

SUPREME COURT OF APPEAL OF SOUTH AFRICA

PRESS RELEASE

24 March 2005

STATUS: Immediate

*Seven Eleven Corporation of SA (Pty) Ltd v Cancun Trading CC*

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.

The Supreme Court of Appeal held today that a Seven Eleven convenience store owner and franchisee was not entitled to receive the benefit of rebates and early settlement discounts obtained from suppliers by the franchisor. The franchisee, who had owned a store in Parow, Cape Town, had claimed that he was entitled to the benefit of such reductions in the prices of goods. The franchisor, the Seven Eleven Corporation of SA (Pty) Ltd, contended that the passing on of such benefits was contrary to its business strategy and was not provided for in the franchise contract. The SCA found that on a proper construction of the franchise contract, no provision was made entitling the franchisee to the benefits claimed. The SCA also found that no actionable misrepresentations about discounts to be passed on to the franchisee had been made. The court thus upheld an appeal against the decision of the Cape High Court ordering that the benefit of rebates be passed on to the franchisee, and dismissed a cross appeal against the trial court's refusal to order that the benefits of early settlement discounts be paid to the franchisee.