



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

Date: 30 March 2015

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

HANSA SILVER (PTY) LTD & OTHERS v OBIFON (PTY) LTD t/a THE HIGH STREET AUCTION COMPANY

The Thaba Phuti Safari Lodge (the lodge) was sold at an auction conducted by the respondent (High Street) to the second appellant on behalf of the first appellant (the purchasers) for the amount of R20 million. The purchasers subsequently alleged that the price had been reached as a result of sham bidding by High Street. The purchasers accordingly reclaimed the commission paid to High Street in respect of the sale. High Street disputed these allegations and stated that the auctioneer had made bids on behalf of the sellers of the lodge, as he was entitled to do in terms of the rules of the auction. The high court dismissed the claim of the purchasers. On appeal, the purchasers accepted that there had been no sham bidding. They mainly contended that the auctioneer should have identified these vendor bids as such, but failed to do so. Today the Supreme Court of Appeal dismissed the appeal of the purchasers. The SCA found that there is no general rule that bids by an auctioneer on behalf of a seller had to be identified as such. The enquiry should centre on whether the non-disclosure of a vendor bid constituted a material misrepresentation that induced the sale. The SCA found that in the context the vendor bids in question were identified as such and that in any event, the purchasers did not show that they constituted material misrepresentations inducing the sale of the lodge.

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