



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: 27 March 2009

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*

On 27 March 2009 the Supreme Court of Appeal handed down judgment in *Joob Joob Investments (Pty) Ltd v Stocks Mavundla Zek Joint Venture*, dismissing an appeal against an order of the Durban High Court with costs including the costs of two counsel.

On 27 September 2007 the Durban High Court granted Stocks Mavundla Zek Joint Venture, the respondent, summary judgment in the following amounts:

- (a) R2 704 425.78;
- (c) R14 568 177.68 and
- (d) R9 690 000.

Joob Joob Investments (Pty) Ltd, the appellant, was ordered to pay the respondent's costs on a scale as between attorney and own client, including the costs consequent upon the employment of two counsel.

The litigation between the parties followed on the cancellation by Stocks, of a contract in terms of which it undertook to build a resort hotel at

Ocean View site, Zimbali Coastal Forest Resort, Ballito for Joob Joob investments.

Stocks sued Joob Joob for amounts certified by the latter's agent to be due and payable. The first certificate related to the value of work done and materials supplied. The second related in part to such work and materials. The second and third certificates certified damages due to Stocks.

After Joob Joob entered an appearance to defend, Stocks applied for summary judgment — a procedure that creditors who hold liquid documents can resort to when a debtor's defence is not *bona fide* and is entered merely to delay matters. The Durban High Court considered a number of defences raised by Joob Joob, held them to be without any substance and consequently granted summary judgment.

This court agreed with those conclusions. It held that the defences raised were cast in dubious terms and were entirely without merit. It scrutinised the certificates in question and found that they were issued and completed in terms of the agreement between the parties. It discussed the nature of such certificates and held that Stocks was entitled to judgment on all three. It noted that summary judgment proceedings hold terrors only for defendants who have no defence to the claims brought against them. The appeal was dismissed with costs, including the costs consequent upon the employment of two counsel.