

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: 23 March 2018

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.

BMW Financial Services Ltd v Tabata

Mr Tabata disposed of his investment in the Vuwa Motor Group in 2007. It was a condition of the sale agreement that he be released from all guarantees or suretyships that he had executed on behalf of the group. There were three such suretyships in favour of BMW Financial Services. Mr Dixon, who dealt with the releases, wrote a letter to a Mr Steyn at BMW enclosing a copy of the sale agreement and asking for its requirements in order to secure Mr Tabata's release. He testified that in a follow up telephone conversation Mr Steyn told him that Mr Tabata had not executed any suretyships in favour of BMW. Mr Tabata accepted this and did nothing further to secure his release in relation to BMW.

When the Vuwa Motor Group went into liquidation BMW sued Mr Tabata as surety for its indebtedness to BMW. He defended the claim and pleaded that BMW was estopped from relying on the suretyships in view of the representation to him that it did not hold any. This defence was upheld by the High Court and the SCA today dismissed an appeal against that decision.