

Supreme Court of Appeal of South Africa

MEDIA STATEMENT

From: The Registrar, Supreme Court of Appeal

Date: 25 May 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.

On 25 May 2011 the Supreme Court of Appeal delivered judgment in *Presidency Property Investments (Pty) Ltd v Patel* (Appeal No 407/10).

Dr Patel purchased a luxury apartment off plan in a building to be erected below Lion's Head. The seller's agents represented to him orally and by means of a video supplied by the seller that the apartment would enjoy uninterrupted views from the Waterfront to Clifton. Shortly after the sale, work started on the erection of a building that, when completed, blocked out about thirty per cent of the view. When Dr Patel discovered that the seller of his apartment was also the developer of the second building, he sued the seller for damages for fraudulent misrepresentation. The Western Cape High Court awarded him a reduction in the purchase price of his apartment on the basis of a false misrepresentation inducing the sale.

The SCA set aside that judgment on appeal. It held that the representations about the view were not actionable as they amounted to no more than a bona fide opinion in the course of a sales pitch concerning an uncertain future state of affairs and had been understood as such by the purchaser.

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