



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: 31 MARCH 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.

The Supreme Court of Appeal today dismissed an appeal brought by Silhouette Investments Ltd against a judgment delivered by Mr Justice Joffe, sitting in the Johannesburg High Court, in which he upheld a special plea of prescription raised against it by the respondent, Virgin Hotels Group Ltd.

The Supreme Court of Appeal rejected two arguments advanced by the appellant's counsel that their client's claim had not prescribed. The first argument was based on the fact that Virgin Hotels Group Ltd was an English Company and was accordingly outside the Republic with the result that the completion of prescription against it was delayed.

The Supreme Court of Appeal held that the respondent could not be regarded as being outside the Republic for the purposes of the Prescription Act because it had submitted to the jurisdiction of the Johannesburg High Court and had agreed that the summons in the case could be served on its Johannesburg attorneys.

The appellant's counsel had also argued that the running of prescription had been interrupted by the service of the original summons in the case in 2001 in which it had figured as a co-plaintiff. Subsequently the summons had been amended and it and its co-plaintiff had been replaced by a Mr Dyer, but thereafter it had come back into the case as plaintiff when the summons was re-amended.

The Supreme Court of Appeal agreed with Mr Justice Joffe that the interruption of prescription effected by the service of the original summons had lapsed when it was amended and Mr Dyer had become the plaintiff.