# THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

**MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL**

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| **FROM** | The Registrar, Supreme Court of Appeal |
| **DATE** | 29 September 2011 |
| **STATUS** | Immediate |

***Please note that the media summary is for the benefit of the media and does not form part of the judgment.***

***Ponelat v Schrepfer* (802/2010) [2011] ZASCA 167 (29 September 2011).**

The Supreme Court of Appeal (SCA) dismissed an appeal against an order of the Eastern Circuit Local Division High Court. That court found that a tacit universal partnership existed between the appellant, Hans Gunter Ponelat and the respondent, Erica Schrepfer.

From 1989 until 2005 the appellant and respondent lived together as man and wife sharing a joint household, first in Benoni and then in Plettenberg Bay. In the course of their relationship the respondent contributed all she had to the joint household financially and physically, the proceeds of the sale of her assets, her salary, time, energy, labour, skills and expertise. The appellant contributed his electrical business, financed the various properties owned by the parties and provided financial security for them. The respondent also assisted with the administration of the appellant's business, and provided for his needs and comfort. After they moved to Plettenburg Bay the respondent assisted with administration on the farm and in providing accommodation for tourists.

The relationship between the parties came to an end on 01 April 2005, where after the respondent moved into a flat of her own. The question before the court on appeal was whether a tacit universal partnership could be inferred from the proven facts.

The SCA held that the nature of the discussions between the parties prior to their cohabitating and their intent during their years together, indicated that they had the requisite *animus contrahendi* to form a universal partnership. The essentials of a contract of universal partnership had been established as each party brought something into the partnership, the partnership was carried on for their joint benefit and the object was to make a profit. The SCA accordingly concurred with the trial court's decision that a universal partnership came into being in March 1989 and was terminated on 01 April 2005.