

MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 30 November 2007

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.

A LE ROUX v THE HON MAGISTRATE MR VIANA

1. The Supreme Court of Appeal today dismissed an appeal against a decision of the Johannesburg High Court upholding a warrant issued by a magistrate in terms of s 69(3) of the Insolvency Act.
2. The warrant was issued authorising a sheriff to attach the books and documents relating to two companies in liquidation. As these books and documents were in electronic rather than tangible form and were recorded in a computer hard drive of a third party (a financial services company) the appellant contended that they were not contemplated by the section and that the warrant was therefore invalid.
3. The SCA found that the objective of s 69(3) was to enable a trustee of an insolvent estate to fulfil his responsibilities in terms of the Act. Furthermore the SCA further found that in this case the warrant was not targeted at the hard drive and that the section contemplated all books and documents wherever and in whatever form they were. In view of this the SCA found that the warrant was beyond reproach.