



SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM: The Registrar, Supreme Court of Appeal

DATE: 28 September 2018

STATUS: Immediate

Propell Specialised Finance v Attorneys Insurance Indemnity Fund NPC (1147/17) [2018]

ZASCA 142 (28 September 2018)

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.

The SCA today dismissed an appeal with costs and upheld a judgment of the Western Cape Division of the High Court, Cape Town.

The appellant, as a cessionary of Buurman Stemela Lubbe Incorporated's claims and rights against the respondent under the Policy, sued the respondent in the high court for the payment of various sums of money which the appellant had paid into the trust account of Buurman Stemela Lubbe Incorporated, a law firm. The funds were misappropriated whilst they were entrusted to the law firm which at the relevant time was insured by the respondent in respect of legal liability arising out of the conduct of the profession.

The question before the high court and in the SCA was whether the rights to indemnification under the Policy were capable of cession to a third party such as the appellant, who is not a legal practitioner.

The SCA held that the rights to indemnification, due to the personal nature of the relationship between the respondent and the insured, cannot be ceded. It concluded that the purported cession between the law firm and the appellant was invalid and that the appellant could therefore not rely on it to pursue its claims against the respondent.