

SPECIAL TRIBUNAL OF SOUTH AFRICA
Judgment summary

<i>Special Investigating Unit and Others v Lekabe</i>	
URL	https://lawlibrary.org.za/za/judgment/special-tribunal-south-africa/2022/32
Citations	(GP 9 of 2019) [2022] ZAST 32 (09 June 2022)
Date of judgment	9 June 2022
Keyword(s): ¹	Special pleas, convenience, administrative action, locus standi, prescription, non-joinder, misjoinder, cause of action, separation application, speedy and cost-effective finalisation of litigation
Case type ²	Application
Result	Dismissed and costs stood over
Flynote ³	Court rules – application for separation – special pleas may only be separately heard if there is sufficient evidence to show that it is convenient to do so
Legislation and International Instruments ⁴	<ul style="list-style-type: none"> ● Section 5(5) of the Special Investigating Units and Special Tribunals Act ● Section 1 of the Promotion of Administrative Justice Act ● Section 12(3) of the Prescription Act ● Rule 33(4) of the Uniform Rules of the Court
Cases cited as authority ⁵	<ul style="list-style-type: none"> ● <i>SIU v F Mpopana & 72 Others</i>, Case No. GP 13/2021
Facts ⁶	In response to an action brought by the plaintiffs against the defendant for unlawful and irregular conduct at the Office of the State Attorney, the defendant filed eight special pleas and applied for separation of the special pleas from the main trial in terms of Rule 33(4) of the Uniform Rules of Court. The application was opposed by the plaintiffs. The eight special pleas related to various aspects of the plaintiffs' case, namely: non-joinder of Kajee, misjoinder of the defendant, prescription of two of the claims, that parts of the particulars of claim lacked necessary averments to sustain any cause of action, that plaintiffs' claim was based on administrative action that had not been set aside as legally invalid,

¹ Clarify the type of issues that come up in the case.

² Whether Trial, Application or Appeal.

³ **Area of law** - topic – subtopic.

⁴ Legislation/ International instrument title and section numbers.

⁵ List of cases considered to be important precedent (case name and citation).

⁶ Brief facts about the case (max 150 words).

	that the first plaintiff lacked authority to act on behalf of the other plaintiffs, and was not empowered to bring the current action.
Summary ⁷	The tribunal was called upon to determine whether it would be appropriate to grant the application for separation of the special pleas from the plea over on the merits in terms of Rule 33(4), and also to determine the eight special pleas in the event that the separation application was granted.
Decision/ Judgment ⁸	The application for separation of the special pleas was dismissed and the costs were ordered to be stood over for later determination.
Basis of the decision ⁹	The tribunal held that it had a duty, in terms of Rule 33(4), to ensure that a separation of issues would be convenient and proper, and that a party seeking such separation was required to place sufficient information or evidence before the tribunal to enable it to exercise its discretion properly and meaningfully. The tribunal found that none of the special pleas could be sustained and could therefore not be conveniently heard separately. Importantly, the tribunal found the defendant's challenge to the first plaintiff's <i>locus standi</i> and authority to represent the other plaintiffs most worrying in spite of clear provisions in the Special Investigating Units and Special Tribunals Act and recent pronouncements of the tribunal on this issue, and noted that such a challenge resulted in an escalation of unnecessary litigation costs and delayed the finalisation of matters.
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⁷ Summary of the determination of legal questions and/or grounds of appeal (between 150-250 words).

⁸ A brief summary of the ruling/judgment of the court (max 100 words).

⁹ A 1-2 sentence summary of the basis of the decision (i.e. which legal rules were relied on).