



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
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STATUS Immediate

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

Pro Tempore v Van der Merwe (20853/2014) [2016] ZASCA 39 (24 March 2016)

MEDIA STATEMENT

Today the Supreme Court of Appeal (SCA) dismissed the appeal by Pro Tempore Akademie CC (Pro Tempore) against a judgment of the Gauteng Division of the High Court, Pretoria, which had found Pro Tempore negligent and liable for damages arising out of the injury of one of its learners, Jaco Hercules van der Merwe (Jaco), when he became impaled on a metal rod jutting out of the ground on a playground on its premises.

Pro Tempore conducted a school for children with learning disabilities, at which Jaco was enrolled. On one of the playgrounds, the school had planted a number of young saplings, which were supported by metal rods which stuck out of the ground. On the day in question, Jaco was playing cricket on the playing field, and accidentally impaled himself on one of these rods.

The SCA held that by placing a metal rod within a playground where children engaged in ball games the appellant had created a dangerous situation, and it had not taken reasonable steps to prevent a foreseeable risk of harm through misadventure from materialising. The SCA held further that having regard to all the circumstances of the case, including the fact that the school was for children who struggle with learning disabilities and hyperactivity, it was clear that the school should be held liable for the losses it had negligently caused.

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