

**REPUBLIC OF SOUTH AFRICA  
SUPREME COURT OF APPEAL  
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NO 4**

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**JUDGMENTS RESERVED**

**City of Tshwane v BDG International (Pty) Ltd (335/11)**

Appealed from GNP

Date heard: 15 March 2012

Navsa JA, Mhlantla JA, Tshiqi JA, Petse AJA, Ndita AJA

Interdict – suspension of interdict – whether interdict could be suspended as its suspension amounted to condonation of crime and allowed to continue.

**Road Accident Fund v Oupa William Lebeko (802/11)**

Appealed from GSJ

Date heard: 21 August 2012

Mpati P, Brand JA, Heher JA, Bosielo JA, Pillay JA

Damages – Road Accident Fund Act 56 of 1996 – whether respondents failed to comply with provisions of regulation 3 – whether AMA6 method of assessment of serious injury relevant or ultra vires – whether regulations 3(4) to 3(14) relevant to enquiry or unconstitutional and ultra vires – whether appellant’s right to reject serious injury assessment report qualified by substance of reason to be afforded therefore and time within which such right can be exercised.

**National Commissioner of Police & another v Jack Coetzee (649/11)**

Appealed from GNP. 2011 (2) SA 257 (GNP) ; 2011 (1) SACR 132 (GNP).

Date heard: 28 August 2012

Mpati P, Cloete JA, Ponnann JA, Bosielo JA, Petse JA

Criminal law – bail – whether high court has jurisdiction to release on bail, alternatively on his own cognisance, a person who has not applied to be released to magistrate’s court or SAPS for bail.

Costs – *de bonis propriis* – against functionary or government employee – whether such person must be given due notice that court is considering such order.

**South African Property Owners Association v The Council of the City of Johannesburg Metropolitan Municipality & others (648/11)**

Appealed from GSJ

Date heard: 30 August 2012

Navsa JA, Lewis JA, Shongwe JA, Petse JA, Southwood AJA

Local Government: Municipal Property Rates Act 6 of 2004 – whether s 19(1)(b) precludes 1<sup>st</sup> to 3<sup>rd</sup> respondents from imposing property rates on business, commercial and industrial properties which exceed ratio of 1:1 – whether respondents failed to comply with prescribed procedures with regard to public participation in increasing rates applicable.

**General Bar Council of SA v Geach (277/12, 273/12, 275/12, 280/12, 281/12, 274/12, 278/12)**

Appealed from GNP. 2011 (6) SA 441 (GNP)

Date heard: 3 - 4 September 2012

Mpati P, Nugent JA, Ponnann JA, Leach JA, Wallis JA

**Corpclo 2290 cc t/a U-Care & another v The Registrar of Banks (755/11)**

Appealed from KZP

Date heard: 14 September 2012

Mpati P, Lewis JA, Malan JA, Leach JA, Southwood AJA

Banking law – Banks Act 94 of 1990, s 11 – interpretation of ‘business of a bank’.

**Khula Enterprise Finance Limited v Leon Geldenhuys & another (745/11)**

Appealed from GNP

Date heard: 14 September 2012

Mthiyane DP, Navsa JA, Heher JA, Cachalia JA, petse JA

Suretyship – whether appellant required to place principal debtor in mora prior to suing for full amount – whether respondents can as sureties escape their undertakings on grounds of prejudice pleaded.

**CASES ENROLLED FOR HEARING**

**Julius Sello Malema & another v Afriforum & others (815/11)**

Appealed from GSJ. [2011] All SA 293 (EqC)

Date to be heard: 1 November 2012

Mpati P, Cachalia JA, Bosielo JA, Plasket AJA, Swain AJA

Constitutional Law – whether singing of song by first appellant constitutes breach of Promotion of Equality and Elimination of All Forms of Unfair Discrimination Act 4 of 2000 – whether violation of s 10 of Equality Act – whether singing of song in its plain and natural meaning incites killing or shooting of people of Afrikaans descent – whether total ban appropriate order given nature of evidence.

**Command Protection Services (Gauteng) (Pty) Ltd t/a Maxi Security v South African Post Office Ltd (214/12)**

Appealed from GNP

Date to be heard: 1 November 2012

Mthiyane DP, Brand JA, Cloete JA, Pillay JA, Saldulker AJA

Contract law – whether binding and enforceable agreement concluded between parties – whether certain provisions of that agreement (eg references to ‘BEE improvement’ and to ‘the successful finalisation of a formal contract’) constitute suspensive conditions.

**Geallal Raghubar v The State (148/12)**

Appealed from KZP

Date to be heard: 1 November 2012

Ponnann JA, Tshiqi JA, Mbha AJA

Criminal law – appeal against conviction – whether trial court misdirected in application of caution to evidence of child who is a single witness – whether trial court misdirected in admitting contents of documentary evidence without proper

proof of its admissibility and in attaching interpretation to it not justified – whether trial court misdirected in approach to defence of bare denial – whether trial court misdirected in elevating suspicions to probabilities.

**Itani Thomas Mudau v The State (419/12)**

Appealed from LT

Date to be heard: 1 November 2012

Ponnan JA, Tshiqi JA, Mbha AJA

Criminal law – sentence – whether grossly inappropriate – whether court balanced all factors to be considered in arriving at a just and fair sentence.

**Farjas (Pty) Ltd v Minister of Agriculture and Land Affairs of RSA & others (753/11)**

Appealed from LCC

Date to be heard: 2 November 2012

Lewis JA, Ponnan JA, Mhlantla JA, Shongwe JA, Erasmus AJA

Restitution of land rights – Restitution of Land Rights Act 22 of 1994 – land claims – determination of proper compensation for expropriation of properties in 1991 – costs.

**Stephanus Jacobus Meintjes v Government of the Republic of South Africa (305/11)**

Appealed from LCC

Date to be heard: 2 November 2012

Lewis JA, Ponnan JA, Mhlantla JA, Shongwe JA, Erasmus AJA

Restitution of land rights – Restitution of Land Rights Act 22 of 1994 – whether appellant dispossessed of rights in land by state's expropriation of farms.

**Emalahleni Local Municipality & another v Propark Association & another (Lawyers for Human Rights intervening as *amicus curiae*) (89/12)**

Appealed from GNP

Date to be heard: 2 November 2012

Nugent JA, Cachalia JA, Leach JA, Petse JA, Southwood AJA

Administrative law – review of decision by first appellant to sell public land to second appellant – whether first appellant had to comply with Local Government Ordinance, s 79(18) and/or Local Government: Municipal Finance Management Act 56 of 2003, s 14 prior to making decision to sell and enter into Deed of Sale – whether first respondent had locus standi – whether appellant had complied with Local Government Ordinance, s 68 – whether first appellant's actions unfair and unreasonable.

**The Minister of Defence v Leon Marius von Benecke (115/12)**

Appealed from GNP

Date to be heard: 2 November 2012

Heher JA, Malan JA, Theron JA, Wallis JA, Saldulker AJA

Delict – vicarious liability.

**Ivan Myers v The National Commissioner of the South African Police Service & others (425/12)**

Appealed from LAC

Date to be heard: 5 November 2012

Mthiyane DP, Mhlantla JA, Pillay JA, Plasket AJA, Swain AJA

Labour law – unreasonableness of not reinstating senior police officer dismissed for addressing important public issue which employer failed to do.

**Shumani Maria Ramafamba v Score Supermarket (Pty) Ltd & another (517/12)**

Appealed from LT

Date to be heard: 5 November 2012

Brand JA, Lewis JS, Petse JA, Southwood AJA, Saldulker AJA

Delict – damages under *Lex Aquilia* – shopkeeper's legal duty owed to his customers – shopkeeper's legal duty in event of omissions – when policy conclusions regarding wrongfulness can be drawn – whether appellant contributorily negligent.

**Atwell Sibusiso Makhanya NO & another v Goede Wellington Boerdery (Pty) Ltd (230/12)**

Appealed from GNP

Date to be heard: 5 November 2012

Heher JA, Bosielo JA, Tshiqi JA, Theron JA, Erasmus AJA

Administrative law – whether decision of Water Tribunal constitutes administrative action reviewable under Promotion of Administrative Justice Act 3 of 2000 – whether appropriate, when setting aside decision of Tribunal, to substitute its own decision, rather than remitting matter to Tribunal – whether court a quo entitled to make costs order against first appellant performing adjudicative function in event of review against findings being successful.

**Road Accident Fund v Thabo Richard Mokoena (Health Professions Council of South Africa intervening as *amicus curiae*)**

**Road Accident Fund v Adriana Johanna Meyer (Health Professions Council of South Africa intervening as *amicus curiae*)**

**Road Accident Fund v Thokozane Duma (Health Professions of South Africa intervening as *amicus curiae*)**

**Road Accident Fund v Kubeka Mthunzi Gift (131/12, 164/12 & 202/12 & 64/12)**

Appealed from GSJ

Date to be heard: 6 November 2012

Brand JA, Mhlantla JA, Leach JA, Plasket AJA, Saldulker AJA

Damages – requirements for proper completion of Serious Injury Assessment Report – court a quo correct in concluding that, if Serious Injury Report only rejected by appellant after reasonable time had lapsed, court could then ignore rejection – court a quo correct in concluding that appellant's rejections not for permissible reasons.

**Imraahn Ismail Mukaddam & others v Pioneer Food (Pty) Ltd & others (49/12)**

Appealed from WCC

Date to be heard: 6 November 2012

Nugent JA, Ponnann JA, Malan JA, Tshiqi JA, Wallis JA

Constitutional law – delict – competition law – whether class certification indicated – whether rights of bread distributors under s 22 of Constitution have been infringed – whether 'citizens' in s 22 should include juristic persons owned by South Africans – whether a s 65 certificate issued under Competition Act 89 of 1998 an essential pre-condition for civil claim for constitutional damages – whether adverse costs award made against appellants appropriate.

**Eugene Adlem & another v Nestor Algemus Arlow (782/11)**

Appealed from NWM

Date to be heard: 6 November 2012

Cloete JA, Cachalia JA, Shongwe JA, Theron JA, Erasmus AJA

Contract law – validity of lease agreement between parties – Subdivision of Agricultural Land Act 70 of 1970, s 3(d), interpretation of – whether section prohibits long term leasing of agricultural land or only that agricultural land that may, as a result of such long term lease, be factually subdivided.

**Jan Oompie Kolea v The State (157/11)**

Appealed from FB

Date to be heard: 7 November 2012

Mpati P, Shongwe JA, Mbha AJA

Criminal law – appeal against conviction and sentence – whether accused's identity had been proved beyond reasonable doubt – whether decision in *S v Mashinini* 2012 ZASCA 1 correct and binding – whether judgment has an effect on sentencing of accused in question.

**Johannes Petrus Basson & another v The State (442/12)**

Appealed from GNP

Date to be heard: 7 November 2012

Mpati P, Shongwe JA, Mbha AJA

Criminal law – appeal against sentence – where a series of crimes were committed, whether sentences imposed run concurrently with that of previous conviction.

**The Trustees for the time being of the Children's Resource Centre Trust & others v Pioneer Foods (Pty) Limited & others (50/12)**

Appealed from WCC

Date to be heard: 7 November 2012

Nugent JA, Ponnann JA, Malan JA, Tshiqi JA, Wallis JA

Constitutional law – delict – competition law – whether statutory cause of action provided for by Competition Act 89 of 1998 excludes any ordinary delictual or constitutional claim from being pursued for damages allegedly arising out of prohibited practice – whether appellants can competently pursue proceedings against third respondent in absence of having obtained certificate in terms of s 65(6)(b) – whether either set of appellants has pleaded a competent delictual or constitutional cause of action – whether law of delict can or should be developed to accommodate claim pursued by appellants – whether common law of standing can or should be developed to allow for class action standing in non-constitutional claims – whether leave should be granted to appellants to pursue class action – whether notice requirements proposed reasonable.

**Minister of Safety & Security & another v Never Ndlovu (788/11)**

Appealed from ECG

Date to be heard: 7 November 2012

Ponnann JA, Bosielo JA, Petse JA

Criminal law – unlawful detention – whether continued detention of respondent after first appearance in court and until release on bail unlawful – whether appellants liable for respondent's damages – whether unlawful detention ceases moment suspect appears in court for the first time and has his/her detention extended by a magistrate in terms of Criminal Procedure Act 51 of 1977, s 50(6)(d).

**BHP Billiton plc Incorporated & another v Jan George de Lange & others (189/12)**

Appealed from GSJ

Date to be heard: 8 November 2012

Mthiyane DP, Cloete JA, Mhlantla JA, Leach JA, Petse JA

Access to information – whether first and second respondents brought application out of time in terms of Promotion of Access to Information Act 2 of 2000, s 78 – whether first appellant demonstrated information sought ought to be refused in terms of sections 36(1) and 37(1)(a) – whether grounds of refusal justified – whether public interest override in s 46 applicable – test to be adopted in applying s 46 – access to information sought not granted – whether sections 37(1)(a) and 46 unconstitutional.

**Elizabeth Catherina Steyn NO v Ronald Bobroff & partners (25/12)**

Appealed from GSJ

Date to be heard: 8 November 2012

Brand JA, Bosielo JA, Shongwe JA, Southwood AJA Saldulker AJA

Delict – claim for damages – whether respondent acted in breach of mandate – whether conduct of respondent fell short of required standard of care.

**JDJ Properties CC & another v Umngeni Local Municipality & another (873/11)**

Appealed from KZP

Date to be heard: 8 November 2012

Lewis JA, Heher JA, Theron JA, Pillay JA, Plasket AJA

Administrative law – whether National Building Regulations and Building Standards Act 103 of 1997, s 9(1)(c) read with Promotion of Administrative Justice Act 3 of 2000, s 7 is an obstacle to review of decision to approve building plans brought in terms of rule 53, as read with Promotion of Administrative Justice Act 3 of 2000, s 6 in that s 9(1)(c) grants appellants viable appeal or internal remedy – whether decision reviewable administrative action.

**Milingoni Jeffrey Ramulifho v The State (413/12)**

Appealed from LT

Date to be heard: 9 November 2012

Mpati P, Ponnar JA, Cachalia JA, Southwood AJA, Erasmus AJA

Criminal Law – whether sexual intercourse with complainant took place – whether court a quo exercised cautionary rule in that complainant was a young child – whether regional court magistrate justified in curtailing appellant in cross-examination – whether regional court magistrate justified in considering evidence of a witness who testified that rape occurred on 8 August 1999 whereas it took place on 2 August 1999 – whether appellant's version of events reasonably possibly true – whether court a quo erred in sentencing appellant to life imprisonment – whether sentence of life imprisonment imposed proportionate to offence – whether grossly inappropriate – whether court a quo misdirected in its findings that there were no substantial and compelling circumstances as envisaged in Criminal Law Amendment Act 105 of 1997, s 52 as amended.

**S M Musiker v The State (272/12)**

Appealed from GNP

Date to be heard: 9 November 2012

Mthiyane DP, Leach JA, Tshiqi JA

Criminal law – appeal against conviction of assault with intent to do grievous bodily harm – whether state has proved its case beyond reasonable doubt – whether approach adopted by court a quo to alibi evidence wrong.

**Velile Johnson Guca v The State (420/12)**

Appealed from GNP

Date to be heard: 9 November 2012

Mthiyane DP, Leach JA, Tshiqi JA

Criminal Law – whether court a quo erred in sentencing appellant in terms of provisions of Criminal Law Amendment Act 105 of 1997 when appellant not informed of minimum sentence at beginning of trial – whether sentence shockingly inappropriate.

**National Director of Public Prosecutions v Johannes Erasmus van Staden & others (730/11)**

Appealed from WCC

Date to be heard: 9 November 2012

Lewis JA, Malan JA, Wallis JA, Pillay JA, Mbha AJA

Prevention of Organised Crime Act 121 of 1998 – whether NDPP acted in accordance with requirements of fairness as regards information obtained orally and in writing from respondent's co-accused – whether reasonable grounds to believe that first respondent may be convicted of offences – whether reasonable that trial court will find first respondent benefited financially from offences – whether reasonable grounds to believe that remaining respondents holding assets on first respondent's behalf.

**Glenrand MIB Financial Services (Pty) Ltd & others v Theodor Wilhelm van den Heever NO & others (199/12)**

Appealed from GSJ

Date to be heard: 12 November 2012

Mthiyane DP, Mhlantla JA, Theron JA, Swain AJA, Saldulker AJA

Insolvency – misappropriation of money – enrichment – setting aside of disposition under Insolvency Act 24 of 1936, s 26 – breach by directors of fiduciary duties.

**Prince Mangosuthu Gatsha Buthelezi MP & another v Minister of Home Affairs & others (242/12)**

Appealed from WCC

Date to be heard: 12 November 2012

Nugent JA, Heher JA, Tshiqi JA, Wallis JA, Mbha AJA

Constitutional Law – whether matter is moot – whether in interests of justice for Supreme Court of Appeal to hear and determine merits – whether respondents' actions in dealing with Dalai Lama's visa application in terms of Immigration Act 13 of 2002 unconstitutional, unlawful, in violation of rights under Bill of Rights, and constituted unlawful administrative action.

**HR Computek (Pty) Ltd v The Commissioner for the South African Revenue Service (830/11)**

Appealed from Tax Court

Date to be heard: 12 November 2012

Cloete JA, Lewis JA, Ponnann JA, Cachalia JA, Erasmus AJA

Income tax – whether appellant had objected to capital amount of VAT assessment – whether objection raised attack on 'capital' of assessment – whether inclusion of amount in calculations of VAT liability renders assessment null and void.

**Provincial Commissioner, Gauteng: South African Police Service & another v Merriman Cyprian Xolani Mnguni (890/11)**

Appealed from GNP

Date to be heard: 13 November 2012

Mpati P, Lewis JA, Malan JA, Petse JA, Mbha AJA

Jurisdiction – whether court a quo had jurisdiction – whether to be dealt with in terms of Labour Relations Act 66 of 1995 and fell within exclusive jurisdiction of labour court – whether proceedings before disciplinary tribunal and subsequent appeal quasi-judicial and therefore reviewable by high court in terms of High Court Rules, rule 53.

**Quipmar Business Finance (Pty) Ltd t/a Capital Fortys and others v B Langton Construction CC and others (183/12)**

Appealed from KZP

Date to be heard: 13 November 2012

Brand JA, Ponnann JA, Tshiqi JA, Pillay JA, Southwood AJA

Civil procedure – appeal against an order dismissing application for order for specific performance notwithstanding one party seeking referral to hearing of oral

evidence – referral having been found not to serve any purpose – whether court a quo justified in refusing referral for hearing of oral evidence.

**S J Tshopo & others v The State (29/12)**

Appealed from FSB

Date to be heard: 13 November 2012

Heher JA, Leach JA, Theron JA

Criminal Law – whether state proved that relevant documentation used proved duty of ‘disclosure’ appellants had in tender process at Free State Department of Education – whether state proved nexus between appellants and tenderer who relied on documentation to secure tender.

**M Qoboshiyane NO & others v Avusa Publishing Eastern Cape (Pty) Ltd & others (864/11)**

Appealed from ECP. 2012 (SA) 158 (ECP)

Date to be heard: 14 November 2012

Mthiyane DP, Bosielo JA, Leach JA, Wallis JA, Plasket AJA

Constitutional law – access to information – Promotion of Access to Information Act 2 of 2000 – whether grounds of justification in terms of s 44 applicable to report prepared and obtained pursuant to Municipal Systems Act 32 of 2000, s 106 – whether public interest outweighs harm of premature disclosure of report prepared and obtained pursuant to that Act.

**Piet Kwanape v The State (422/12)**

Appealed from GNP

Date to be heard: 14 November 2012

Nugent JA, Petse JA, Erasmus AJA

Criminal Law – sentencing – whether court a quo correct in finding personal circumstances of appellant did not amount to compelling and substantial circumstances justifying departure from prescribed sentence.

**Communicare & others v Blumerius Lodewyk Ezra Khan & another (12/12)**

Appealed from WCC

Date to be heard: 14 November 2012

Cloete JA, Cachalia JA, Malan JA, Shongwe JA, Swain AJA

Company Law – validity of company resolution in terms of articles of association – whether members of company have locus standi to set aside company resolution – whether first respondent’s individual rights of membership have in any way been infringed by exclusion of two retiring directors from voting at annual general meeting of appellants.

**The National Credit Regulator v Standard Bank of South Africa Limited (231/12)**

Appealed from GSJ

Date to be heard: 15 November 2012

Nugent JA, Ponnann JA, Malan JA, Pillay JA, Saldulker AJA

Contract law – whether maximum amount in respect of administration fees relating to housing loan agreements concluded in terms of Usury Act 73 OF 1968 remains binding notwithstanding the Act’s repeal – whether administration fees in respect of housing loan agreements concluded under Act are now unregulated, a proposition with which court a quo agreed, with result that lender is free to unilaterally increase such charges and obligation imposed by cap fallen away – whether right of borrower to be charged no more than maximum amount stipulated by Act and corresponding obligation not to charge amount in excess of maximum amount have been preserved by National Credit Act 34 of 2005,

Schedule 3, item 7(2), alternatively by virtue of provisions of Interpretation Act 33 of 1957, section 12(2)(c).

**Firstrand Bank Limited t/a Honda Finance v Charmaine Carol Owens (16/12)**

Appealed from GNP

Date to be heard: 15 November 2012

Lewis JA, Mhlantla JA, Tshiqi JA, Erasmus AJA, Plasket AJA

National Credit Act 35 of 2008 – whether court a quo erred and misdirected itself in ignoring provisions of s 129(1)(b)(i) and pronouncing that credit provider who has not delivered s 129(1)(a) notice subsequent to terminating credit agreement under s 86(10) is debarred from enforcing credit agreement.

**Senwes Limited v Michael Francois van der Merwe (241/12)**

Appealed from GNP

Date to be heard: 15 November 2012

Heher JA, Shongwe JA, Leach JA, Theron JA, Southwood AJA

Contract law – subject matter of sale agreement entered into between appellant and respondent – whether agreement excludes claim for damages – whether provisions of Insolvency Act 24 of 1936, sections 83 and 84 prohibit conclusion of agreement.

**Dhayalan Chockanathan Chetty v Italtile Ceramics Ltd (668/11)**

Appealed from GNP

Date to be heard: 16 November 2012

Brand JA, Malan JA, Pillay JA, Southwood AJA, Erasmus AJA

Evidence - *condictio furtiva* – whether fraudulent appropriation had been shown in evidence to satisfy *condictio*'s requirements – whether “stock rolling” or dishonest dealing with stock in managing store if proved fulfils those requirements.

**The Governing Body of the Rivonia Primary School & another v MEC for Education: Gauteng Province & others (Equal Education and Centre for Child law intervening as *amicus curiae*) (161/12)**

Appealed from GSJ. [2012] 2 All SA 576 (GSJ)

Date to be heard: 16 November 2012

Nugent JA, Cachalia JA, Shongwe JA, Wallis JA, Saldulker AJA

Interpretation of statutes - appeal against declaratory order relating to interpretation of South African Schools Act 84 of 1996 and admission policy of public schools – whether interpretation in line with Constitution, s 39(2) – legality of.

**Avhaphani Victor Tshimbudzi v The State (137/11)**

Appealed from LT

Date to be heard: 16 November 2012

Heher JA, Mhlantla JA, Bosielo JA, Swain AJA, Mbha AJA

Criminal law – appeal against conviction and sentence – application for late filing of appeal records and heads of argument – witness not sworn in – evidence of state witness not approached with requisite caution – contradictions in evidence not accorded sufficient weight – court a quo erred in assessing evidence – court did not conduct trial fairly – court erred in assessing probabilities – court erred in sentencing appellant as correct age of minor victim not properly proved.

**JGW Basson v Benito Hitler Niemann & others (150/12)**

Appealed from GNP

Date to be heard: 19 November 2012

Mpati P, Nugent JA, Malan JA, Leach JA, Theron JA

Prescription – when respondents became aware of all the facts needed to institute action.

**Norman Howard Rhoode v Neil de Kock (45/12)**

Appealed from WCC

Date to be heard: 19 November 2012

Cloete JA, Cachalia JA, Bosielo JA, Wallis JA, Pillay JA

Property law – in which circumstances and in favour of which class of possessors or occupiers improvement lien and enrichment claim will vest.

Contract law – in which circumstances claimant for restitution of performance under inchoate contract must tender restitution of performance

Civil procedure – in which circumstances proceedings ought to grant respondent leave to deliver fourth set of affidavits, in answer to applicant's replying affidavits.

**Adidas AG & another v Pepkor Retail Limited (187/12)**

Appealed from WCC. [2012] 1 All SA 636 (WCC)

Date to be heard: 19 November 2012

Brand JA, Heher JA, Petse JA, Southwood AJA, Erasmus AJA

Intellectual property – trade marks – whether respondent's use of two and four parallel stripe marks on footwear amounts to trade mark infringement and passing-off.

**Werner van Kets v The Commissioner for the South African Revenue Service (81/12)**

Appealed from WCC

Date to be heard: 20 November 2012

Brand JA, Mhlantla JA, Bosielo JA, Wallis JA, Saldulker AJA

Income tax – Income Tax Act 58 of 1962 – proper interpretation of term 'taxpayer' – whether respondent has power to require appellant to furnish requested information relating to a certain individual, who is not a South African taxpayer.

**Saldanha Bay Municipality v Britannia Beach Estate (Pty) Ltd & others (796/11)**

Appealed from WCC

Date to be heard: 20 November 2012

Cloete JA, Tshiqi JA, Erasmus AJA, Swain AJA, Mbha AJA

Municipal law – local government – enforceability of conditions in respect of 'capital contributions' imposed in terms of Land Use Planning Ordinance 15 of 1985, s 42.

**Imvula Quality Protection (Pty) Ltd v Licinio Loureiro & others (130/12)**

Appealed from GSJ

Date to be heard: 21 November 2012

Mthiyane DP, Cloete JA, Mhlantla JA, Bosielo JA, Mbha AJA

Contract law – delict – security company's liability for damages arising out of robbery – whether contract alleged had been proved – terms of contract – whether cession alleged had been proved – whether respondent committed culpable acts – whether proved to be causally linked to losses pleaded – whether conduct of guard on duty unlawful and negligent.

**Meir Margalit v Standard Bank of South Africa Ltd & another (883/11)**

Appealed from GSJ

Date to be heard: 21 November 2012

Nugent JA, Leach JA, Pillay JA, Southwood AJA, Erasmus AJA

Damages – whether general duty of care owed by conveyancer towards third parties (non-clients) in attending to cancellation of bond on instruction of bondholder (his client) – whether mortgagee bank enjoined in contract to ensure that cancellation of bond registered in its favour be executed in professional manner – whether *exceptio non adimpleti contractus* applies in circumstances where it has not been pleaded as defence and in circumstances where it was never relied upon as reason for not performing.

**Ockie Strydom v Engen Petroleum Limited (184/12)**

Appealed from GNP

Date to be heard: 21 November 2012

Heher JA, Tshiqi JA, Wallis JA, Swain AJA, Saldulker AJA

Suretyship – whether appellant’s denial of indebtedness of principal debtor sufficient for purposes of application by respondent – whether appellant, married out of community of property, entered into deed of suretyship without consent of spouse – whether appellant executed deed of suretyship in ordinary course of business as provided for in Matrimonial Property Affairs Act 88 of 1984, s 15(6).

**Transnet Limited v Tatise Jackson Tabeke & others (35/12)**

Appealed from ECP

Date to be heard: 22 November 2012

Mthiyane DP, Shongwe JA, Southwood AJA, Plasket AJA, Mbha AJA

Constitutional law – right to property – right to housing – Prevention of Illegal Eviction from Unlawful Occupation of Land Act 19 of 1998 – whether respondents in unlawful occupation of property – whether appellant complied with eviction procedure – whether appellant entitled to eviction order – distinction between sections 4 and 6.

**Welcome Bila v The State (546/12)**

Appealed from LT

Date to be heard: 22 November 2012

Brand JA, Leach JA, Saldulker AJA

Criminal Law – whether there were substantial and compelling circumstances which should have persuaded court a quo to deviate from imposing life imprisonment on appellant – whether appellant warned of provisions and applicability of Criminal Law Amendment Act 105 of 1997, s 51(1).

**Justice Alliance of South Africa & another v National Minister of Safety and Security & others (646/11)**

Appealed from WCC

Date to be heard: 22 November 2012

Ponnan JA, Cachalia JA, Bosielo JA, Theron JA, Petse JA

Firearms Control Act 60 of 2000 – whether compensation regime includes persons who voluntarily surrender firearms to state for destruction – whether firearm owners arbitrarily deprived of their property in violation of Constitution, s 25(1) – whether discretion granted to second respondent by s 137(2) impermissibly and unconstitutionally vague – whether compensation reasonable and justifiable.

**Collen Mzingisi Dumani v Desmond Nair & another (144/12)**

Appealed from ECG

Date to be heard: 23 November 2012

Mpati P, Cloete JA, Heher JA, Cachalia JA, Theron JA

Administrative law – review – conviction of misconduct under Magistrates Act 90 of 1993, sub-regulation 26(4)(a) of regulations – whether first respondent took into account irrelevant consideration and/or failed to take into account relevant considerations – whether first respondent acted arbitrarily, capriciously and

without proper regard to evidence – reasonableness of conviction – whether court a quo wrong in dismissing appellant’s review application.

**Joshua Malefane Dlamini v The State (553/12)**

Appealed from GNP

Date to be heard: 23 November 2012

Ponnan JA, Pillay JA, Plasket AJA

Criminal law – appeal against sentence – whether cumulative effect of effective sentence shockingly inappropriate – whether regional magistrate had misdirected herself in imposing maximum sentence – whether regional court erred in not ordering sentences to run concurrently.

**Emile Investments (Pty) Ltd v Maria Gioconda Linda Giorgia Silvestri & others (80/12)**

Appealed from WCC

Date to be heard: 26 November 2012

Lewis JA, Cachalia JA, Malan JA, Petse JA, Plasket AJA

Municipal law – whether appellant and sixth respondent were operating on school property in breach of applicable zoning scheme regulations – whether court a quo erred in directing that parties to application were each to pay their own costs, despite success achieved by the respondents.

**APPEALS DISPOSED OF WITHOUT WRITTEN JUDGMENT IN 2012**

D P Lekgau v The State (18/12) – 22 February 2012

Eugene Ralph Morgan v The State (680/11) – 24 February 2012

Beaufort West Minerals (Pty) Ltd v Eybers and others (275/12) – 6 March 2012

Shaukat Alli Moosa & another v Mahpomed Rafik Osman Siddi Akoo NO (134/11) – 9 March 2012

SA Commercial Catering & Allied Workers Union & another v Growthpoint Properties Ltd & another (46/11) – 13 March 2012

Michael George Burgess and others v Wonderhoek Farms (Edms) Bpk (449/11) – 16 March 2012

C L Carstens NO & others v B M Carstens NO (409/11) – 10 May 2012

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