

# Supreme Court of Appeal of South Africa

## MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal  
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*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*

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### *CITIBANK NA v THANDROYEN FRUIT WHOLESALERS CC*

The Supreme Court of Appeal today upheld an appeal against a judgment of the High Court, Durban, which had declined to grant judgment in favour of Citibank NA based on an acknowledgment of debt signed by Mr Ronnie Thandroyen and Ms Logarani Thandroyen both in their personal capacities and on behalf of two close corporations of which each was a member.

It was argued in the SCA that it would be contrary to public policy for the court to enforce the agreement embodying the acknowledgment of debt in view of one of its provisions. The provision in question authorised the Bank to sell certain immovable property belonging to the Thandroyens and to reduce the debt by an agreed amount of R1 100 000. It was specifically agreed that if the property realised more than this amount the Bank could keep the difference but if it realised less, the Bank would have to bear the loss. In the event, the Bank sold the property for R1 400 000, making a profit of R300 000.

The SCA held that there could be no objection to such a provision. Both the bank and the debtors had an equal chance of gaining or losing on the deal and the situation would have been no different had the bank purchased the property at an agreed price and then resold it. In that event there clearly could be no objection.

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