

# SUPREME COURT OF APPEAL OF SOUTH AFRICA

## MEDIA SUMMARY OF 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 for the benefit of the media and does not form part of the judgment.***

***Guardian National Insurance Co Limited v Springgold Investments (Pty) Ltd  
(526/08) [2009] ZASCA 112 ( 23 September 2009)***

### **Media Statement**

Today the Supreme Court of Appeal upheld an appeal against a judgment of the Durban High Court which had allowed a claim by Springgold Investments (Pty) Ltd against Guardian National Insurance Co Limited for an indemnity under an insurance policy for damage done to palm olein oil stored in two tanks on Springgold's property.

The palm olein oil had been contaminated by water leaking from steam heating coils inside the tanks. The oil was insured, but the insurance policy excluded liability for loss caused directly and solely by contamination. On that basis, Guardian National repudiated liability. Springgold then instituted action against Guardian National, alleging that the escape of steam from the heating coils into the oil had been caused by sabotage to the coils and that its claim was therefore not excluded under the policy. Relying on the expert evidence given on Springgold's behalf by two mechanical engineers, the Durban High Court found that the holes in the pipes forming the coils had indeed been maliciously caused by persons whose identity was unknown.

On appeal, the SCA examined the expert evidence and concluded that it did not exclude the reasonable possibility that the holes in the two sections of pipe examined by the experts were caused by poor workmanship or by a botched attempt to repair or neaten the original welding. After analysing the facts, the SCA held that Springgold had failed to discharge the onus of proving that, on the balance of probabilities, the holes in the pipes were the result of sabotage. The expert evidence was the high water mark of Springgold's case in support of its asserted hypothesis of sabotage. That evidence, which admitted of other reasonable inferences, fell short of tipping the probabilities in its favour. The SCA therefore upheld the appeal and replaced the order of the Durban High Court with an order that Springgold's claim be dismissed with costs.

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