



SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
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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.

Ferrari v Gunner [2015] ZASCA 5 25 March 2013

The Supreme Court of Appeal today upheld the decision of the Gauteng Local Division of the High Court that the respondents deliver shares in a company to the appellant, who had applied for an order of specific performance of a contract for the purchase of shares in a family-owned company. The court also ordered that steps be taken to appoint him as a director and to give him signing powers on the company's account.

The appellants had resisted the claim in the high court on three bases: that the contract was void, having been induced by undue influence exercised by the respondent's wife, their former attorney, and because she had made a fraudulent misrepresentation about the meaning of a clause in the agreement. The third basis was that specific performance was not an appropriate remedy in the circumstances as it would force the family to bring an outsider into the company's business.

The court below found that there was no undue influence, and that a fraudulent misrepresentation had not been established; and after considering the arguments as to why specific performance was not appropriate, exercised a discretion in ordering performance of the contract.

On appeal, this court confirmed the findings that there had been no undue influence and that no misrepresentation had been established, and declined to interfere in the local division's exercise of its discretion.