

Supreme Court of Appeal of South Africa

MEDIA SUMMARY– JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

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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.

Pieters NO v Absa Bank Ltd [2019] ZASCA 118

The SCA today dismissed an appeal against a judgment of the Gauteng Division of the High Court, Johannesburg, upholding a special plea that the appellant, Ms Pieters, had not been properly appointed as liquidator of a company Cell f Services (Pty) Ltd and accordingly lacked *locus standi* to institute this action against Absa Bank Ltd.

The factual background was that Cell f was finally liquidated in March 2002 and Ms Pieters was appointed as its liquidator. On 14 August 2003 the Master certified that the company had been completely wound-up and issued a certificate to Ms Pieters that she had satisfied all the Master's requirements in regard to the winding-up and that the security she had furnished could be reduced to nil. Nearly five years later Ms Pieters asked for her letters of appointment to be 're-issued'. The Master then asked for security and issued letters of appointment, purporting to 're-instate' her as liquidator of Cell f. In that capacity she then instituted this action against Absa Bank, which challenged the validity of her appointment. That challenge was upheld.

The appeal was dismissed for two reasons. The first was that Ms Pieters had not shown that the company, Cell f, had not been dissolved before

her re-instatement. According to the Companies Act the date of dissolution of a company is when the Companies and Intellectual Property Commission records the fact that it has been completely wound-up. Ms Pieters did not produce any evidence to show that this had not occurred.

Secondly, and in any event, the SCA held that once the Master certified that the company had been completely wound-up and certified that Ms Pieters had satisfied all the Master's requirements in relation to the winding-up, she was discharged from office and it was not open to the Master to re-instate her without following the procedures for filling a vacancy in the office of liquidator in accordance with the Companies Act. The appeal was accordingly dismissed with costs.