

THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA  
MEDIA STATEMENT – CASE HEARING IN SUPREME COURT OF APPEAL

## **Ndamase v Functions 4 All**

**Supreme Court of Appeal -100/2003**

**Hearing date:** 17 March 2004

**Judgment date:** 31 March 2004

In terms of the Magistrates' Courts Act, 32 of 1944, magistrates courts have jurisdiction in respect of claims for provisional sentence - Rule 14A of Magistrates' Courts not ultra vires Magistrates' Courts Act - claims for provisional sentence permissible in magistrates' courts.

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**Media Summary of Judgment**

**From:** The Registrar, Supreme Court of Appeal

**Date:** 31 March 2004

**Status:** Immediate

*Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal*

### **BULELWA NDAMASE v FUNCTIONS 4 ALL**

On 31 March 2004 in Bulelwa Ndamase v Functions 4 All the Supreme Court of Appeal decided that in terms of the Magistrates' Courts Act magistrates courts have jurisdiction in respect of claims for provisional sentence. Provisional sentence proceedings are a powerful weapon in the hands of a creditor armed with a liquid document such as a cheque. Provisional sentence proceedings enable the creditor to obtain prompt payment of the amount of the debt without the expense and delay of ordinary action proceedings. Functions 4 All instituted provisional sentence proceedings against Bulelwa Ndamase in the Durban Magistrates Court. Its claim was based on two dishonoured cheques, each for R5 000. The magistrates court dismissed Ndamase's objection that the magistrates court has no jurisdiction in respect of provisional sentence proceedings and granted provisional sentence on the two cheques. Ndamase unsuccessfully appealed to the Natal Provincial Division against the dismissal of her objection. Her further appeal to the Supreme Court of Appeal was also unsuccessful.

