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.

Coface South Africa Insurance Co Ltd v East London Own Haven t/a Own Haven Housing Association

The Supreme Court of Appeal today dismissed an appeal by Coface South Africa Insurance Co Ltd. against the judgment of the South Gauteng High Court, Johannesburg. Coface had executed a construction guarantee in favour of the respondent, East London Own Haven pursuant to a construction contract it had entered into with Construct Construction (Pty) Ltd.

The construction contract was cancelled by the respondent which then called up the construction guarantee. Coface refused to honor it claiming that the cancellation was not the result of the default of the contractor but that of the respondent.

The court held that the construction guarantee which had to be honored save in cases where it has been established that the claim thereon was tainted by fraud on the part of the claimant, in this case the respondent. It was completely independent of any dispute that might exist in terms of the principle construction contract and consequently found that Coface was liable to make payment to the respondent.