



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

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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.

COLLETT v FIRSTRAND BANK

The Supreme Court of Appeal today gave a judgment on the meaning of sections 86(10) and (11) and s 87 of the National Credit Act 34 of 2005. The court held that a credit provider is entitled to terminate a debt review applied for by a consumer even after the matter has been referred to the Magistrate's Court for a re-arrangement order. This right, however, is balanced by the obligation of both the credit provider and consumer to participate in the debt review and negotiations in good faith in order to achieve responsible debt re-arrangement. A failure to do so by the credit provider may lead to a resumption of the debt review under section 86(11). The Supreme Court of Appeal also held that there was a lacuna in section 86(11) and read into its provisions after the words 'Magistrate's Court' the words 'or High Court'. This will

ensure that the Magistrate's Court and the High Court hearing proceedings to enforce a credit agreement may grant an order for the resumption of the debt review.