

REPUBLIC OF SOUTH AFRICA  
SUPREME COURT OF APPEAL  
BULLETIN 2005  
NO 1

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**1. BULLETINS**

Number 1, 2004 – As at 2 December 2003

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**2. JUDGMENTS RESERVED**

**Road Accident Fund v MB Lefu (649/02)**

Date heard: 20 May 2004

Howie P, Marais JA, Jones AJA, Southwood AJA, Ponnann AJA

**Catchwords**

Road Accident Fund – interpretation – whether regulation 2(1)(c) of the Regulations promulgated in terms of s 26 of RAF Act, 56 of 1996, *ultra vires* – whether non-compliance with said Regulation a resolute condition disqualifying claimant from claiming under s 17(1)(b) of act

**Appealed from WLD**

**MCM Sellick v Minister of Safety and Security (343/03)**

Date heard: 30 August 2004

Farlam JA, Brand JA, Jafta AJA, Patel AJA, Ponnann AJA

**Catchwords**

Negligence – loss of documents by SAPS which led to appellant's inability to recover machine – whether appellant proved ownership of machine – whether appellant proved loss as result of negligence of SAPS – whether appellant established duty of care – whether respondent's servants would have foreseen that loss of documentation would have resulted in appellant's inability to recover his goods

**Appealed from NPD**

**Distcor Export Partners and Another v The Director-General of the Department of Trade and Industry (521/2003)**

Date heard: 5 November 2004

Harms JA, Conradie JA, Comrie AJA, Jafta AJA, Patel AJA

**Catchwords**

Trade and Industry – General Export Incentive Scheme (GEIS) – *locus standi* – respondent's standing to recover amounts incorrectly paid by Department of Trade

and Industry to appellants under GEIS – whether GEIS guidelines provide respondent with necessary *locus standi* – whether Public Finance Management Act 1 of 1999, s 38(1)(c)(i) applicable

**Appealed from DCLD**

**The South African Bank of Athens Ltd v M van Zyl (431/2003)**

**Date heard:** 22 November 2004

**Mpati AP, Farlam JA, Mthiyane JA, Van Heerden JA, Erasmus AJA**

**Catchwords**

Constitutional law – Constitution s 34 – whether *parate executie* rendered unlawful and in contravention of above section – whether s 34 affords debtor an out-and out right to recover from his or her creditor proceeds obtained by creditor by way of *parate executie* unconstitutional

**Appealed from WLD**

**3. CASES ENROLLED FOR HEARING**

**Bay Centre Investments (Pty) Ltd v The Town Council of the Borough of Richards Bay (477/2003)**

**Date to be heard:** 15 February 2005

**Howie P, Navsa JA, Mthiyane JA, Brand JA, Maya AJA**

**Catchwords**

Contract – interpretation – whether contract between parties means that respondent contractually obliged to applicant to maintain, and not destroy certain parking bays built on respondent's property, which parking bays were paid for by appellant – whether appellant entitled to relief

**Appealed from NPD**

**The Minister of Environmental Affairs and Tourism and Another v Scenematic Fourteen (Pty) Ltd (085/2004)**

**Date to be heard:** 15 February 2005

**Scott JA, Farlam JA, Cameron JA, Lewis JA, Jafta JA**

**Catchwords**

Fishing rights – refusal to grant respondent commercial fishing right in hake long-line sector – whether system of evaluation applied by 2<sup>nd</sup> appellant to applications for rights to fish commercially for hake by long-line method deficient in that it involved impermissible sub-delegation of powers delegated to 2<sup>nd</sup> appellant and fettered his discretion by implementing a scoring system in evaluation of applications

**Appealed from CPD. [2004] JOL 12488 (C)**

**RAF v Delpport (183/2004)**

**Date to be heard:** 15 February 2005

**Zulman JA, Van Heerden JA, Ponnann JA**

**Catchwords**

Road Accident Fund – appeal against award of R3 616 697.57 – correctness of amounts awarded in respect of loss of earning capacity and in respect of general damages

**Appealed from TPD. [2003] JOL 10479 (T)**

**EC Chabedi v The State (497/2004)****Date to be heard:** 16 February 2005**Brand JA, Nugent JA, Cloete JA****Appealed from WLD****Seven Eleven Corporation of SA (Pty) Ltd v Cancun Trading No.150 CC (108/2004)****Date to be heard:** 17 February 2005**Mpati DP, Farlam JA, Lewis JA, Heher JA, Ponnar JA****Catchwords**

Contract – interpretation of franchise agreement – whether rebates and settlement discounts received by defendant as franchisor from suppliers should have been paid to plaintiff as franchisee – Interpretation of meaning of words – whether discounts/rebate only relevant between defendant and suppliers

**Appealed from CPD****The Minister of Safety and Security v Pedro Souza De Lima (063/2004)****Date to be heard:** 17 February 2005**Zulman JA, Mthiyane JA, Conradie JA, Cloete JA, Maya AJA****Catchwords**

Delict – whether appellant's employees charged with considering, recommending and issuing firearm licence under legal duty to investigate information furnished by applicant for firearm to assess his suitability and fitness – whether police officials negligently breached legal duty resting upon them – whether respondent proved causal connection between conduct of police and injuries he sustained when shot by successful applicant for firearm

**Appealed from CPD****Mongezi Memani v The State (450/2004)****Date to be heard:** 17 February 2005**Streicher JA, Nugent JA, Jafta JA****Catchwords**

Criminal Law – murder – conviction and sentence – whether state witnesses credible witnesses – whether appellant credible witness – whether imprisonment suitable sentence

**Appealed from CPD****I Schoole NO and Another v Y Chablal (140/2004)****Date to be heard:** 18 February 2005**Scott JA, Cameron JA, Navsa JA, Nugent JA, Conradie JA****Catchwords**

Review/Administrative Justice – reviewing and setting aside of decision of 2<sup>nd</sup> appellant in failing respondent in qualifying examination for admission as chartered accountant - Whether the events subsequent to the examination results were reviewable – whether respondent established entitlement to have review considered – whether court *a quo* exercised discretion properly in making costs order

**Appealed from WLD****GL Ehlers NO and Others v H Graphorn and Others (265/2003) & (278/2003)****Date to be heard:** 18 February 2005**Streicher JA, Brand JA, Cloete JA, Heher JA, Van Heerden JA**

**Catchwords**

Contract – damages – sale of buffalo – delict – whether Parks board negligent in omitting to test buffalo for buffalo disease – whether Parks board negligent in omitting to ensure that buffalo not infected subsequently – contract – whether Parks board's conditions part of contract – whether common error – whether duty of care breached

**Appealed from NPD**

**Telkom S. A. Ltd v Nedtel Cellular (Pty) Ltd and 12 Others (592/2003)**

**Date to be heard :** 21 & 22 February 2005

**Howie P, Streicher JA, Navsa JA, Brand JA, Ponnann JA**

**Catchwords**

Interpretation – Telecommunications Act 103 of 1996, ss 32 and 37(1)(a) – whether permissible in terms of Act as read with licences issued to 6<sup>th</sup> and 7<sup>th</sup> respondents to connect private automatic branch exchange (PABX) to telecommunications networks of 6<sup>th</sup> and 7<sup>th</sup> respondents by means of router equipment

**Appealed from TPD. 2004 (2) SA 324 (T); [2003] JOL 12074 (T)**

1. **Metrofile (Pty) Ltd v Chemical Energy Paper Printing Wood and Allied Workers Union (023/2004)**

2. **NUMSA & Others v Fry's Metals Pty Ltd (026/2003)**

**Date to be heard:** 21 & 22 February 2005

**Mpati DP, Cameron JA, Nugent JA, Conradie JA, Jafta JA**

**Catchwords**

Jurisdiction – appellate jurisdiction of this Court to hear appeals from decisions of Labour Appeal Court under Constitution – interpretation, application and constitutionality of provisions of Labour Relations Act 66 of 1995 dealing with appealability of matters to this Court – procedure to be followed in appeals from LAC to this court

1. 2. **Appealed from LAC. [2003] JOL 10525 (LAC)**

**HW De Kock v The State (244/2004)**

**Date to be heard:** 21 February 2005

**Mthiyane JA, Lewis JA, Heher JA**

**Catchwords**

Criminal Law – indecent assault and common assault – whether appellant's guilt proved beyond reasonable doubt – reliability of evidence of complainant

**Appealed from NCD**

**Melvin Peter Paarwater v South Sahara Investments (Pty) Ltd (091/2004)**

**Date to be heard:** 22 February 2005

**Zulman JA, Farlam JA, Maya AJA**

**Catchwords**

Companies – liquidation – appeal against refusal to grant final order of liquidation – winding-up on just and equitable ground – Companies Act 61 of 1973, s 344(h) – whether respondent a "domestic" company

**Appealed from CPD**

**American Natural Soda Ash Corporation and Another v The Competition Commission of South Africa and Others (554/2003)**

**Date to be heard:** 24 February 2005

**Mpati DP, Cameron JA, Nugent JA, Conradie JA, Jafta JA**

**Catchwords**

Competition – Competition Act 89 of 1998, ss 3, 4 and 62, interpretation of – procedure – whether issues considered by CAC appealable to SCA – test to be applied when considering whether leave to appeal should be granted – allegation of harm required where interdict claimed in proceedings before tribunal

**Appealed from CAC. 2003 (5) SA 633 (CAC); [2003] JOL 10489 (CAC)**

**The Unlawful Occupiers of the School Site v The City of Johannesburg (036/2004)**

**Date to be heard:** 24 February 2005

**Scott JA, Streicher JA, Brand JA, Lewis JA, Maya AJA**

**Catchwords**

Eviction – PIE Act 19 of 1998, ss 4 and 6 – whether deponent of founding affidavit had authority to represent respondent – whether respondent failed to comply with peremptory requirements of above sections – validity of notice served upon unlawful occupiers under s 4(2) – whether eviction order itself “just and equitable” within meaning of PIE Act

**Appealed from WLD**

**Laurie John Fraser v The State (258/2004)**

**Date to be heard:** 24 February 2005

**Farlam JA, Van Heerden JA, Ponnar JA**

**Catchwords**

Criminal Law – conspiracy and Incitement to kidnap – appeal against sentence – whether sentence of 4 years imprisonment excessive in circumstances

**Appealed from WLD**

**Gauteng Gambling Board v Silverstar Development Ltd and Others (080/2004)**

**Date to be heard:** 25 February 2005

**Howie P, Farlam JA, Cloete JA, Heher JA, Maya AJA**

**Catchwords**

Gambling – granting of licence – whether court *a quo* correct in ordering appellant and Gauteng Executive Council to award and issue casino licence to first respondent – whether matter should have been remitted to them for decision

**Appealed from TPD. 2004 (2) SA 289 (T)**

**Transvaal Agricultural Union v The Minister of Agriculture and Land Affairs and Others (091/2003)**

**Date to be heard:** 25 February 2005

**Scott JA, Zulman JA, Navsa JA, Mthiyane JA, Van Heerden JA**

**Catchwords**

Land Claims – declaratory order – whether appellant has necessary *locus standi* – whether s 38 of Constitution affords appellant necessary *locus standi* – whether fatal non-joinder of interested parties – whether appellant entitled to declaratory relief in form of each of various prayers in notice of motion – whether court misdirected itself in awarding costs against appellant

**Appealed from LCC**

**The Private Security Industry Regulatory Authority and Others v Association of Independent Contractors (127/2004)**

**Date to be heard:** 28 February 2005

**Howie P, Streicher JA, Mthiyane JA, Conradie JA, Lewis JA**

**Catchwords**

Private Security Industry Regulation Act 56 of 2001 – interpretation – whether 1<sup>st</sup> respondent and its director security service providers for the purposes of Act who required to be registered in terms of s 20(1)(a) of Act – whether respondents acting *in fraudem legis*

**Appealed from DCLD**

**Yoshen Naidoo & Others v National Director of Public Prosecutions & Others (062/2004)**

**Date to be heard:** 28 February 2005

**Mpati DP, Farlam JA, Navsa JA, Jafta JA, Ponnar JA**

**Catchwords**

Criminal Procedure – Criminal Procedure Act, 51 of 1977, s 342 A(3)(c) – National Prosecuting Authority Act 32 of 1998, s 45(a) – whether 2<sup>nd</sup> respondent empowered to continue with or institute *de novo* prosecution – whether written instruction validly given

**Appealed from CPD. [2003] 4 All SA 380 (C); [2003] JOL 11804 (C)**

**Welcome Ncube v The State (284/2004)**

**Date to be heard:** 28 February 2005

**Brand JA, Heher JA, Maya AJA**

**Catchwords**

Criminal Law – rape – conviction and sentence of ten years imprisonment – whether defence of consent rebutted by State – whether substantial and compelling circumstances present

**Appealed from BPD**

**Western Areas Ltd and Others v The State (065/2004; 245/2004)**

**Date to be heard:** 1 March 2005

**Howie P, Scott JA, Farlam JA, Mthiyane JA, Cloete JA**

**Catchwords**

Criminal Procedure – whether judgment dismissing objections to indictment appealable – whether breach of Security Regulation Panel Rules, by non-disclosure of matters required to be disclosed in terms of Rules, can give rise to criminal charge of fraud

**Appealed from WLD. 2004 (4) SA 591 (W)**

**African Bank Limited v Melvyn Weiner and Others (051/2004)**

**Date to be heard:** 1 March 2005

**Mpati DP, Zulman JA, Cameron JA, Van Heerden JA, Jafta JA**

**Catchwords**

Magistrates' Courts – administration orders – Magistrates' Courts Act, ss 74A to 74W relating to administrative orders, interpretation of – interpretation of meaning of term 'costs'

**Appealed from CPD. [2003] 4 All SA 50 (C)**

**London Clubs International Investments (Pty) Ltd v The Free State Gambling and Racing Board (525/2003)**

**Date to be heard:** 3 March 2005

**Howie P, Zulman JA, Cameron JA, Nugent JA, Van Heerden JA**

**Catchwords**

Gambling – Free State Gambling and Racing Act 1996, s 93(4), interpretation of – whether 2<sup>nd</sup> respondent authorised to perform powers and functions of 1<sup>st</sup> respondent after expiry of terms of office of 1<sup>st</sup> respondent's appointed members – whether extension of time limit by 2<sup>nd</sup> respondent *ultra vires* – whether unreasonable delay in bringing application

**Appealed from OPD**

**Northern Free State District Municipality v VG Matshai (090/2004)**

**Date to be heard:** 3 March 2005

**Scott JA, Farlam JA, Cloete JA, Heher JA, Maya AJA**

**Catchwords**

Meetings – *ultra vires* – whether meeting irregular – whether Council entitled or empowered to proceed with meeting and discussion of motion, after adjournment of meeting – whether respondent entitled to adjourn meeting

**Appealed from OPD**

**Mavis Xaba and Another v The State (211/2004)**

**Date to be heard:** 3 March 2005

**Navsa JA, Brand JA, Conradie JA**

**Catchwords**

Criminal Law – trading with cannabis – appeal against sentence – whether hearsay evidence with regard to negative effect of cannabis on community correctly considered – whether element of deterrence over emphasized – whether sentences shockingly inappropriate

**Appealed from TPD. [2004] JOL 13111 (T)**

**Clutchco (Pty) Ltd v AC Davis (035/2004)**

**Date to be heard:** 4 March 2005

**Mpati DP, Streicher JA, Nugent JA, Heher JA, Jafta JA**

**Catchwords**

Access to information – Promotion of Access to Information Act 2 of 2002 (PAIA) – rights requester entitled to rely on when requesting information from private body in terms of Part 3 of PAIA – whether requester relied upon rights capable of founding request for information – whether records required by requester for exercise or protection of rights

**Appealed from CPD. 2004 (1) SA 75 (C); [2003] 3 All SA 561 (C); [2003] JOL 11220 (C)**

**George Frederick Hardaker v Andrew Lionel Phillips (120/2004)**

**Date to be heard:** 4 March 2005

**Scott JA, Cameron JA, Brand JA, Lewis JA, Ponnann JA**

**Catchwords**

Defamation – whether statements defamatory – whether defenses of qualified privilege, absence of unlawfulness and intention to defame and statutory indemnity proved – whether defenses negated by malice

**Appealed from WLD**

**Constantia Insurance v Compusource (Pty) Ltd (143/2004)****Date to be heard:** 7 March 2005**Howie P, Farlam JA, Brand JA, Lewis JA, Van Heerden JA****Catchwords**

Insurance – whether appellant had duty to disclose to insured contents of cancellation provisions of standard terms and conditions of policies – whether such duty discharged

**Appealed from WLD****Yusuf Omar Aboo v Firstrand Bank Limited (319/2004)****Date to be heard:** 7 March 2005**Streicher JA, Cameron JA, Navsa JA, Heher JA, Jafta JA****Catchwords**

Contract – non-variation clause, interpretation of – who was party to agreement – who had authority to amend agreement – whether exchange of letters in light of variation clause of any force and effect – whether amendment effected by authorized parties

**Appealed from TPD****Ian Cameron v The State (199/2004)****Date to be heard:** 7 March 2005**Zulman JA, Cloete JA, Maya AJA****Catchwords**

Criminal Law – unlawful possession of four undersized rock lobsters – regulation 52(a) promulgated in terms of Marine Living Resources Act 18 of 1998, interpretation of – whether possession for purpose of measuring constitutes unlawful conduct – whether appellant intended possessing lobsters unlawfully

**Appealed from NPD****Land-en Landbouontwikkelingsbank van SA v Pierre Conradie (452/2003)****Date to be heard:** 8 March 2005**Mpati DP, Zulman JA, Streicher JA, Lewis JA, Van Heerden JA****Catchwords**

Eviction – Extension of Security of Tenure Act, ss 1, 8 and 24, interpretation of – whether court correctly refused to uphold order to vacate premises

**Appealed from LCC. [2004] JOL 12652 (LCC)****BOE Bank Ltd v The City of Tshwane Metro Municipality and Another (240/2003)****Date to be heard:** 8 March 2005**Scott JA, Mthiyane JA, Brand JA, Conradie JA, Ponnann JA****Catchwords**

Local Government – Local Government Municipal Systems Act 32 of 2000, s 118(3), interpretation of – whether protection granted to municipal councils in respect of debts defined in section should be limited to same period as contained in s 118(1), namely 2 years

**Appealed from TPD****Grundlingh & Others v Phumelela Gaming & Leisure Limited (152/2004)****Date to be heard:** 10 March 2005

**Howie P, Zulman JA, Conradie JA, Heher JA, Jafta JA**

**Catchwords**

Gambling – Gauteng Gambling Act 4 of 1995, s 55, interpretation of – whether appellants contravening section by offering “open bets” – whether appellants unlawfully competing with respondent by using its results to calculate winnings of punters who lay bets with them

**Appealed from TPD**

**Export Harness Supplies (Pty) Ltd v Pasdec Automotive Technologies (Pty) Ltd**

**(097/2004)**

**Date to be heard:** 10 March 2005

**Mpati DP, Cloete JA, Lewis JA, Ponnann JA, Maya AJA**

**Catchwords**

Companies – winding-up – whether cession *in securitatem debiti* severed *vinculum juris* between appellant and respondents – whether second respondent owed money to appellant – whether second respondent objectively unable to pay its debts

**Appealed from WLD**

**JJ Venter v The State (147/2004)**

**Date to be heard:** 10 March 2005

**Cameron JA, Navsa JA, Nugent JA**

**Catchwords**

Insolvency – contravention of Insolvency Act, s 137(a) – whether appellant or Close Corporation received credit

**Appealed from OPD**

**NSC Littlewood and Others v The Minister of Home Affairs (160/2004)**

**Date to be heard:** 11 March 2005

**Howie P, Navsa JA, Mthiyane JA, Nugent JA, Ponnann JA**

**Catchwords**

Immigration – Aliens Control Act 96 of 1991, s 23 – whether decision of 1<sup>st</sup> respondent refusing application by applicants for their exemption from provisions of Act was taken in procedurally unfair manner, materially influenced by error of law or taken because irrelevant considerations were taken into account and/or relevant considerations were not considered – whether decision should be corrected by substituting for it a decision exempting appellants

**Appealed from TPD. [2003] JOL 11878 (T)**

**ABSA Bank Bpk v Lombard (178/2004)**

**Date to be heard:** 11 March 2005

**Scott JA, Streicher JA, Farlam JA, Cloete JA, Van Heerden JA**

**Catchwords**

Contract – whether appellant’s counterclaim for payment of outstanding balance and interest should be dismissed

**Appealed from TPD**

**Estate Agency Affairs Board v Neil Curdie McLaggan and Another (161/2004)**

**Date to be heard:** 14 March 2005

**Howie P, Cameron JA, Navsa JA, Brand JA, Lewis JA**

**Catchwords**

Estate Agency – whether certain convictions of 1<sup>st</sup> respondent involved dishonesty as envisaged in Estate Agency Affairs Act 112 of 1976, s 27(a)(ii) resulting in lapsing of fidelity fund certificate – whether good cause shown for withdrawal of certificate in terms of s 28(3) – whether application should not have been referred for evidence in terms of rule 6(5)(g), instead of being dismissed on affidavits

**Appealed from SECLD**

**Salome van Emmenes v Petrus Nicolaas Booyse (306/2004)**

**Date to be heard:** 14 March 2005

**Scott JA, Streicher JA, Mthiyane JA, Heher JA, Van Heerden JA**

**Catchwords**

Prescription – Prescription Act 68 of 1969, s 12(1) – whether agreement between parties contained acceleration clause which would result in full outstanding amount being payable on default of first payment – whether subsequent agreement entered into between parties excluded amount that had become due by respondent

**Appealed from TPD**

**Heinrich Gentle v The State (317/2003)**

**Date to be heard:** 14 March 2005

**Zulman JA, Farlam JA, Cloete JA**

**Catchwords**

Criminal Law – rape – appeal against conviction and sentence – whether appellant had a fair trial under substantive fairness protections afforded by Constitution – admissibility of evidence – whether version of complainant should be accepted – whether cautionary rule had to be applied, and, if so, whether it was applied

**Appealed from CPD. 2003 (1) SACR 395 (C)**

**The Commissioner for SARS v British Airways PLC (141/2004)**

**Date to be heard:** 15 March 2005

**Howie P, Streicher JA, Nugent JA, Van Heerden JA, Ponnar JA**

**Catchwords**

Value-Added Tax – Value-Added Tax Act 89 of 1991, s 8(15) – whether fares received by respondent, in consideration for transporting passengers and their luggage from South Africa to export countries subject to VAT at zero rate in terms of s 11(2)(a)(ii) of above Act – whether portion of consideration received subject to VAT at rate of 14% by virtue of s 8(15)

**Appealed from TTC**

**Patrick Rhode v Sarah Dorothy Stubbs (038/2004)**

**Date to be heard:** 15 March 2005

**Mpati DP, Cameron JA, Mthiyane JA, Brand JA, Conradie JA**

**Catchwords**

Wills and Estates – whether execution of joint will by married couple caused massing of estates – whether surviving spouse entitled to execute separate will – whether presumption against massing of estates rebutted

**Appealed from CPD**

**Satish Buldeo v Ranjiith Choonilall NO and Another (072/2004)****Date to be heard:** 17 March 2005**Mpati DP, Brand JA, Nugent JA, Van Heerden JA, Maya AJA****Catchwords**

Contract – whether date of confirmation of auction sale deemed to be date of signing by seller of agreement – whether suspensive condition fulfilled – whether sale void *ab initio*

**Appealed from NPD****Storegate Africa (Pty) Ltd v Airlink Cargo International (Pty) Ltd (071/2004)****Date to be heard:** 17 March 2005**Scott JA, Farlam JA, Conradie JA, Cloete JA, Heher JA****Catchwords**

Security for costs – whether reason to believe that appellant would not be able to satisfy costs order granted in favour of respondent – whether court exercised discretion correctly – whether form of order by court *a quo* improper

**Appealed from WLD****Bashee Motors (Pty) Ltd v Z Ntoyabo (105/2004)****Date to be heard:** 17 March 2005**Streicher JA, Jafta JA, Ponnann JA****Catchwords**

Civil Procedure – whether *prima facie* case established at end of plaintiff's case

**Appealed from TkHC****Lucky Arthur Ndlovu v Santam Limited (550/2003)****Date to be heard:** 18 March 2005**Zulman JA, Cameron JA, Mthiyane JA, Lewis JA, Jafta JA****Catchwords**

Civil Procedure – jurisdiction – Magistrates' Court Act, s 28(1)(d) – whether order of Magistrate dismissing respondent's special plea of lack of jurisdiction appealable – whether cause of action arose wholly in district – claim based on breach of contract in form of repudiation – repudiation taking place outside of district

**Appealed from WLD****Sam Kadish v TA Shoniwa (054/2004)****Date to be heard:** 18 March 2005**Streicher JA, Navsa JA, Conradie JA, Cloete JA, Maya AJA****Catchwords**

Eviction – summary judgment for eviction from residential property – whether respondent established ownership of property – whether appellant raised *bona fide* defense – whether respondent complied with PIE Act 19 of 1998

**Appealed from WLD****Greys Marine Hout Bay & Others v Minister of Public Works & Others (347/2004)****Date to be heard:** 22 March 2005**Scott JA, Navsa JA, Mthiyane JA, Nugent JA, Maya AJA****Appealed from CPD. [2004] 3 All SA 446 (C)**

**CSARS v TFN Diamond Cutting Works (Pty) Ltd (070/2004)****Date to be heard:** 22 March 2005**Zulman JA, Streicher JA, Lewis JA, Heher JA, Ponnar JA****Catchwords**

Delict – vicarious liability – Customs and Excise Act 105 of 1992, s 17(3), interpretation of – alleged theft of respondent's diamonds by employee of appellant – whether appellant's alleged liability for loss of package excluded – if, whether appellant owed duty of care to respondent – whether safeguards put in place were reasonable

**Appealed from TPD****4. JUDGMENTS MARKED NOT REPORTABLE**

(Available from library)

AC Jonker and Another v The State (549/03)

- delivered 11 March 2004

Islamic Bank Ltd (in liquidation) v Sattar Discount Crockery (610/02)

- delivered 11 March 2004

J Coetzee v E Fourie and Another (61/03)

- delivered 23 March 2004

J Richards v The State (163/03)

- delivered 25 March 2004

Andersen's Seeds &amp; Another v VC Dalbock (338/02)

- delivered 31 March 2004

S Padayachee v The State (341/ 03)

- delivered 20 May 2004

M Dweba v The State (309/03)

- delivered 21 May 2004

Fourie v Re-Marius Hamel (199/03)

- delivered 27 May 2004

Oupa Hlophe v The State (283/02)

- delivered 28 May 2004

AS Murray v The Cape Joint Pension Fund and Another (241/03)

- delivered 28 May 2004

Vilmor Boerdery BK v Oos-Vrystaat Kaap Koöperasie BPK (492/03)

- delivered 1 June 2004

AM Hancock v The State (333/03)

- delivered 2 June 2004

Yusuf Dada v The State (366/2003)

- delivered 2 September 2004

MA Kharafi Construction (Pty) Ltd v Makhosi Holdings (Pty) Ltd (094/2003)

- delivered 23 September 2004

Elro Marketing Holdings Bpk and Another v Middleton (339/2003)

- 29 September 2004

Vhavenda Brickworks (Pty) Ltd v W Ferreira (319/2003)  
- delivered 29 September 2004

SB de Beer v The State (121/2004)  
- delivered 12 November 2004

Truck and General Insurance Company (Pty) Ltd v Simrak Trucking (546/2003)  
- delivered 19 November 2004

Ismail Bhamjee v Total South Africa (Pty) Ltd (360/2004)  
- delivered 25 November 2004

Commissioner for the South African Revenue Services v Nashua Ltd (597/2003)  
- 30 November 2004

DM De Lange v State (563/2003)  
- delivered 1 December 2004

The Attorneys Fidelity Fund Board of Control v E Burns NO of Dynamic Services  
Investment Trust (510/2003)  
- delivered 2 December 2004

#### **5. CASES DISMISSED WITHOUT WRITTEN REASONS**

Dischem Pharmacies (Pty) Ltd t/a Mondeor Pharmacy v United Pharmaceutical  
Distributors (Pty) Ltd t/a UPD Lea Glen (99/03)  
- 9 March 2004

Textile Industry Provident Fund v First National Bank of SA (632/02)  
- 15 March 2004

MJ Mosomane and Others v Semang Housing Corporation (Pty) Ltd (122/03)  
- 10 May 2004

TG Bosch and Others v Cutfin (Pty) Ltd (424/2003)  
- 19 August 2004

Catgraphics CC v Africon Engineering International (Pty) Ltd (600/2003)  
- 3 November 2004

JC Batista Gouveia v Certain Underwriters at Lloyds of London (454/2003)  
- 15 November 2004