



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal

DATE 29 May 2014

STATUS Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment.

HEPPLÉ v LAW SOCIETY OF THE NORTHERN PROVINCES (507/2013) [2014] ZASCA 75 (29 May 2014)

The SCA today dismissed an appeal by two attorneys, Thomas Walter Rothwell Hepple and Christiaan Hendrik Earle, whose names were removed from the roll by the North Gauteng High Court (Wright AJ and Makhubele AJ) for various transgressions and contraventions of the rules of the law society and the Attorneys Act 53 of 1979, respectively. They were directors in an incorporated practice in Centurion, Pretoria, under the name, Hepple Attorneys Inc.

One of the main complaints against them was that they had conducted an investment practise which did not generate the necessary cash flow to pay the capital. The trust account was then used irregularly to make interest payments. Interest to investors was paid out of the trust account. Between 24 July 2009 and 3 June 2010 a total of R268 479.64 was paid to investors out of the trust account. These practices resulted in trust deficits. The attorneys tried

to conceal these trust deficits by manipulating bank reconciliation statements. These irregularities persisted from 2005 to 2010, when they were uncovered by a law society investigation conducted by a Chartered Accountant appointed by the law society, Mr Vincent Faris. At some point there was a shortfall of over R600 000 in the attorneys' trust account.

One of the attorneys, Earle, admitted his wrong-doing but claimed that the other directors, Hepple and two others Mr Gerhard Barnard and Mr Micheal Johnson were not aware of what was going on. Hepple's defence was that a resolution was taken by the directors confining him to commercial litigation and that he had little to do with the financial management of the firm did not avail him.

On appeal the SCA held reiterated that the obligation to keep proper books of account rested on both. Hepple's claim that when he discovered what Earle was doing in 2008, he asked him to stop was not enough. The court held that such discovery should have caused him to be more vigilant and not to simply to continue with his unquestioning behaviour.

The appeal was accordingly dismissed and the order of the high court removing the two attorneys from the roll was confirmed. The SCA further ordered the two attorneys jointly and severally, to pay costs to be taxed on the scale as between attorney and client.