 73(6)(a) of Act.

S v DLAMINI (KZP)

POYO-DLWATI J, CHILI J and BOOYENS AJ
2015 JANUARY 28; FEBRUARY 6

Indictment and charge—Duplication of convictions—Kidnapping and rape—Test common-sense view whether single offence or more committed—Accused not only restraining complainants during rape but also keeping afterwards, thus depriving of liberty—No duplication of convictions.

S v GOVENDER (KZP)

NDLOVU J and NTSANGASE J
2014 NOVEMBER 4

Sentence—Correctional supervision—House arrest—House arrest constituting form of detention without option of fine as intended by s 112(1)(a) of CPA and impermissible as component of sentence of correctional supervision following conviction under section—Criminal Procedure Act 51 of 1977, ss 112(1)(a) and 276(1)(h).

S v MATHIKINCA (WCC)

FOURIE J and VAN STADEN AJ
2015 SEPTEMBER 18

Evidence—Children—As complainants in sexual offences—Admissibility of complaint made by child—Where complainant does not testify, evidence of complaint inadmissible.

S v PILANE (NWM)

HENDRICKS J and DJAJE AJ
2015 FEBRUARY 20; MARCH 5

Evidence—Witnesses—Calling, examination and refutation of—The oath—Administering of—Provisions of s 162 of Criminal Procedure Act 51 of 1977 peremptory.

S v MILLER AND OTHERS (WCC)

GAMBLE J
2015 SEPTEMBER 2

Evidence—Witnesses—Issue of subpoenas in terms of s 205(1) of Criminal Procedure Act 51 of 1977—Validity of—Error in date supplied on subpoena—Understandable error not affecting validity of subpoena in circumstances of case.

Evidence—Witnesses—Issue of subpoenas in terms of s 205(1) of Criminal Procedure Act 51 of 1977—Scope of—Police acquiring cellphone records of accused—No requirement that police seek authority of cyber inspector in terms of ECTA—Electronic Communications and Transactions Act 25 of 2002, s 81 read with ss 85 and 86.

WICKHAM v MAGISTRATE, STELLENBOSCH AND OTHERS (WCC)

VELDHUIZEN J and HENNEY J
2015 SEPTEMBER 2

Sentence—Victim participation—Plea and sentence agreement—Effect of s 105A of Criminal Procedure Act—Provision peremptory subject to proviso that it was reasonable to afford

complainant opportunity to make representations—Decision reviewable under Promotion of Administrative Justice Act 3 of 2000—Proper time to bring application for review was prior to contents of agreement being disclosed to court, thereafter victim no longer active participant in proceedings.

S v NKOSI (SCA)

MPATI P, SHONGWE JA and MAJIEDT JA
2015 SEPTEMBER 9, 22
[2015] ZASCA 125

Murder—Proof of—Intention to kill—Gang of robbers, armed with firearms, foreseeing likelihood of resistance—In course of shoot-out, victim of robbery managing to shoot and kill one of robbers—Robber correctly convicted of murder of fellow robber.

NATIONAL SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS v MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT AND ANOTHER (SCA)

MAYA DP, PETSE JA, SALDULKER JA, MBHA JA and VAN DER MERWE AJA
2015 NOVEMBER 19; DECEMBER 4
[2015 ZASCA 206]

Animal protection offences—Societies for the Prevention of Cruelty to Animals—Power to bring private prosecution—Restriction in s 7 of CPA of private prosecutions to direct infringement of human dignity and exclusion of juristic persons other than those mentioned in s 8 of Act rationally related to legitimate governmental purpose of limitation of private prosecution and hence not unconstitutional—SPCA not entitled to bring private prosecution—Criminal Procedure Act 51 of 1977, s 7 read with s 8.

S v NDZOLA AND ANOTHER (WCC)

ALLIE J and RILEY AJ
2010 MAY 7 CASE No A 64/2010

Juvenile offenders—Sentence—Personal circumstances of accused—Failure by magistrate to obtain pre-sentence report when circumstances called for such and legal representative requesting it—Young offenders sentenced to lengthy term of imprisonment for murder of rival gang member—Immaturity and peer pressure had to be taken into consideration—Sentence reduced on appeal.