

Defamation in the Digital Age: The Legal Risks of WhatsApp and Social Media Posts

By **Maike Gohl** (Partner),
and **S'negugu Dlamini** (Associate)

10 September 2026

INTRODUCTION

In today's digital age, it takes only a few seconds to share an opinion with hundreds of people. Whether posted in a neighbourhood WhatsApp group, a workplace chat, or a homeowners' association forum, many people assume that messages shared in these spaces are private conversations with little or no legal consequence. However, the law views these communications very differently. A recent judgment of the KwaZulu-Natal High Court in **Manor Estates Homeowners' Association NPC and Others v Prnpath**¹ serves as a reminder that a WhatsApp message can have the same legal consequences as a newspaper article or a Facebook post when it contains false and defamatory statements. More importantly, the judgment draws a careful line between legitimate criticism, which the law protects, and false accusations that unlawfully damage another person's reputation, which the law does not.

BACKGROUND

The dispute arose within Manor Estates, a residential estate in Ballito comprising 314 units. The respondent's wife is the registered owner of a unit on the estate. The unit suffered water damage caused by water ingress from the unit above. The respondent lodged a claim with his insurer and was compensated for the damage, but he remained dissatisfied and alleged that the damage was attributable to structural defects, in particular, issues of damp. He maintained that the Homeowners' Association ("**HOA**") was responsible. The HOA denied liability, contending that structural defects fell within the responsibility of the developer — who, it transpires, has since been placed into liquidation — and not the Association, which is responsible for managing the estate.

Rather than pursuing his dispute solely through the appropriate legal channels, the respondent embarked on a campaign against the HOA and its office bearers. He was one of a group of four disgruntled unit owners who posted messages critical of the Association;

however, the Court rejected the argument that the applicants were being selective in singling him out, holding that it was sufficient for the applicants to make out a case against any one of the group. Over a period of several months in 2022, the respondent posted numerous messages in a residents' WhatsApp group and on other social media platforms accusing the HOA and its directors of corruption, dishonesty, unethical conduct and unlawful management. Among other things, he referred to them as: "crooks"; "snakes"; "a dishonest bunch"; people who were "looting" residents' money; and individuals acting outside the law.

He also published statements warning potential buyers about purchasing property within the estate, suggesting that banks would be reluctant to finance purchases because of alleged non-compliance by the HOA. The HOA eventually approached the High Court seeking an interdict preventing any further publication of these allegations.

WHEN DOES CRITICISM BECOME DEFAMATION?

One of the most valuable aspects of the judgment is that it clearly explains what defamation is—and what it is not. South African law recognises that every person, and even certain organisations, have a right to protect their good name and reputation. Defamation occurs when someone unlawfully and intentionally publishes a statement that harms another person's reputation.

Although every case depends on its own facts, a claimant generally needs to establish three key requirements.

1. The statement must be published.

Publication does not require a newspaper article, television interview or public speech. A statement is published as soon as it is communicated to **at least one person other than the person being defamed**. This is where the judgment is particularly significant. The respondent argued that the WhatsApp messages had been shared in a private residents' group and should therefore be regarded as confidential. The Court was not persuaded by this argument, finding that the messages had been

communicated to other members of the WhatsApp group. As a result, they satisfied the publication requirement for purposes of the law of defamation. In other words, a WhatsApp group is not immune from the law simply because membership is limited.

2. The statement must be defamatory.

The Court reiterated that the test is objective — the question is not whether the author intended to offend someone or whether readers personally took offence. Instead, the Court asks: Would a reasonable person reading the statement understand it as lowering the reputation of the person concerned? Words that accuse someone of corruption, dishonesty, fraud, criminal conduct or unethical behaviour are generally capable of harming that person's reputation. In this case, describing the HOA and its directors as "crooks", "dishonest", "snakes" and suggesting they were "looting" residents' money plainly conveyed that they were corrupt and unethical. A reasonable reader would almost certainly think less of them after reading those statements.

3. The statement must concern the person claiming to be defamed.

The defamatory remarks must clearly identify, either directly or indirectly, the person or organisation whose reputation is allegedly harmed. Here, the statements specifically referred to the HOA, its board members and its management. The Court therefore found this requirement was also satisfied.

Once defamation is established, the burden of proof shifts. An important legal principle reaffirmed by the Court in this judgment is that once a claimant proves that a defamatory statement has been published, **the law presumes that the publication was both wrongful and intentional.**

It then becomes the responsibility of the person who made the statement to establish a recognised defence.

Such defences may include:

- truth published in the public interest;
- fair comment based on true facts;
- privilege; or
- another recognised legal justification.

The respondent was unable to establish any defence. The Court found that his allegations were unsupported by evidence and that many of them had been directed at the wrong party. His dissatisfaction with defects in his unit did not justify making unfounded accusations against the HOA and its office bearers.

FREEDOM OF EXPRESSION HAS LIMITS

One of the key takeaways from this judgment is that freedom of expression is not an unrestricted licence to say whatever one wishes about others. Section 16 of the Constitution protects freedom of expression because open debate is essential in a democratic society. However, that right must always be balanced against another constitutional value: the right to dignity. Reputation forms an important part of personal dignity.

The Court acknowledged that residents are entitled to question decisions made by their HOA, raise concerns about estate management and express dissatisfaction where appropriate. In fact, the applicants themselves made it clear that they were not attempting to silence legitimate criticism. The problem arose because the respondent crossed the line from criticism into making serious allegations of corruption and dishonesty without any factual foundation. As the Court effectively recognised, criticism invites discussion; but accusations of corruption without evidence destroy reputations.

Another noteworthy feature of the judgment is that the Court carefully distinguished between statements that were defamatory and those that were not. The applicants also relied on newspaper articles in which the respondent complained about water leaks, mould and his dissatisfaction with the estate. Notably, the Court found that these articles were not defamatory, holding that they merely described the respondent's experience and contained factual complaints that did not accuse the HOA of corruption, fraud or dishonesty in a manner that would lower its reputation in the eyes of a reasonable reader. This distinction is very important because the law does not punish people simply for criticising poor service or expressing genuine dissatisfaction. It intervenes only where statements unlawfully damage another person's reputation.

The Court drew a further distinction in respect of a posting by the respondent on the Ballito Classifieds, in which he warned potential buyers that the estate was non-compliant with the Community Schemes Ombud Service, that the directors had failed to comply with an enforcement order to disclose financial records, and that the estate manager was not registered with the Estate Agency Affairs Board. The Court found that these statements were opportunistic: the respondent had seized on an unrelated dispute between the Association and other unit owners (involving a complaint under section 39 of the Community Schemes Ombud Service Act 9 of 2011) to bolster his own grievance. The Court held that the publication was an intentional and calculated attempt to cast aspersions on the management of the estate, and that the respondent's concluding statement - that he did not see how banks would finance buyers - was designed to frighten off prospective purchasers.

The Court also accepted evidence that the respondent's campaign caused real harm. According to the HOA, approximately three to four units within the estate had previously sold each month. In the four to five months following the respondent's publications, there had not been a single sale. Whether every potential purchaser was influenced by the publications is impossible to know. Nevertheless, the Court accepted that the statements had the tendency to discourage investment and damage the reputation of the estate.

To prevent further harm, the Court granted a final interdict prohibiting the respondent from publishing further false and defamatory statements about the HOA or its office bearers on WhatsApp, Facebook or any other platform. The Court also interdicted the respondent from intimidating or harassing the second applicant. The respondent was ordered to pay the applicants' legal costs on the attorney-and-client scale (a costs order typically reserved for cases where the court considers that the losing party's conduct warrants a punitive award).

This decision is important well beyond the context of homeowners' associations. It carries valuable lessons for anyone who communicates through digital platforms. First, it confirms that WhatsApp messages are capable of constituting publication for purposes of a defamation claim. Secondly, it reminds us that private groups are not legally invisible. Sharing defamatory material with a limited audience is still publication.

Thirdly, the judgment reinforces the distinction between robust criticism and defamatory accusations. People remain free to express dissatisfaction, challenge decisions and hold organisations accountable. What they may not do is accuse others of corruption, dishonesty or criminal conduct without evidence. Finally, the judgment demonstrates that organisations, including homeowners' associations, are entitled to protect their reputations. Defamation is not confined to individuals. Where false allegations threaten an organisation's standing and credibility, the courts are prepared to intervene.

CONCLUSION

Social media has transformed the way we communicate, allowing opinions to spread instantly to large audiences. However, the law remains unchanged. This judgment makes it clear that statements made in WhatsApp groups or on social media are not immune from scrutiny simply because they are shared online or reflect a personal opinion.

Before accusing someone of corruption, dishonesty or unethical conduct, ask yourself one question: **Can I prove it?** If not, pressing "send" could have serious legal consequences.

Ultimately, this judgment reinforces an important principle: while freedom of expression is a fundamental constitutional right, it must be exercised responsibly and with due regard for the dignity and reputation of others.

¹ (D12072/2024) [2026] ZAKZDHC (30 April 2026) (unreported).



Maike Gohl
(Partner)



S'negugu Dlamini
(Associate)