



**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: 28 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.

The National Consumer Commission

v

Univision Services Association NPC & others

The first to eleventh respondents are all entities who conduct business in the timeshare industry in a sector in which point-holders use their points to access accommodation at holiday resorts. Those who hold points become obliged to pay levies used to maintain and administer the various resorts.

The National Consumer Commission received hundreds of complaints from consumers relating to the first to eleventh respondents' advertising, marketing,

sale of points and collection of levies. These complainants alleged that their rights had been infringed, impaired or threaten and that the activities of the respondents constituted prohibited conduct as defined in the Consumer Protection Act 68 of 2008. Their complaints were investigated and the Commission decided to refer them to the National Consumer Tribunal established under s 26 of the National Credit Act 34 of 2005.

When the complaints were due to be heard by the Tribunal, a notice of withdrawal was filed by the Commission, apparently as a result of it feeling that certain procedural irregularities had taken place, and not because it viewed the complaints to be without merit. The first to eleventh respondents then asked for an order for cost against the Commission. The Tribunal decided that in the light of s 147 of the National Credit Act as read with certain of the regulations prescribed for matters before the Tribunal, it did not have the power to grant such an order. The aggrieved respondents took the matter on review to the High Court which concluded otherwise and issued an order directing that the matter be remitted to the Tribunal for it to consider the issue of costs.

On appeal against the order granted by the High Court, the Supreme Court of Appeal today decided that the Tribunal had been correct and the High Court had erred. It held that the manner in which the High Court had approached the matter effectively allowed the regulations to broaden the scope of the discretion imposed upon the High Court under s 147 and that, as that section precluded a cost order being issued in the circumstances which prevailed, namely that the reference to the Tribunal had been by the Commission, the Tribunal had not had the power to award costs.

The Supreme Court of Appeal therefore allowed the appeal, set aside the High Court's order and substituted it with an order dismissing the application to review the order of the Tribunal.