



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: 27 March 2008

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

D BISNATH NO & OTHERS v ABSA BANK LTD and ABSA BANK LTD v D
BISNATH NO & OTHERS

1. Absa Bank and Mr and Mrs Bisnath had been involved in litigation for ten years in respect of amounts owed on mortgage bonds. The SCA held that the Bisnaths were not entitled to credits claimed by them, or to an order setting aside the sale in execution of immovable property belonging to the trust of which they were trustees, and made a punitive costs order in favour of the Bank.

2. The SCA laid down the principle that a mortgagee not in possession of immovable property mortgaged to it was not obliged to account to the mortgagor for rentals which it could have collected from the mortgaged property.

--ends--