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JANUARY 2018

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Herewith the cases in the January law reports

JUDGMENTS OF INTEREST IN THE JANUARY EDITIONS OF THE SALR AND SACR LAW REPORTS.

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SOUTH AFRICAN LAW REPORTS

Loan repayable on demand—Does prescription start running from when loan advanced, or from when demand for payment made?

When did prescription start running with regard to a loan repayable on demand? Was it when the loan was advanced, or was it only when demand for payment was made? The Constitutional Court confirmed that prescription started running from when the loan was advanced, unless there was a clear indication to the contrary. *Trinity Asset Management (Pty) Ltd v Grindstone Investments 132 (Pty) Ltd* 2018 (1) SA 94 (CC)

The responsibility of a municipality for the safety of a child making use of its recreational facilities

This matter addressed the responsibility of a municipality for the safety of a child that was making use of its recreational facilities. Here, a child while sliding down a water slide in a municipality pool was seriously injured. The court found the municipality liable in delict for the child's damages, its having failed to control access to and supervise the slide. *Van Vuuren v eThekweni Municipality* 2018 (1) SA 189 (SCA)

Review of decision to discontinue prosecution of Mr JG Zuma

In consideration in this case in the Supreme Court of Appeal was the much much-publicised decision of the acting National Director of Public Prosecutions, on the purported grounds of political interference, to discontinue the prosecution of Mr JG Zuma (now President) on racketeering, corruption, money-laundering and fraud charges. The court came to the conclusion that this decision was irrational in the circumstances, and set the decision aside. *Zuma v Democratic Alliance and Others* 2018 (1) SA 200 (SCA)

SOUTH AFRICAN CRIMINAL LAW REPORTS

Defence of reasonable chastisement by a parent of a child declared unconstitutional

A father stood accused of assaulting his son. In answer, he argued that his conduct fell within the bounds of 'reasonable chastisement' of his child, which amounted to a defence in common-law. The High Court however held that such a defence could no longer apply in our law; it was unconstitutional in that it breached children's rights to bodily integrity, and to freedom security of their person. *S v YG* 2018 (1) SACR 64 (GJ)

Accused charged for contravention of statute where no criminal offence created

A man was charged with offences pertaining to the contravention of provisions of the National Health Act 61 of 2003 which prohibited the unauthorised removal of human tissue from persons without their written consent. The High Court however discharged the accused on these counts; while the predecessor of the Health Act had created criminal offences for such transgressions, the present Act, for whatever reason, had not. And it could not be interpreted such that it had, merely on the belief of the court that a *casus omissus* had occurred; to do so would be impermissibly venturing into the arena of the legislature. *S v Frederiksen* 2018 (1) SACR 29 (FB)

Attendance at public gathering for which no prior notice given—requirements for criminal responsibility

The accused were convicted in the magistrates' court of a contravention of the Regulation of Gatherings Act 205 of 1993 in that they had attended a public gathering for which no prior notice had been given. The accused were successful in their appeal to the High Court: mere attendance at a gathering for which no prior notice given was insufficient for criminal liability in terms of the Act. *S v Tsoaeli and Others* 2018 (1) SACR 42 (FB)

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Kind Regards

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