



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: 1 June 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

G SEWERSADH & OTHER v S DOOKIE

The Supreme Court of Appeal upheld an appeal against a judgment of the Durban High Court that an agreement of sale of land which had been validly cancelled by the appellants was subsequently revived by the conduct of the parties.

The high court based its decision on the facts that after the application was instituted, the first appellant was given a sum of R30 000.00 at his request, for the purchase of a house for his daughter; the appellants did not tender the return of various other payments made by the respondent into their account as payment towards the purchase price after cancellation (which they however claimed they became aware of belatedly) and the respondents' inordinately late filing of his answering affidavit.

The SCA reaffirmed the high court's finding that the agreement had been validly cancelled but rejected the conclusion that it had subsequently been revived. In the SCA's view the parties had not conducted themselves in any manner that indicated a fresh meeting and concurrence of minds to restore the agreement. There was also no evidence that the second appellant had consented to such revival.