



## JUTA'S ADVANCE NOTIFICATION SERVICE

APRIL 2013

Dear *South African Law Reports* and *Criminal Law Reports* subscriber

Herewith the cases of interest in the April reports. Also included below are the table of cases and flynotes.

### JUDGMENTS OF INTEREST IN THE APRIL EDITIONS OF THE *SALR* AND THE *SACR*

#### *SOUTH AFRICAN LAW REPORTS*

##### **Remedy for oppressive conduct of holding company**

Under s 163 of the new Companies Act, the directors and shareholders sought to sever the ties between their company and a holding company that they claimed was involved in fraud relating to black economic empowerment, which conduct was prejudicing their interests and reasonable commercial expectations. *Peel and Others v Hamon J&C Engineering (Pty) Ltd and Others* 2013 (2) SA 331 (GSJ)

##### **Road accident payments and compensation for occupational injuries**

An undertaking by the Road Accident Fund in respect of future medical costs may not be made subject to provisions regarding the recovery of damages from third parties in the Compensation for Occupational Injuries Act. Doing so would require the plaintiff to do more than simply prove medical costs incurred. *Paterson NO v Road Accident Fund and Another* 2013 (2) SA 455 (ECP)

##### **Conveyancer's liability for losses caused by delayed transfer**

Conveyancers should be fastidious in the preparation of their documents, and when lodging documents must ensure that they meet the requirements of the deeds office at that time. The Supreme Court of Appeal looks at a case where transfer was delayed when the deeds office twice rejected mortgage-bond cancellation documentation as a result of mistakes in their preparation. *Margalit v Standard Bank of South Africa Ltd and Another* 2013 (2) SA 466 (SCA)

#### *SOUTH AFRICAN CRIMINAL LAW REPORTS*

##### **Deprived childhood not excusing multiple serious offences**

The accused had been raised by a single mother and had never known his father. He had clashed with the law from a young age and had been sent to a reform school. But none of this could sway his life sentences, because he had committed progressively more serious crimes, culminating in rape and murder. *S v Sape* 2013 (1) SACR 330 (GNP)

## **Implications of admission of guilt fine not explained**

A father paid his son's admission of guilt fine, to get him out of the police holding cells. The son was released, thinking that bail had been paid. Years later the son tried to travel overseas and found out that he had a criminal record. There was no documentation that the implications of the admission of guilt fine had been explained to him. An admission of guilt fine cannot be used as a bargaining tool by the police when asked to release a detainee. The conviction and fine were set aside. *S v Tong* 2013 (1) SACR 346 (WCC)

## **The bitter taste of smuggled abalone**

In a case of illegal trading in abalone, the state had to prove a pattern of racketeering activity, and relied on the interception of cellphone calls. These calls detailed the participation of the various accused in the smuggling enterprise, and added to the weight of evidence proving their direct involvement in the offences charged. *S v Roberts and Others* 2013 (1) SACR 369 (ECP)

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Kind Regards

**The Juta Law Reports Team**

# **SOUTH AFRICAN LAW REPORTS**

**APRIL 2013**

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### **LIVING HANDS (PTY) LTD AND ANOTHER v DITZ AND OTHERS (GSJ)**

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**Financial institution**—Duties—Fiduciary duty—Fiduciary duty of financial investment institution to its investors—Duty to prevent dissipation of invested funds—New owners of trust directing financial institution to liquidate trust's entire investment portfolio—Trust funds looted by new owners—Delictual, contractual and statutory liability of financial institution discussed—Having nonchalantly handed over funds in circumstances in which obliged not to expose them to unacceptable risk—Court dismissing exception to claim for damages by trustees.

**Prescription**—Pleading—Special plea appropriate—Exception inappropriate since plaintiff might wish to replicate and plead facts showing that prescription having been interrupted.

### **JDJ PROPERTIES CC AND ANOTHER v UMNGENI LOCAL MUNICIPALITY AND ANOTHER (SCA)**

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**APRIL 2013**

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**MINISTER OF SAFETY AND SECURITY AND ANOTHER v NDLOVU (SCA)**

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**S v RAGHUBAR (SCA)**

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**S v KOLEA (SCA)**

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