



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: 17 September 2010

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.

MARGO v GARDNER – Case No 564/09
GARDNER v MARGO – Case No 511/09

The Supreme Court of Appeal upheld the appeal against the order of the South Gauteng High Court (Case no 511/09) and set aside the order of the court a quo, however, it dismissed the appeal against the order of the South Gauteng High Court (Case no 564/09).

Gardner owed Margo a certain amount of money and the SCA in an earlier judgment (Gardner & another v Margo 2006 (6) SA 33 (SCA)) ordered Gardner and OTR Mining Ltd to pay Margo a certain amount plus interest thereon at the rate of 15.5% per annum from 1 September 1998 to date of payment. The dispute was on whether or not the *in duplum* rule was applicable. Two conflicting judgments were delivered by the South Gauteng

High Court on the same set of facts. The SCA found that the *in duplum* rule was applicable. In general terms it simply means that a creditor is not entitled to claim interest in excess of the capital outstanding. The nub of the judgment of the SCA is that the *in duplum* rule is suspended if and when proceedings are pending.