JUDICIAL CONDUCT COMMITTEE

Ref no: JSC/122/01/2025

In the matter between:

MUZI HANOCK VILAKATI **COMPLAINANT**

and

JUDGE WANLESS **RESPONDENT**

Date: 3 November 2026

Decision: The appeal is dismissed.

RULING

JUDICIAL CONDUCT COMMITTEE (JAFTA J, SALDULKER JA and MABINDLA-BOQWANA JP):

Introduction

[1] The complainant, Mr Muzi Hanock Vilakati, lodged a complaint with the Judicial Conduct Committee (Committee) against Judge Wanless (the respondent) arising from proceedings in which the complainant was a litigant before the respondent.

[2] The Acting Chairperson considered the complaint and dismissed it in terms of section 15(2)(c)[1] of the Judicial Service Commission Act 9 of 1994 (the Act), finding that the complaint related solely to the merits of the judgment or order.

[3] Aggrieved by that decision, the complainant noted an appeal seeking to set aside the decision of the Acting Chairperson. Various grounds have been advanced in support of the appeal.

The complaint

[4] The complaint arises from the underlying dispute between the complainant and Standard Bank concerning an alleged employment related claim by the complainant against Standard Bank. The litigation turned on the issue of prescription, and the respondent found that the claim had prescribed, resulting in the dismissal of the action before him. The complainant thereafter launched an application for leave to appeal against the judgment, which application was dismissed by the respondent.

---

[1] Section 15(2)(c) of the Act provides:
"A complaint must be dismissed if it — is solely related to the merits of a judgment or order."

[5] The complaint is extensive and raises a number of grievances. These include, inter alia: challenges in regard to the conduct of the proceedings before the respondent and the subsequent application for leave to appeal; the contents of the judgment; the accuracy and incompleteness of the court transcript, which also contained inaudible portions and omissions; interlocutory and procedural rulings; case-management decisions; the manner in which the respondent dealt with subsequent complaints; the manner in which oral submissions were addressed; and an allegation that the complainant was afforded insufficient time to present oral argument; and alleged differential treatment of the opposing party. The complainant contends that, considered in substance, these matters constitute procedural irregularities, disclose a lack of fairness and impartiality on the part of the respondent, and amount to conduct warranting consideration under the Act. The complainant further alleges, that all of these grievances viewed cumulatively prejudiced his ability to pursue his appellate remedies.

Response by the respondent

[6] The respondent responded in detail to the complaint lodged by the complainant. The central theme of the response is that the complaint is in substance, an attempt to challenge the correctness of the respondent's judicial decisions and the manner in which the leave to appeal proceedings were conducted. The respondent contends that the only reasonable conclusion to be drawn from the complaint is, that the complainant is attempting to engineer a reversal of his decision refusing leave to appeal and also the decision upholding Standard Bank's special plea of prescription.

Legal framework

[7] The Act provides a carefully defined mechanism for dealing with complaints against judicial officers. Section 14(4) identifies the grounds upon which a complaint may be lodged, including gross misconduct, a wilful or grossly negligent breach of the Code of Judicial Conduct (the Code) and other wilful or grossly negligent conduct incompatible with or unbecoming the holding of judicial office.

[8] Importantly, section 15(2)(c) provides that a complaint must be dismissed where it is solely related to the merits of a judgment or order. This statutory limitation is reinforced by the Code, which recognises that judges are fallible and may err in relation to fact or law. Such errors are, however, to be addressed through ordinary appeal and review procedures, and save in appropriate circumstances, do not constitute a basis for disciplinary proceedings. This distinction is important. The disciplinary process is not an alternative appellate remedy. Its purpose is to address judicial conduct, and not to determine whether a particular judgment or order was legally or factually correct.

Evaluation

[9] A significant aspect of the complaint is the allegation that the respondent afforded preferential treatment to Standard Bank and thereby acted with bias. The respondent denies having afforded Standard Bank any preferential treatment and contends that the complainant was afforded a proper opportunity to present his case. In any event, this allegation of preferential treatment against the respondent is vague and refers mainly to procedural aspects of the proceedings. Judicial impartiality is fundamental to the administration of justice. The fact that the respondent made a number of procedural rulings and case management decisions which the complainant

regards as favourable to Standard Bank, does not, on the material before the Committee, establish that those rulings were actuated by favouritism, prejudice, improper motive or personal interest on the part of the respondent. There is no evidence that the respondent had a personal or extraneous interest in the outcome of the proceedings. The allegation of bias remains an inference drawn by the complainant from the cumulative effect of the rulings with which he disagrees. That is insufficient to establish judicial misconduct. The fact that the special plea of prescription was upheld and the complainant's application for leave to appeal was dismissed cannot be construed as evidence of bias in favour of Standard Bank.

[10] Considerable reliance has been placed upon what the complainant describes as a defective and incomplete transcript. There can be no dispute that the integrity of a court record is important. However, that principle does not establish that every defect in a transcript constitutes misconduct on the part of the presiding judge. The existence of an imperfect transcript, and the question whether it should be reconstructed are, matters concerning the administration of the court record, and where relevant, the appellate process. They do not, without more, give rise to a disciplinary complaint against the presiding judge.

[11] The respondent avers that the transcripts correctly reflect the material aspects of the proceedings. Although the respondent acknowledges that in subsequent communications, he mistakenly confused the transcripts relating to the prescription proceedings with those relating to the application for leave to appeal, he maintains that the error was inadvertent and did not affect the determination of the application

for leave to appeal. The latter application was determined after considering the parties' arguments, the Notice of Appeal and the judgment on prescription.

[12] The complainant's reliance on *Phakane v S*[2] and *S v Joubert*[3] does not alter the position. Those authorities demonstrate the importance of an adequate record for purposes of an appeal. They do not establish that a judge commits misconduct whenever a record is incomplete or a litigant disputes the manner in which the record was dealt with. This distinction is important because the disciplinary jurisdiction of the Committee must not become a parallel avenue of appeal. There is no evidence before the Committee substantiating the complainant's allegation that the transcripts were tampered with, altered, manipulated or interfered with. The allegation is speculative and unsupported. In any event, the alleged deficiencies in the transcripts had no material bearing on the outcome of the application for leave to appeal and do not, in the circumstances, constitute judicial misconduct. Furthermore, the complainant's dissatisfaction with the manner in which the respondent dealt with his requests concerning the transcript, cannot without more be converted into a finding of judicial misconduct.

[13] The complainant further alleges that the judgment on the application for leave to appeal contained statements that were incorrectly attributed to him. Properly analysed, these allegations are directed principally at the correctness of the judgment and at the factual findings or characterisation contained therein. The appropriate mechanism for correcting a material factual or legal error in a judgment is ordinarily an appeal, review or other competent judicial procedure. The disciplinary process

---

[2] 2018 (4) BCLR 438 (CC).
[3] [1991] (1) ALL SA 280 (A).

cannot be used to revisit every disputed statement contained in a judgment. There is no evidential basis before this Committee upon which it could conclude that the statements complained of were deliberately fabricated, maliciously inserted or made with the requisite wilfulness or gross negligence contemplated by section 14(4) of the Act.

[14] The fact that the complainant takes issue with the curtailment of his oral submissions, or with the respondent's assessment that particular submissions were irrelevant, does not, without more, establish bias, judicial impropriety, misconduct or a breach of judicial ethics.

[15] A court is entitled to regulate its proceedings and prevent irrelevant or repetitive argument. The assessment of relevance, case management and limitation of oral argument are judicial functions, and do not, in themselves, constitute disciplinary questions. A judgment is not required to reproduce every submission advanced by a litigant. Nor does the omission of a particular submission from a judgment necessarily demonstrate that the submission was not considered.

[16] The Committee is mindful of the fact that the complainant has expressed dissatisfaction with the manner in which his litigation was conducted and determined. However, such dissatisfaction cannot, by itself, sustain a complaint of judicial misconduct.

[17] The issues raised by the complainant arise predominantly from the judicial adjudication of the litigation and from the administration of the proceedings in which he was involved. The Committee finds that there is no evidence that the matters complained of were the product of wilful or grossly negligent misconduct,

dishonesty, bias, improper motive or personal prejudice. The complaint was correctly dismissed by the Acting Chairperson.

Order

[18] Accordingly, the complaint does not disclose conduct warranting disciplinary intervention. The appeal is dismissed.



JUDICIAL CONDUCT COMMITTEE