



THE SUPREME COURT OF APPEAL  
REPUBLIC OF SOUTH AFRICA

**MEDIA ALERT – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL**

**MEDIA ALERT – G. A. Strydom and another v B. J. Liebenberg**

**From: The Registrar, Supreme Court of Appeal**

**Date: 25 September 2007**

**Status: Immediate**

***Please note that the media alert is intended for the benefit of the media and does not form part of the judgement of the Supreme Court of Appeal***

The Supreme Court of Appeal today dismissed an appeal against the judgment of the Pretoria High Court ordering the appellants (Gustav Andries Strydom and Willem Daniël Le Grange) to return a quantity of different species of game on their properties to the respondent (Benjamin Jacobus Liebenberg). The SCA also dismissed a cross-appeal by Liebenberg for the value of any unreturned game. (The game was valued at approximately R600 000.)

The facts briefly were these: Liebenberg was the owner of portions 11 and 14 of the farm Blaauwbank in the Brits District and also the sole shareholder and director of the company, Klein Bokkeplek Boerdery (Pty) Ltd, which owned portions 7 and 2 of the farm. ‘Game proof’ fencing was erected around its perimeter creating a unit. He purchased a variety of species of game and conducted a game-hunting business through the company but remained owner of the game. The four portions are adjacent to each other. The game roamed freely over the four portions.

In 2001 Liebenberg placed the company in liquidation following its financial difficulties. The liquidator sold portions 2 and 7 respectively to Strydom and

Le Grange. The game was not included in the sale. Shortly after taking occupation of the two portions, they denied Liebenberg access to their properties thereby cutting him off from access to his game.

The SCA rejected their argument that once the liquidator had taken control of portions 2 and 7, Liebenberg lost ownership of the game because he no longer exercised control over the properties and the game thereon. The court stated that the clear indications that Liebenberg remained the owner of the game on the two portions were that the property remained fenced, that the liquidator of the company have made no claim to the game and that Liebenberg had pledged the game as security for a loan of R500 000 from ABSA bank.

On 15 August 2003 Liebenberg sold his remaining portions (11 and 14) to Willem and Rudolf Brits together with the game that was currently on those portions. At the time of the sale the game on portions 11 and 14 intermingled with the game on Le Grange's property. The appellant's argued that because the animals on those portions had intermingled, none could be identified as belonging to Liebenberg. In rejecting this argument the SCA held that Liebenberg's erection of a game fence between portions 7 and 11 distinguished the game on the Brits's property from that on portion 7, which Liebenberg owned.

The court also rejected their argument that they possessed the game in good faith and were therefore entitled to its progeny. The SCA said that they had not purchased the game and that they were aware not only of Liebenberg's claim to ownership but also of the game's considerable value. They could thus not claim that they had possessed the game in good faith.

The court, however, rejected Liebenberg's claim for the payment for the value of the game not returned to him because he had not proved what number of game was respectively on Strydom's and Le Grange's properties.