

Supreme Court of Appeal of South Africa

**MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL**

From: The Registrar, Supreme Court of Appeal

Date: 30 September 2008

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*

**PICARDI HOTELS LTD**

v

**THEKWENI PROPERTIES (PTY) LTD**

**MEDIA STATEMENT**

Today the Supreme Court of Appeal (SCA) upheld an appeal by Picardi Hotels Ltd (Picardi) against the judgment of the Durban High Court in favour of Thekwени Properties (Pty) Ltd (Thekwени).

Thekwени had successfully sued Picardi for payment of arrear rentals under a lease. In a special plea Picardi alleged that Thekwени had executed a cession *in securitatem debiti* in favour of a bank and in consequence had divested itself of the power to sue Picardi for the unpaid rentals. In dismissing the special plea the High Court found that a clause which provided that the cession would not be acted upon until certain conditions were met, had the effect of suspending the operation of the cession. It accordingly granted judgment in favour of the respondent for R845 726.98 with interest and costs. The SCA held that upon a proper construction of the cession there had been an effective transfer of rights to the bank but that the exercise of such rights

was suspended pending fulfilment of the stated conditions. Consequently the appeal was upheld with costs.