



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 1 December 2017

STATUS Immediate

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

*Omega Risk Solutions (Pty) Ltd v Josias Alexander De Witt (149/2017) [2017]
ZASCA 171 (1 December 2017)*

Media Statement

The SCA today dismissed an appeal against an order granted by the Gauteng Division of the High Court, Pretoria, upholding a special plea of prescription raised by the respondent, in respect of several claims advanced by the appellant. It was held that the directors of the appellant had knowledge of these claims, or could have acquired them if they took reasonable care, in accordance with the provisions of sections 12(1) and (3) of the Prescription Act 68 of 1969. Section 12(3) defined the circumstances in which constructive knowledge of the identity of the debtor and the facts from which the debt arose, could be attributed to the creditor. The creditor was deemed to have acquired this knowledge if the creditor could have acquired it by exercising reasonable care. This involved the statutory attribution of knowledge to a creditor, based on the objective criterion of reasonable care, distinct from an enquiry in terms of the common law rules of attribution of knowledge to a corporate entity.

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