



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: 29 March 2011

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

TRANSNET LTD v NEWLYN INVESTMENTS (PTY) LTD

1. Transnet instituted eviction proceedings against Newlyn Investments (Pty) Ltd in KwaZulu-Natal High Court. The SCA today dismissed an appeal by Transnet against the finding of the high court that it was bound by an addendum to a lease concluded with Newlyn in respect of the property and the consequent order that Transnet was not entitled to eject Newlyn.
2. According to Newlyn, the original and all copies of the addendum were missing. A document, which was a forgery but which Newlyn said was in identical terms to the genuine addendum, was produced by Newlyn. Transnet disputed that a genuine addendum had ever been executed.
3. The court below found, and the SCA confirmed the finding, that the evidence produced by Newlyn, especially that of Transnet's previous general manager of properties and previous manager of the KwaZulu-Natal region, established that there had been a genuine addendum. The probabilities also favoured this conclusion as both parties considered it vital for an addendum to be executed: Transnet because it wished to have an income over the following ten years as it was going to spend money on the property, and Newlyn because

it was going to spend some R2 million on improving the property and so required security of tenure.

4. Transnet was ordered to pay Newlyn's costs.

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