



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:

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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A stolen cheque, signed fraudulently, spells trouble for whoever accepts it, even unwittingly, as payment for anything. This Mr Leeuw finally discovered in a case between him and First National Bank, pursued to the Supreme Court of Appeal.

Leeuw sold liquor to one Mofokeng for R48 598.69 and took a cheque as payment. It was a General Food Industries cheque, made out to Mofokeng in that exact amount. Leeuw deposited the cheque with FNB and made arrangements to withdraw R48 000 against the cheque before the expiry of the seven day clearance period. Leeuw then sold more liquor, for R89 000, to Mofokeng and took a similar cheque in that amount. After the R48 000 was withdrawn FNB was notified that both cheques were stolen and the signatures forged. FNB reversed the credits in Leeuw's account and sued for the R48 000. Leeuw resisted the claim and counterclaimed for the R89 000, alleging that FNB, at the time that he deposited the cheques, represented to him that the cheques were good for the money and he relied on that misrepresentation to his detriment.

The case went all the way from the magistrates' court, where Leeuw won, to the Bloemfontein High Court, where Leeuw lost, and ultimately the Supreme Court of Appeal. The Supreme Court of Appeal confirmed the decision of the Bloemfontein High Court that the facts did not support Leeuw's allegation of a misrepresentation by FNB. FNB merely did what banks do - it accepted the cheques for deposit with no guarantee in relation thereto. Hence FNB was entitled to reverse the credits in Leeuw's account when the cheques were not cleared and to be paid the R48 000 already withdrawn by Leeuw.