



## 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** 4 November 2014  
**STATUS** Immediate

***Christoffel Wessel Jacobus van Deventer v Ivory Sun Trading 77 (Pty) Ltd  
(595/2013) [2014] ZASCA (04 November 2014)***

*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 (SCA) delivered a judgment upholding the appeal by the appellant.

The issue before the SCA was to determine whether the obligation of the first defendant to offer a farm to the appellant in terms of a right of pre-emption that has been registered against the title deed of the farm is a debt susceptible to prescription, and if so, whether it had prescribed.

The Respondent issued summons as plaintiff, against Mr JJ van Deventer, the first defendant, and the appellant, as second defendant, for a declaratory order that a valid agreement of sale in respect of a farm existed between the respondent and the first defendant as a result of the exercise of an option on 30 March 2007. The appellant pleaded that the respondent was not entitled to transfer of the farm as the appellant had entered into a valid contract with the first defendant pursuant to a right of pre-emption registered against the title deed of the property. The respondent averred that the appellant's right of pre-emption had prescribed and the court a quo upheld this contention and granted the relief prayed for by the respondent.

On appeal, the SCA held that the respondent failed to show that there was a trigger event that initiated the running of prescription and no evidence was presented that the appellant in any way manifested a stance that he had abandoned his right or that he was not going to exercise that right.

The SCA found therefore that the appellant was entitled to insist on a written option by the first defendant and the appeal was upheld with costs.

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