

SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY

28 September 2011

STATUS: Immediate

*Wakefields Real Estate v Attree* (666/10) [2011] ZASCA 160 (28 September 2011)

*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*

Today the Supreme Court of Appeal upheld an appeal against a decision of the KwaZulu-Natal High Court (Nicholson J) which held that an estate agent, W, who had introduced a purchaser, H, to a house in Durban North, which had subsequently been sold to H, was not entitled to agent's commission. A different estate agent, D, who fortuitously knew that H was interested in the house, had contacted H when she heard that the seller was willing to reduce the price.

D prepared an offer to purchase and persuaded the seller to reduce the price further. The seller accepted H's offer. The high court held that W had no mandate to sell the house for a commission of six per cent of the price, and that D was the effective cause of the sale and entitled to commission on an agreed basis.

On appeal it was not disputed that W did in fact have a mandate to find a purchaser. The SCA set aside the order of the high court, finding that it was actually W who had taken H, and subsequently H's husband as well, to the house which H had liked, but which she and her husband thought was beyond their means. But for that introduction H would not have known that the house was for sale. W was the effective cause of the sale, and entitled to commission.

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