



THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA

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

From: The Registrar, Supreme Court of Appeal  
Date: 18 September 2009  
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.*

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**RONBEL 108 (PTY) LTD v SUBLIME INVESTMENTS (PTY) LTD**

- 1 The SCA today dismissed an appeal against a judgment of the High Court, Johannesburg.
- 2 After Absa had instituted action against the respondent for payment of an amount alleged to be due to it, the respondent was placed under liquidation. Absa, for fear of becoming liable for a contribution towards the costs of administration of the respondent, decided not to proceed with the legal proceedings. Consequently Absa did not give notice to the liquidator of an intention to continue the proceedings. As a result Absa is deemed to have abandoned the proceedings unless a court otherwise directs. Subsequent to having decided not to proceed with the proceedings Absa ceded its claim against the respondent to the appellant. The appellant thereafter applied to the High Court for a directive that the proceedings are not to be considered to

have been abandoned.

- 3 The SCA held that the High Court correctly dismissed the application. It held that the facts justified the inference that Absa in fact abandoned the proceedings and that there was in any event no reason why the High Court should have exercised its discretion to declare that proceedings are not considered to have been abandoned in favour of an applicant (the appellant) who wishes to proceed with an action which the plaintiff in that action (Absa) had decided not to proceed with, some two and a half years previously.