



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: 30 September 2010
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.

* * *

SINGH V BMW FINANCIAL SERVICES

The Supreme Court of Appeal (SCA) today held that a term in a sale agreement that a motor vehicle be ‘first registered in 2006’ was an essential term of the contract. This meant that if the seller did not comply with this term it was in breach of the contract.

The full court of the Pietermaritzburg High Court had held that the term was not an essential term of the contract between the seller (BMW Financial Services) and the purchaser (Mr Khoosial Singh). It reasoned that the term relating to the registration of the motor vehicle was a term of the separate contract of services between BMW’s agent, SMG Auto and Mr Singh, and that it could not be imported into the contract of sale between BMW and Mr Singh.

The SCA held that there was only one contract, ie between BMW and Mr Singh, and that the term was an express term of the contract. It held that because BMW had failed to deliver a motor vehicle which had to be first registered in 2006, it had breached the contract and that Mr Singh was entitled to resile from the contract and claim restitution of the payments he had made. It ordered BMW to repay Mr Singh the payments he had already made against the return of the motor vehicle by Mr Singh.