

SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY

28 September 2011

STATUS: Immediate

Wakefields Real Estate v Attree (666/10) [2011] ZASCA 160 (28 September 2011)

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

Today the Supreme Court of Appeal upheld an appeal against a decision of the KwaZulu-Natal High Court (Nicholson J) which held that an estate agent, W, who had introduced a purchaser, H, to a house in Durban North, which had subsequently been sold to H, was not entitled to agent's commission. A different estate agent, D, who fortuitously knew that H was interested in the house, had contacted H when she heard that the seller was willing to reduce the price.

D prepared an offer to purchase and persuaded the seller to reduce the price further. The seller accepted H's offer. The high court held that W had no mandate to sell the house for a commission of six per cent of the price, and that D was the effective cause of the sale and entitled to commission on an agreed basis.

On appeal it was not disputed that W did in fact have a mandate to find a purchaser. The SCA set aside the order of the high court, finding that it was actually W who had taken H, and subsequently H's husband as well, to the house which H had liked, but which she and her husband thought was beyond their means. But for that introduction H would not have known that the house was for sale. W was the effective cause of the sale, and entitled to commission.
