



SUPREME COURT OF APPEAL SOUTH AFRICA

MEDIA SUMMARY – JUDGEMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal

DATE 14 December 2020

STATUS Immediate

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

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL v REEVA-JOY AND OTHERS (Case no 1255/19) [2020] ZASCA 170

Today the SCA dismissed an appeal by The South African Legal Practice Council (the LPC) against an order of the High Court, Cape Town, which directed it to remove the names of the nine respondents from the roll of attorneys and to enroll them as advocates.

The respondents had all been admitted and enrolled as attorneys and wished to be advocates. They relied on s 115 of the Legal Practice Act 28 of 2014 (the LPA) to assert their right to be enrolled as advocates. Section 115 of the LPA preserves the right of any person who had qualified to be admitted as an advocate, under the Admission of Advocates Act 74 of 1964, prior to the commencement of the LPA on 1 November 2018, to be admitted as an advocate thereafter.

The LPC contended, firstly, that on a proper interpretation of the LPA the section applied only to applications for admission which had been launched before the LPA came into effect; secondly, that the respondents did not qualify to be admitted as advocates before the LPA came into effect because their names had not been removed from the roll of attorneys, a prerequisite for admission as an advocate, at that time; and thirdly, that once the respondents had been admitted as attorneys the LPA entrusted the regulation of the conversion to the LPC to the exclusion of the high court.

The SCA held that s 115 preserves the right of all persons who qualified before the LPA came into effect to be admitted and enrolled at any time thereafter. It held further, that before the LPA came into operation an attorney was entitled to move in a single application for the removal of their name from the roll of attorneys and their admission as an advocate. As this right accrued to the respondents before the LPA came into operation they were entitled in terms of s 115 to their admission. In respect of the LPC's power of conversion, the SCA found that because the respondents' right to admission as advocates had been preserved in terms of s 115 there was no basis for the LPC to exercise any power of conversion and the high court effectively performed the conversion in terms of s 115.