



SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 29 November 2011
STATUS Immediate

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

***Honey & Partners Inc v Quince Property Finance (Pty) Ltd
(345/11) [2011] ZASCA 213 (29 November 2011)***

Media Statement

The Supreme Court of Appeal (the SCA) today dismissed an appeal with costs by Honey & Partners Inc, a firm of Bloemfontein attorneys, and 18 of its directors against a judgment of Free State High Court.

The first appellant, Honey Inc, acted on behalf of the respondent, Quince Property Finance (Pty) Ltd, in formalising a venture which involved the granting of bridging finance to property buyers pending the registration and transfer of the property sold. Honey Inc prepared a master agreement which was to be concluded between the respondent and the conveyancing attorney who was to be responsible for the registration and transfer of the property sold. The first appellant later became a party to the agreement. An agreement was subsequently concluded between one of its clients as purchaser and the seller of certain immovable property. The first appellant warranted that the suspensive conditions in the agreement of sale had been fulfilled by the buyer. Moneys were loaned and advanced to the buyer by the respondent on the strength of that agreement. It subsequently turned out that the suspensive condition had not been fulfilled. The loan advanced by the respondent was not paid. The respondent instituted an action against Honey Inc and all of its directors. The high court found the appellants liable to the respondent on the basis of the agreement that it had concluded with the respondent. The high ordered all nineteen of the appellants to pay the respondent jointly and severally the sum of R744 833.02 together with costs on the attorney and client scale

On appeal, the SCA considered the testimony of the key witness of the appellant and stated that the adverse credibility findings of the witness was not challenged on appeal, and that for as long as those credibility findings remained undisturbed, the appeal could not succeed.

The SCA dismissed the appeal with costs.

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