



REPUBLIC OF SOUTH AFRICA

## SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

**FROM** The Registrar, Supreme Court of Appeal

**DATE**

**STATUS** Immediate

***Please note that the media summary is for the benefit of the media and does not form part of the judgment.***

***Henriques v Giles NO  
(213/08) [2009] ZASCA 64 (29 May 2009)***

#### **Media Statement**

Today the Supreme Court of Appeal ('SCA') dismissed an appeal against a judgment of Goliath J in the Cape High Court relating to situation of so-called 'crossed wills', where a husband and wife had each, by mistake, signed the will prepared for the other.

Briefly stated, the facts giving rise to the litigation are as follows: in about August 1999, acting on the instructions of Mr Franco Cammisa, an accountant and partner of PKF (Cape Town) Incorporated (the second respondent) drafted two wills, one for Mr Cammisa and one for his wife, Jackie. On 15 September 1999, when the couple met with the accountant and his colleague to sign their wills, a mistake occurred and each inadvertently signed the will intended for the other. The mistake only came to light after the deaths of both Mr and Mrs Cammisa, which occurred on 19 October 2004 and 5 January 2005, respectively. In the meantime, on 10 November 2004, the Master of the High Court, Cape Town, accepted and registered the will prepared for Mr Cammisa, but signed in error by Jackie, as the former's last will for the purposes of the Administration of Estates Act 66 of 1965.

The Supreme Court of Appeal upheld the conclusion of the court below to the effect that the will signed by Mr Cammisa could be rectified so that his estate could devolve in the manner in which he undoubtedly intended. It thus dismissed the appeal against the High Court judgment ordering this rectification.

--- ends ---