

EPISODE 16

CAN DECISIONS OF HIGHER COURTS EVER BE CHALLENGED?

Understanding Final Judgments, New Causes of Action and the Development of the Law

Estimated Reading Time: 7–8 minutes

Introduction

Many people believe that once the Supreme Court of Appeal (SCA) or the Constitutional Court has made a decision, the matter is over forever.

Is that always true?

Can a person ever return to court after the highest courts have ruled?

What happens if new evidence later emerges?

What if a completely new legal issue arises after the earlier judgment?

These questions are important because they help us understand the difference between **challenging an existing judgment** and **bringing new legal proceedings based on different facts or legal grounds**.

Understanding Final Judgments

The law values certainty.

People, businesses and government need to know when legal disputes have finally been resolved.

For that reason, judgments of higher courts generally bring litigation to an end.

This principle is known as the **finality of litigation**.

Without finality, legal disputes could continue indefinitely.

When Can New Proceedings Arise?

Although litigation should generally come to an end, the law also recognises that later events may create **new legal rights or new legal disputes**.

For example:

- new facts may emerge;

- legislation may change;
- a different cause of action may arise;
- new conduct may give rise to fresh litigation.

In such situations, the court is not necessarily being asked to reconsider the earlier judgment itself.

Instead, it may be asked to determine a **new legal dispute**.

Understanding this distinction is important.

The Case Study

One of the questions arising from my own litigation concerns whether subsequent developments may give rise to new proceedings, notwithstanding earlier appeal processes.

This raises broader educational questions:

- When is litigation truly final?
- What is the difference between appealing a judgment and bringing a new legal claim?
- How do courts determine whether a later case raises issues that have already been decided or presents a genuinely new dispute?

These are important legal questions that arise in many areas of law.

This episode uses them to explain legal principles rather than to determine any particular case.

Why This Matters

Every justice system seeks to balance two important objectives:

- certainty in the law; and
- justice in changing circumstances.

If every dispute could be reopened indefinitely, there would be little legal certainty.

If no new proceedings were ever permitted, genuine new rights or disputes might never be heard.

The law therefore distinguishes between reopening old litigation and deciding genuinely new legal questions.

OUBAS Analysis

OUBAS believes that legal certainty is essential to the rule of law.

At the same time, legal systems must remain capable of responding to genuinely new facts, new evidence and new causes of action where the law recognises them.

Understanding the distinction between **challenging an existing judgment** and **instituting new proceedings based on different legal grounds** is therefore an important aspect of legal literacy.

OUBAS encourages readers to study how courts analyse issues such as jurisdiction, finality, new causes of action and procedural fairness before reaching conclusions about any individual matter.

OUBAS Reform Proposal

OUBAS proposes that greater public education be provided on:

- the hierarchy of South African courts;
- the principle of finality in litigation;
- the distinction between appeals, rescission and new proceedings;
- the legal concepts of jurisdiction and cause of action.

A better-informed public is better equipped to understand both the powers and the limits of the justice system.

Key Lessons

After reading this episode you should understand that:

- higher court judgments generally bring litigation to an end;
- the law distinguishes between appeals and new legal proceedings;
- later events may sometimes give rise to new legal disputes;
- courts examine whether a later case raises genuinely new issues; and
- understanding these distinctions promotes legal literacy.

OUBAS Knowledge Check

1. What is meant by the finality of litigation?

- ☐ That legal disputes should eventually come to an end.
 - ☐ That every judgment can always be reopened.
 - ☐ That appeals are automatic.
 - ☐ That courts never make mistakes.
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2. Can new legal proceedings sometimes arise after earlier litigation?

- ☐ Yes
 - ☐ No
-

3. Which of the following may give rise to a new legal dispute?

- ☐ New facts
 - ☐ New legislation
 - ☐ A different cause of action
 - ☐ All of the above
-

4. Is an appeal the same as a new legal claim?

- ☐ Yes
 - ☐ No
-

5. Why is legal certainty important?

- ☐ It helps individuals and institutions know when disputes have been finally resolved.
 - ☐ It eliminates all future litigation.
 - ☐ It replaces legislation.
 - ☐ It prevents legal development.
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OUBAS Public Sentiment Survey

Help OUBAS understand public opinion.

1. Before reading this episode, did you understand the difference between an appeal and a new legal proceeding?

☐ Yes

☐ No

2. Do you believe legal systems should provide a way to deal with genuinely new facts that emerge after litigation has ended?

☐ Strongly Agree

☐ Agree

☐ Neutral

☐ Disagree

☐ Strongly Disagree

3. Which do you believe is more important?

☐ Legal certainty

☐ Fairness in light of new developments

☐ A careful balance between both

4. Do you believe the public understands how the hierarchy of courts works?

☐ Yes

☐ No

☐ Unsure

5. Which topic would you most like OUBAS to explain next?

☐ Appeals

☐ Rescission

☐ Constitutional litigation

- ☐ Court jurisdiction
 - ☐ Judicial review
 - ☐ Other (please specify)
-

OUBAS Innovation Challenge

Every justice system must balance certainty with fairness.

If you were redesigning the court system, how would you ensure that genuinely new evidence or new legal disputes could be heard without creating endless litigation?

Share your ideas with OUBAS.

The most practical proposals may be featured in future **OUBAS Reform Papers** and discussed by the AAP professional community.

Share Your Experience

Have you ever been involved in a legal dispute where new evidence or new circumstances arose after a judgment?

How did the legal system respond?

What improvements would you recommend?

Your experience contributes to the **OUBAS People's Index** and helps others learn.

Continue Your Learning

 Visit the **OUBAS Bookstore** for books exploring constitutional law, civil procedure, appeals, rescission, insolvency and institutional accountability in greater depth.

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Turn knowledge into meaningful action.

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Every response helps build the **OUBAS People's Index**, measuring public understanding, institutional confidence and ideas for improving governance and the justice system.

Next Episode

Episode 17

Who Should Have the Final Say?

Understanding Constitutional Supremacy, Parliamentary Accountability and Judicial Review

Should constitutional courts always have the final word?

How should judicial independence, democratic accountability and the separation of powers be balanced?

Join us in Episode 17 as we explore one of the most important constitutional debates in modern democracies.

OUBAS exists to educate, stimulate informed discussion and inspire practical solutions.

Knowledge grows when it is shared. Institutions improve when people participate.

Join the conversation. Join AAP. Help build a better Africa.