



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: 26 September 2008

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

Els v Smit (356/07) [2008] ZASCA 119 (26 September 2008)

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The Supreme Court of Appeal today upheld an appeal against a judgment of the Pretoria High Court to a limited extent, changing the order of the high court, but in effect finding for the respondent. This court held that three properties purchased pursuant to a partnership agreement were partnership assets and that on dissolution of the partnership the proceeds of the properties when sold should be divided between the parties.. The court also held that on dissolution of a partnership proper accounting must take place and a partner has an accrued right to claim profits not only during the existence of the partnership, but also after its dissolution.

A counterclaim for agency commission received by the respondent in respect of properties sold and marketed by her agency was rejected. The respondent was, however, ordered to pay a share of profits on two other properties sold by the respondent for which she had not accounted to the appellant, and which were also partnership assets.