



## THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal  
Date: 30 September 2011  
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*

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#### *Exploitatatie- en Beleggingsmaatschappij v Honig*

The appellants in this matter had launched motion proceedings to sequester the respondent. The appellants are peregrini: the first appellant being a private company incorporated in the Netherlands and the second appellant, who is a director of the first appellant, also being resident in that country. At the outset of the sequestration proceedings, the respondent requested security for costs under Uniform rule 47. This was satisfied by the appellants' attorneys providing a security undertaking in an amount R154 400.

The sequestration proceedings were postponed time and again, and the papers swelled considerably. Eventually, shortly before the sequestration application was due to be heard, respondent applied under rule 47 for the appellants to be directed to provide further security. The application was opposed, but the appellants were ordered by the Cape High Court to provide such further security 'in an amount and in such form as maybe determined by the registrar'.

The appellants proceeded to appeal to the Supreme Court of Appeal against this decision. The papers disclosed a genuine and bona fide dispute as to whether the appellants were in fact indebted to the respondent, and therefore whether they were entitled to bring

sequestration proceedings. As it is inappropriate to resolve a dispute as to the existence or otherwise of the debt, the Supreme Court of Appeal held the appellants prospects of obtaining a sequestration order were somewhat bleak, and took that factor into account in considering whether the high court had correctly granted the application for additional security. The court concluded that the high court had not erred, and dismissed the appeal with costs.

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