



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
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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.

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DORMELL PROPERTIES 282 CC V ALWYN GIDEON BAMBERGER

The SCA, today, dismissed with costs, the appeal in Dormell Properties 282 CC v Mr Alwyn Gideon Bamberger.

Dormell had sued Edulyn (Pty) Ltd, as tenant and Bamberger as surety. Edulyn was subsequently liquidated before the matter came to this court. Dormell had concluded an offer to lease with Edulyn and Bamberger, which contained a suretyship claim. The offer to lease made provision of signing an agreement of lease at a later stage. However Dormell failed for some unknown reason to sign the said agreement of lease but Bamberger signed it.

Subsequently Bamberger also signed a Deed of Suretyship which was annexed to the invalid agreement of lease.

When Dormell sued Bamberger, it did so, on the basis of the Deed of Suretyship which turned out to be invalid. Bamberger then raised the defence of the benefit of excussion – in that he had not been given the opportunity to raise this defence as he had been sued on an invalid Deed of Suretyship.

This court found that Mr Bamberger had been prejudiced as the claim had not been based on the offer to lease but on the Deed of Suretyship.