



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: 28 November 2012

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.*

*CHETTY v ITALTILE*

The Supreme Court of Appeal today upheld an appeal against the judgment and order of Makgoka J sitting in the North Gauteng High Court, Pretoria upholding the claim by Italtile against the former manager and franchisee of its CTM Gezina, Pretoria branch. The claim was based on the common law of *furtum usus*, or the theft of the use of another person's property. Although theft of the use of a thing is not a crime, delictual liability for damages may nevertheless be based on it. The Supreme Court of Appeal upheld the appeal for two reasons. In respect of one claim it held that no use of the missing stock had been proved. In respect of the claim relating to selling on credit in defiance of company policy, it held that Italtile had failed to show, as a matter of law, that the manager had caused its loss.