



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
Date: 1 June 2012
Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

Neutral citation: *Raubenheimer v Raubenheimer* (560/2011) [2012] ZASCA 97 (1 June 2012)

The appeal in this matter related to the interpretation of a will made by the appellant's husband prior to his death. The will had not been properly witnessed and contained a clause that although the estate was bequeathed to the appellant she was to have a usufruct over the matrimonial home in Pretoria until her death or remarriage. It also referred to a list of specific bequests which was not attached thereto.

After the death of the testator, his two children born from a previous marriage contended that this will was invalid as, firstly, it failed to comply with the relevant statutory provisions as to its signature and, secondly, as it was void for vagueness. The appellant contended that the will should be accepted as being the testator's will under s 2(3) of the Wills Act 7 of 1953.

The matter came before the Gauteng High Court which found that the will was invalid and that the testator had died intestate. On appeal, the Supreme Court of Appeal held that the will had been intended by the testator to be his last will. The court also held that the will was not

void for vagueness and, on a proper construction, created a fideicommissum over the common home to endure until the appellant's death or remarriage whereupon the property is to devolve upon the testator's two children. The court therefore granted an order directing the Master to accept the will as being the will of the deceased for the purposes of the administration of Estates Act 66 of 1965.

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