THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

JUDGMENT

Reportable

Case no: 207/2013

In the matter between:

CAMERON STEWART MALCOLM **Appellant**

and

PREMIER, WESTERN CAPE GOVERNMENT NO **Respondent**

Neutral citation: *Malcolm v Premier, Western Cape* (207/2013) [2014] ZASCA 9 (14 March 2014)

Coram: Navsa, Shongwe, Theron and Wallis JJA and Legodi AJA

Heard: 21 February 2014

Delivered: 14 March 2014

Summary: Prescription – plaintiff a minor when claim arose – age of majority then 21 years – s 13(1)*(a)* of Prescription Act 68 of 1969 – interpretation of – interpretation in light of changed circumstances – effect of s 17 of Children's Act 38 of 2005 on expiry of prescriptive period.

ORDER

On appeal from: Western Cape High Court (Louw J sitting as court of first instance):

The appeal is upheld with costs and the order of the court below is altered to one dismissing the special plea of prescription with costs.

JUDGMENT

Wallis JA (**Navsa, Shongwe and Theron JJA and Legodi AJA** concurring)

[1] Mr Malcolm was born on 2[…] J[…] 1[…]. In 1993, when he was six years old, he was diagnosed with Stage 1 Hodgkin's Lymphoma. He was admitted to the Red Cross Children's Hospital in Cape Town for treatment. He alleges that whilst he was in hospital undergoing treatment there was an outbreak of Hepatitis B at the hospital and in October 1994 he was diagnosed with that disease. He ascribes his infection with Hepatitis B to negligence on the part of the hospital and its staff and seeks by this action to recover damages. His claim was met with a special plea of prescription, which Louw J upheld. The appeal is with his leave.

[2] In terms of s 11*(d)* of the Prescription Act 68 of 1969 (the Act) the period of prescription in respect of Mr Malcolm's claim is three years commencing from when the claim became due. That is accepted as being in October 1994. As Mr Malcolm was a minor at the time of the expiry of

the prescriptive period, completion of prescription was delayed in terms of ss 13(1)*(a)* and *(i)* of the Act, which read:

'If –

(a) the creditor is a minor …;

and

(i) the relevant period of prescription would, but for the provisions of this subsection, be completed before or on, or within one year after, the day on which the relevant impediment referred to in paragraph *(a)* … has ceased to exist,

the period of prescription shall not be completed before a year has elapsed after the day referred to in paragraph (*i*).'

[3] The issue in this case arises from a change in the law relating to the age of majority that occurred after Mr Malcolm became infected with Hepatitis B. At that time the age of majority was 21 years in terms of s 1 of the Age of Majority Act 57 of 1972. However, the age of majority was altered to 18 years by way of s 17 of the Children's Act 38 of 2005, which came into operation on 1 July 2007. On that day and by operation of law Mr Malcolm attained his majority. The Premier of the Western Cape, who in her official position is the defendant to the action and the respondent in this court, contended in the court below, and contends in this court, that accordingly the impediment of minority referred to in s 13(1)*(a)* of the Act ceased to exist on that date, leaving Mr Malcolm with one year in which to institute this action. The result of his not having done so was said to be that his claim prescribed one year later on 30 June 2008. Louw J upheld that contention.

[4] The plea of prescription was resisted on the basis that when the claim arose Mr Malcolm had until one year after he turned 21 to institute action and this was not affected by the statutory amendment to the age of majority. Reliance was placed on the broad principle that statutory

changes are presumed not to prejudice acquired rights and on the provisions of ss 12(2)*(b)* and *(c)* of the Interpretation Act 33 of 1957. As he commenced these proceedings within one year of turning 21 it was contended that his claim had not prescribed.

[5] The arguments on both sides in the court below and in this court proceeded on the footing that the reference to a 'minor' in s 13(1)*(a)* of the Act is a reference to a person who has not yet achieved the legal status of majority. Flowing from this the respondent adopted the approach that the impediment of being a minor would cease to exist when the person concerned reached the legal age of majority. However, this overlooked the fact that the meaning of the word 'minor' in that section had already been the subject of a decision of this court in *Santam Versekeringsmaatskappy Bpk v Roux*.[1] There it was held that it meant a person who had not yet turned 21, irrespective of whether they had achieved their majority. In other words being a minor for the purposes of the Act depended purely upon a person's age and not their legal status. It is accordingly necessary to examine that decision.

[6] In *Roux* the plaintiff had been injured in a motor collision shortly before her eighteenth birthday. A little over a year later she married. As a result she became in law a major, although, as the marriage was one in community of property before the abolition of the marital power, her legal capacity was restricted. Shortly after her twenty-first birthday the marriage ended in divorce. Thereafter, but within one year of her twenty-first birthday, she commenced the action. The plea of prescription was raised on the basis that she had ceased to be a minor when she married

[1] *Santam Versekeringsmaatskappy Bpk v Roux* 1978 (2) SA 856 (A).

and accordingly was required to institute her action within one year of that date and had not done so.

[7] The court was faced with a choice between two contentions.[2] For Ms Roux it was argued that, in the absence of a definition, a 'minor' in its ordinary meaning was a person under the age of 21 years. For the insurance company it was argued that a 'minor' was a person who was not a major in the legal sense of having achieved their majority. A person was accordingly no longer a minor for the purposes of prescription if they had turned 21, or married, or obtained an order of court under s 2 of the Age of Majority Act, or attained majority in any other way in which that status could in law be achieved.[3] In opting for the first meaning the court held that in its ordinary meaning the concept of a 'minor' referred to a particular age.[4] Support for this was found in the old authorities and in the analysis by Van den Heever J in *Meyer v The Master*,[5] where that learned judge pointed out that the word 'major' was sometimes used to refer to a specific age and sometimes to the person enjoying full legal capacity.[6] He held that it conventionally refers to a person's age, not their legal status.

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[2] The two possibilities were age and legal status. As other statutes demonstrate sometimes the one may be the proper interpretation and sometimes the other. Statutory examples of the word 'minor' referring to the person's age are to be found in s 1 of the National Gambling Act 7 of 2004 and s 1 of the South African Citizenship Act 88 of 1995, where a major is defined as a person over the age of 18 years. For an example based on legal status see s 1 of the South African Passports and Travel Documents Act 4 of 1994. In other statutes where it is used, such as the Consumer Protection Act 68 of 2008 and the Witness Protection Act 112 of 1998, there is no definition and, as in *Roux*, the court will have to construe the legislation when the issue arises.

[3] Other possibilities were tacit emancipation or *venia aetatis*. See Alfred Cockrell in Belinda van Heerden, Alfred Cockrell and Raylene Keightley (General Editors) *Boberg's Law of Persons and the Family* 2ed (1999), 467-469 and 473-496.

[4] At 864B 'n bepaalde leeftydsgrens'.

[5] *Meyer v The Master* 1935 SWA 3 at 5.

[6] Being 'mondig'.

[8] Miller JA, who delivered the judgment in *Roux*,[7] held that the purpose of the provision was to protect young people below a certain age and expressed his conclusions as follows:[8]

'Die beleid van ons reg, egter, is dat jeugdige persone wel beskerm behoort te word;

"the object of the law...is to protect (minors) against their own immaturity of judgment".

(*Edelstein v Edelstein NO and Others* 1952 (3) SA 1 (A) te 15.) …

Rakende verjaring, leer Pothier *Obligations*:

"Prescription does not run against minors, although they have a tutor: this exception is not founded upon the rule, *contra non valentem agere, non currit prescriptio*, since they have a tutor who may sue for them, but upon a particular indulgence to the infirmity of their age."

(*Evans* se vertaling band 1 te 452.)

Dit is duidelik dat in elkeen van die bogenoemde verwysings, bedoel word deur die woord "minderjarige" of "minor", iemand wat 'n bepaalde ouderdomsgrens nog nie bereik het nie. Omrede die vermoede wat in ons reg geld dat jeugdiges onoordeelkundig of op onverantwoordelike wyse mag optree (of versuim om op te tree), word 'n ouderdomsgrens vasgestel om te onderskei tussen diegene wat beskerm moet word, en andere. Dit kom my voor dat minderjariges in art 13 (1) *(a)* van die Verjaringswet ingesluit is, juis omrede die genoemde vermoede. Ek raak derhalwe tot die gevolgtrekking dat die woord "minor" verstaan moet word om te verwys na enige persoon wat die bepaalde leeftydsgrens nog nie bereik het nie.'[9]

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[7] Rumpff CJ and Jansen, Corbett and Joubert JJA concurred.

[8] At 865F-866A.

[9] 'However, the policy of our law is that young people ought to be protected:

"the object of the law...is to protect (minors) against their own immaturity of judgment".

(*Edelstein v Edelstein NO and Others* 1952 (3) SA 1 (A) at 15.) …

As concerns prescription, Pothier *Obligations* teaches:

"Prescription does not run against minors, although they have a tutor: this exception is not founded upon the rule, *contra non valentem agere, non currit prescriptio*, since they have a tutor who may sue for them, but upon a particular indulgence to the infirmity of their age."

(*Evans'* translation volume 1 at 452.)

It is clear that in all of the abovementioned authorities, what is intended by the word "minderjarige or "minor" is someone who has not yet reached a determined age. Because of the presumption that operates in our law that young people may act indiscriminately or irresponsibly (or fail to act), an age is fixed to distinguish between those who must be protected and others. In my view minors were included in s 13(1)*(a)* of the Prescription Act solely because of that presumption. I therefore come to the conclusion that the word "minor" must be understood as referring to any person who has not yet reached the stipulated age.' (My translation.)

The court concluded that until a person turned 21 the impediment of being a minor for the purposes of the Act did not cease to exist. If a person below 21 had nonetheless achieved their majority this was irrelevant. The court's conclusion was not based on the fact that the statutory age of majority was 21 but on its view of the ordinary meaning of the word 'minor'.

[9] If the judgment in *Roux* remained applicable, as an authoritative exposition of the meaning of s 13(1)*(a)* of the Act, then it would be decisive of this appeal in favour of the appellant, as he would only have ceased to be a minor for the purposes of prescription when he turned 21. The respondent did not contend that the judgment was clearly wrong at the time it was handed down,[10] although there were possibly grounds for criticism.[11] Instead it was submitted that the meaning of the section had changed in the light of the passage of s 17 of the Children's Act, which lowered the age of majority to 18 years. That submission did not affect the finding that being a minor in terms of the Act relates to a particular age, but focussed on whether 21 remains the relevant age or whether, in the light of subsequent events, that age should now be held to be 18.

[10] The proposition underpinning this contention is that, whilst a statute is enacted at a particular point in time, circumstances in society may change over time and it is necessary in expounding the proper

[10] *Steve Tshwete Local Municipality v Fedbond Participation Mortgage Bond Managers (Pty) Ltd & another* 2013 (3) SA 611 (SCA) para 14.

[11] It was inconsistent with the views of Professor J C de Wet, who prepared a memorandum on prescription for the South African Law Commission and drafted the Act, which was passed in the terms he had drafted. J C de Wet *Opuscula Miscellanea* 77-144. The draft of s 13(1)*(a)* is at 142 and his comment on it is in para 90, p 124. However, the judgment does not appear to have attracted academic criticism on this point. There are extensive comments on it in 1978 *AS* 89-90, 92, 287, 436-7, 445-6 and 736. It is dealt with at length in a note by P Q R Boberg 'Who Can Sue for Wife's or Child's Medical Expenses?' (1979) 96 *SALJ* 525 but is not criticised on this aspect of the decision. I have been unable to find any other comment and the decision appears to have been accepted in standard texts dealing with prescription.

meaning of the statute to have regard to the changing social environment in which the statute falls to be applied from time to time. The relevant principle of interpretation is that the statute is not fixed at a point in time but is 'always speaking'. This was not always the position. In *Sharpe v Wakefield*[12] Lord Esher said:

'[T]he words of a statute must be construed as they would have been the day after the statute was passed, unless some subsequent Act has declared that some other construction is to be adopted or has altered the previous statute.'

This court, in *Cape Provincial Administration v Honiball*,[13] appears to have applied a similar principle but, it is clear that it did so on the basis of the principle of parliamentary supremacy. However, in recent years courts in England have departed from this rigid approach and, by adopting the approach that statutes are 'always speaking', they have scope to extend the meaning of statutes to cover new matters and situations that could not have been anticipated at the time when they were enacted.[14]

[11] There is obvious sense in this approach when a court is confronted with a novel situation that could not have been in the contemplation of the legislature at the time the legislation was enacted. Courts can then, in the light of the broad purpose of the legislation, current social conditions and technological development, determine whether the new situation can properly, as a matter of interpretation, be encompassed by the language.

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[12] *Sharpe v Wakefield* (1899) 22 QBD 239 at 241. The only reported case in South Africa where this decision had been followed on this aspect is *In Re Soobiah & others* (1921) 42 NPD 184.

[13] *Cape Provincial Administration v Honiball* 1942 AD 1 at 15-16. See also L C Steyn *Die Uitleg van Wette* 5 ed (1981) 156.

[14] The principle appears to originate in John Bell and George Engle *Cross Statutory Interpretation* 3 ed (1995) 51-52. It was approved in *R v Ireland; R v Burstow* [1997] 4 All ER 225 (HL) at 233d-g and *McCartan Turkington Breen (a firm) v Times Newspapers Limited (Northern Ireland)* [2000] UKHL 57; [2000] 4 All ER 913 (HL) at 926g-927e (per Lord Steyn). In *R (on the application of Quintavalle) v Secretary of State for Health* [2003] UKHL 13; [2003] 2 All ER 113 (HL) paras 8-10 Lord Bingham sought to reconcile the two approaches. For an application of the principle see *Fitzpatrick v Sterling Housing Association Ltd* [1999] 4 All ER 705 (HL). See also Daniel Greenberg *Craies on Legislation* 9 ed (2008) 703.

But, as Lord Bingham pointed out in *Quintavalle*, by way of example, they cannot use the principle to extend legislation relating to dogs to cats, however desirable such an extension may seem. In other words the principle has limits, but subject to that qualification and the case by case working out of those limits, I see no reason why, in appropriate cases, South African courts should not invoke it, particularly in the light of our present constitutional order in terms of which statutes are to be construed in the light of constitutional values.

[12] The Constitution enjoins us to interpret legislation in accordance with the spirit, purport and objects of the Bill of Rights. Where a previous interpretation of a statute is no longer consistent with those values then we are obliged to depart from it. In this case there are relevant provisions of the Constitution, to some extent those relating to children, but in particular s 10, which guarantees the right to dignity and provides that everyone is entitled to have their dignity protected and respected. This is a core value of our Constitution.[15]

[13] Since *Roux* was decided we have experienced unprecedented changes in our society. South Africa has become a constitutional democracy in which the dignity of all citizens is subject to constitutional protection. Our Constitution, which affords special protection to children, defines them as persons under the age of 18. The corollary is that persons older than 18 are to be regarded as adults. Our society recognises their dignity as adults by giving them the right to vote and allowing them to conclude contracts and enter into marriages, to give consent to medical treatment, to obtain a passport and many other things. To treat them as

[15] *President of the Republic of South Africa & another v Hugo* 1997 (4) SA 1 (CC) para 41; *Christian Education South Africa v Minister of Education* 2000 (4) SA 757 (CC) para 43.

less than adult for a purpose as important as the law governing prescription infringes their dignity by affording them an advantage, on the grounds of their supposed immaturity and irresponsibility, that is not available to other adults. It is the notion that they are by virtue of their age immature and irresponsible that constitutes the infringement.

[14] Apart from the constitutional aspect there has been a lengthy and detailed consideration of the legal position of young people in our society. [16] In line with international trends in most countries and international instruments, our law regarding the age of majority has been changed to lower the age from 21 to 18 years. The world has changed dramatically since 1969 and those changes, already nascent at that time, have altered our view of young people and our understanding of when they reach maturity and should be treated as adults. Social circumstances were very different in 2008, and remain very different in 2014, from those that prevailed in 1969. Finally the 'ordinary meaning' that was ascribed to the word 'minor' in *Roux* was culturally determined and a reflection of the position within some but not all sectors of our community.

[15] For those reasons, and whatever the precise scope of the 'always speaking' principle in our law of statutory interpretation, it seems to me that it requires us to say that the word 'minor' in s 13(1)*(a)* of the Act now means a person under the age of 18 years and to that extent to depart from the decision in *Roux*. However, I do not go so far as to say that it is confined to meaning any person who in law has not attained their majority. It was not argued that this aspect of the decision in *Roux* was

[16] Report on the Review of the Child Care Act, South African Law Commission, Project 110. Whilst the Commission was aware that changes to the age of consent might affect questions of prescription (see Part 1, p 25) it did not deal specifically with this issue in its report.

clearly wrong, and I prefer to leave open the question whether a person under 18 who enters into a lawful marriage, or who by virtue of their life circumstances would be regarded under the common law as having been tacitly emancipated from their minority, is no longer to be regarded as a minor for the purposes of the Act. That is not the situation before us and it would be preferable to leave it for decision on an appropriate occasion when it arises pertinently.

[16] From what date did this altered interpretation take effect? The changes that warrant departing from what was decided in *Roux* culminated in the enactment of the Children's Act and the alteration it effected to the age of majority. Parliament thereby placed its imprimatur on the social changes that had occurred over a period of time prior to that date. For so long as the age of majority remained fixed at 21 it could not be said that social circumstances had so altered that the legal position as laid down in *Roux* had changed. It is therefore from that date and triggered by that legislative change that the interpretation of s 13(1)*(a)*, and hence our law, changed. However, when a change in the law of that nature occurs, it is necessary for the court, as a matter of interpretation, to determine whether and to what extent the change affects matters that have their origin in events prior to the change. If a law has been repealed the Interpretation Act provides, in s 12(2) thereof, for the consequences of the repeal. The section commences with the words: 'Where a law repeals any other law, then unless the contrary intention appears, the repeal shall not …' It is accordingly applicable to the consequences of the statute or statutory provision under consideration being repealed. But we are not dealing with the repeal of a statute and accordingly the reliance on this section in argument on behalf of Mr Malcolm is misplaced. The Prescription Act has neither been repealed nor amended. All that has

happened is that the section in the Act has been interpreted in the light of changed circumstances and constitutional values. That is not a situation covered by s 12 of the Interpretation Act. Whilst the change in the legal position was triggered by an amendment to the legal age of majority it did not involve either the repeal or amendment of s 13(1)*(a)* of the Act.

[17] That does not, however, mean that the new meaning of s 13(1)*(a)* automatically operates in relation to all unexpired periods of prescription that were already running when the change in meaning occurred. I have already noted that whenever there is a change to existing law the question arises whether the change applies in relation to matters that have their origin in past events. Frequently that question is resolved by way of transitional provisions in an amending law. The Act provides a clear example of this. It repealed and replaced the Prescription Act 18 of 1943. In s 16 it dealt with the implications of this by providing that prescription in respect of debts arising before the commencement of the Act would be dealt with under the 1943 Act and debts arising after its commencement would be dealt with under the Act. No doubt had there been an amendment of the Act when the Children's Act came into operation there would have been a similar provision governing the transition. Instead it is necessary for the court to resolve the issue by determining the effect of the changed interpretation of s 13(1)*(a)*.

[18] The principles applicable when a statute brings about a change in the law have been laid down in a number of cases. For present purposes they were summarised by Corbett CJ in the *Pericles GC*[17] in the following terms:

[17] *National Iranian Tanker Co v MV Pericles GC* 1995 (1) SA 475 (A) at 483H-I. See also *BOE Bank Ltd v Tshwane Metropolitan Municipality* 2005 (4) SA 336 (SCA) para 13.

'There is at common law a prima facie rule of construction that a statute (including a particular provision in a statute) should not be interpreted as having retrospective effect unless there is an express provision to that effect or that result is unavoidable on the language used. A statute is retrospective in its effect if it takes away or impairs a vested right acquired under existing laws or creates a new obligation or imposes a new duty or attaches a new disability in regard to events already past.'

That statement was made in relation to a change in the law brought about by statute. Appropriately adapted it seems to me equally applicable to a change in the law resulting from a changed interpretation of a statute, where that altered interpretation is triggered by a change to another statute. So adapted there is a presumption against the change in the law operating retrospectively so as to create a new obligation or impose a new duty or attach a new disability in regard to events already past.

[19] When the change in meaning of s 13(1)*(a)* came into effect on 1 July 2007 there must have been a number of unresolved claims by minors in respect of which prescription had already started to run. If the change applies to all such claims, as contended by the respondent, then any claimant who celebrated their eighteenth birthday between 1 July 2005 and 30 June 2008 would be left with only one year after 1 July 2007 in which to pursue their claim if they were to avoid prescription, instead of the longer period of up to four years that they had before that date. That could work considerable hardship as the following examples illustrate. A youth of 17 from a rural area was assaulted in 2006 and suffered serious injuries requiring him to return home. According to the doctors who treated him the true impact of his injuries would not be known until he was 20. He consulted an attorney with a view to bringing a claim and was advised to wait until his medical condition had settled, and his damages could be more accurately assessed, before pursuing the claim. The attorney advised that waiting would not prejudice his position

because the claim would only prescribe when he turns 21. If the youth acted on that advice and returned in 2010 when he was 21, on the respondent's contention, the attorney would then advise him that the claim had prescribed.

[20] Other similar examples can be readily imagined. It is commonplace within some more privileged communities for children to take a gap year after completing their matric. Many matriculants are already 18. Take one who has taken advice on a pre-existing claim and been told that they can pursue their claim at any time up to one year after they turn 21. On that footing they travel internationally or go and work in a foreign country, perhaps in an area of need or development,[18] and return more than a year after 1 July 2007. If the altered interpretation of s 13(1)*(a)* applies to them their claim will have prescribed.

[21] In these and other situations that can be imagined, minor claimants would, if the altered meaning were to be applied to them, suffer a disability in relation to events past. That disability would consist of their claims being extinguished by prescription (s 10(1) of the Act) as a result of the change in the legal position. Even if, as Professor Loubser suggests,[19] the proper analysis of prescription under the Act is that it confers a substantive statutory right or defence on the debtor, the creation of such a right or defence, would impose a disability on the creditor. In practical terms if they wished to pursue their claims, they needed to do so

[18] Many young people undertaking a gap year work for NGOs in deprived parts of the world in menial jobs aimed at providing aid to disadvantaged communities.
[19] M M Loubser 'J C de Wet and the theory of Extinctive Prescription' in *A Man of Principle The Life and legacy of JC de Wet* (ed Jacques du Plessis and Gerhard Lubbe) 409.

earlier than they would otherwise have had to do.[20] This may not amount to a new duty being imposed in the sense that Corbett CJ used the word 'duty', which was as a matter of positive obligation, but that is immaterial. As long as there is a potential disability for claimants affected by the change they are entitled to the benefit of the presumption that the change in the law does not apply to their situations.

[22] No such prejudice confronts potential defendants if the effect of the change in the law is that it applies only to claims arising after 1 July 2007. Their position in regard to claims that accrued before that date would be unchanged. They were already in the position that existing claims might only be pursued many years hence. Thus a claim by an infant arising from a birth injury, occurring early in 2007, could potentially be brought at any time up to 2029. The benefit of that period being reduced by three years to 2026 seems small in comparison with the potential prejudice to claimants who suddenly found that the period for pursuing their claims had been markedly reduced. Counsel was unable to point us to any prejudice that would flow to this defendant, or persons facing claims generally, if the altered meaning is only applied to claims arising after 1 July 2007.

[23] The Children's Act does not address this issue and nor did the Law Commission. If anything their silence points in favour of the change in the law operating only in cases arising after the change occurred. In one respect at least it is proper to infer that the change did not operate retrospectively. It is that persons over the age of 18 on 1 July 2007 attained their majority on that day, not on the earlier day when they

[20] The change 'impacts negatively upon the applicant's substantive right to a claim for damages by impairing and limiting its enforcement'. *Shange v MEC for Education, Kwa-Zulu-Natal* 2012 (2) SA 519 (KZD) para 27.

turned 18.[21] In other words if they had entered into contracts prior to that date, then after they turned 18 those contracts did not automatically become enforceable against them on 1 July 2007. Equally a marriage entered into by a 19 year old prior to that date, but without the requisite consent and accordingly invalid,[22] would not become valid and could still be dissolved for such lack of consent.[23] Why then should the position in relation to prescription be any different? In addition to hold that the change only operated in relation to claims arising after that date would be consistent with the approach adopted in 1969 when the Act replaced the 1943 Act.[24] Overall the balance is tilted firmly in favour of the altered interpretation of s 13(1)*(a)* being applicable only to claims arising after 1 July 2007 and I so hold.

[24] In the result the appeal succeeds with costs and the order of the court below is altered to one dismissing the special plea of prescription with costs.

M J D WALLIS
JUDGE OF APPEAL

[21] *Apdol v Road Accident Fund* 2013 (2) SA 287 (GNP) para 25.
[22] Section 24(1) of the Marriage Act 25 of 1961.
[23] Section 24A of the Marriage Act.
[24] Section 11 of the 1943 Act made its provisions applicable to periods of prescription that had commenced but were incomplete when the Act came into operation, subject to the period of prescription not being reduced.

Appearances

For appellant:	J S Saner Instructed by: DSC Attorneys, Cape Town Rosendorff Reitz and Barry, Bloemfontein
For respondent:	M O'Sullivan (the heads of argument having been drafted by N Bawa) Instructed by: State Attorney, Cape Town and Bloemfontein.