



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.

ABSA BANK LIMITED v PETER JACOBUS JANSE VAN RENSBURG AND OTHERS

The Supreme Court of Appeal (SCA) today, struck off the roll, an unopposed appeal against the order of the Western Cape High Court, Cape Town, granting an order of postponement.

The appellant (Absa) had launched action proceedings against the respondents in the high court based on mortgage bonds registered in its favour over immovable properties belonging to the respondents. The respective claims were commenced by way of simple summonses to which copies of the relevant mortgage bonds and the deeds of suretyship signed by the spouses of the respective owners were annexed.

In those proceedings, the high court had to decide whether or not it was necessary to attach to the simple summonses the underlying credit agreements secured by the bonds and suretyship agreements as had been required in some cases of that division. It decided that it was necessary to do so and then postponed the matters *sine die* with no order as to costs to afford Absa an opportunity to amend its summonses so as to refer to the underlying credit agreements and annex them. It is the reason for the postponement order which is the subject of this appeal.

Two preliminary issues arose for determination. One was whether this court should hear the appeal at all in light of s 21A(1) of the Supreme Court Act 59 of 1959 (the Act). The other is whether the matter is, in any event, appealable having regard to the nature of the orders appealed against.

With regards to the first question, this court found that in these circumstances, Absa had established no reason for this court to exercise its discretion in its favour and entertain the

merits of the appeal. With regards to the second, this court reiterated the trite fact that an appeal lies against the substantive order made by the court and not the reasons for the judgment and that the postponement order was therefore not appealable.