



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: 21 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.

J A ESPAG & ANOTHER v B D HATTINGH

The parties to this appeal are attorneys who previously practised together in partnership at Polokwane until 3 October 2006. Their partnership was dissolved on that date when the appellants requested the respondent to withdraw.

The respondent subsequently brought proceedings in the High Court, Pretoria contending that the appellants had breached the partnership agreement by requesting him to withdraw in the manner they did, that he had accepted their breach and had cancelled the agreement, and that a liquidator should therefore be appointed to dissolve the partnership. In a counter application the appellants contended that they had been entitled to request the respondent to withdraw from the partnership due to gross misconduct on his part and, in these circumstances, sought an order that the partnership be dissolved under certain provisions of the partnership agreement which would apply in such a case.

The High Court, Pretoria upheld the respondent's application, granted the respondent the relief he had sought, and dismissed the appellants' counter application. On appeal, the Supreme Court of Appeal today held that the high court had erred. It found that the respondent had indeed been guilty of gross

misconduct as contemplated by the partnership agreement and that the appellants had therefore been entitled to request him to withdraw from the partnership. The Supreme Court of Appeal accordingly allowed the appeal, dismissed the respondent's application and granted the appellants the relief they sought in their counter application.