



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:

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.

Y. MOODLEY

V

NEDCOR BANK LTD

The Supreme Court of Appeal today dismissed with costs an appeal by Yagambaram Moodley against a decision of the Durban High Court, dismissing his special plea that it (Durban High Court) lacked jurisdiction to entertain Nedcor Bank's action, claiming from him an amount of R365 291,06 and seeking an order that his property situated in La Merci, Durban be declared executable. The bank instituted the action after Mr Moodley had defaulted in making his payments in terms of a loan agreement.

The issues on appeal were whether the Pretoria High Court had exclusive jurisdiction over the matter by virtue of the cause of action having arisen there, or whether the Durban High Court had concurrent jurisdiction on the basis that the property sought to be declared executable was situated within its area of jurisdiction. What the Supreme Court of Appeal was required to determine in this matter was whether the location of the hypothecated property in Durban, within the territorial jurisdiction of the Durban High Court, constituted a jurisdictional connecting factor giving rise to concurrent jurisdiction of the Durban High Court.

In its conclusion, and in upholding the decision of the Durban High Court of assuming jurisdiction over this matter, the Supreme Court of Appeal concluded that it was apparent that there was a close association not only between the hypothecated property and the nature of the proceedings i.e., for payment of money arising out of loan agreement, but also between the nature of the consequential relief, for the hypothecated property to be declared executable, and the cause of action. The Court went further and concluded that every consideration of convenience and common sense required the court below to assume jurisdiction over the matter.