



# THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

## JUDGMENT

Case No: 409/11

Not reportable

In the matter between:

**CHRISTIAAN LOUIS CARSTENS NO  
ANDRIES JOHANNES DANIEL BESTER NO  
ARNO STRYDOM NO  
VINCENT CYRIL TEE NO  
CHRISTIAAN LOUIS CARSTENS**

**FIRST APPELLANT  
SECOND APPELLANT  
THIRD APPELLANT  
FOURTH APPELLANT  
FIFTH APPELLANT**

and

**BRIGID MARY CARSTENS**

**RESPONDENT**

**Neutral citation:** *Carstens NO v Carstens* (409/11) [2012] ZASCA 62  
(10 May 2012).

**Coram:** Brand, Cloete and Heher JJA

**Heard:** 10 May 2012

**Delivered:** 10 May 2012

**Summary:**

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**ORDER**

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**On appeal from:** Eastern Cape High Court, Port Elizabeth (Dambuza J sitting as court of first instance):

The appeal is struck off the roll. The Trust (represented by the first to fourth appellants) and the fifth appellant, are ordered to pay the respondent's costs of appeal jointly and severally.

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**JUDGMENT**

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**CLOETE JA (BRAND AND HEHER JJA CONCURRING):**

[1] The court a quo dismissed the 'point in law' raised by the appellants and granted leave to appeal to this court. But the order amounts to the dismissal of an exception, which is interlocutory and therefore not appealable. There is the specific authority of *Maize Board v Tiger Oats Ltd* 2002 (5) SA 365 (SCA) and the general authority of *Zweni v Minister of Law and Order* 1993 (1) SA 523 (A) at 532I-533B.

[2] The appeal must accordingly be struck off the roll.

[3] The following order is made:

The appeal is struck off the roll. The Trust (represented by the first to fourth appellants) and the fifth appellant, are ordered to pay the respondent's costs of appeal jointly and severally.

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T D CLOETE  
JUDGE OF APPEAL

## APPEARANCES:

First to Fourth Appellant: P A van Niekerk SC (with him Ms A Venter)

Instructed by:

Van Niekerk, Huisamen & Van Wyk, Uitenhage

Honey Attorneys, Bloemfontein

Fifth Appellant: J D Huisamen SC

Instructed by:

Kaplan Blumberg Attorneys, Port Elizabeth

Honey Attorneys, Bloemfontein

For Respondent: R G Buchanan SC

Instructed by:

G P van Rhyn Minnaar & Co, Uitenhage

Symington & De Kok, Bloemfontein