



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 9 March 2015
STATUS Immediate

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

***FIRST NATIONAL BANK v CLEAR CREEK TRADING (1054/2013)
[2015] ZASCA 6 (9 March 2015)***

The SCA today upheld an appeal by First National Bank against an order in the North Gauteng High Court, Pretoria, declaring that the provisions of the National Credit Act 34 of 2005 were applicable, by agreement between the parties, to a contract to which they would ordinarily not apply. The matter was dealt with as a separated issue under Rule 33(4). No order was made specifying the issue to be considered. No agreed facts were stated and no evidence was led.

The SCA held that the provisions of Rule 33(4) had not been properly applied. In addition, facts concerning the circumstances in which the agreement was concluded were relevant to a determination of the issue. It upheld the appeal and, ordering each party to pay its own costs of the

appeal, substituted the order of the court below with one that no order was made on the separated issue and that the costs relating to that issue would be costs in the cause.