



JUTA'S ADVANCE NOTIFICATION SERVICE

AUGUST 2015

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

Herewith the cases in the August law reports.

JUDGMENTS OF INTEREST IN THE AUGUST EDITIONS OF THE *SALR*, *SACR* AND THE *NAMIBIAN LAW REPORTS 2015(2)*.

- ***Click on the case name to download the original judgment.***

SEE ALSO, FURTHER BELOW, THE TABLE OF CASES FOR *BURRELL'S INTELLECTUAL PROPERTY LAW REPORTS 2014* (AVAILABLE AT THE END AUGUST)

SOUTH AFRICAN LAW REPORTS

Ejecting the free speakers in Parliament

This case deals with whether certain provisions of the Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2000 violated the Constitution by allowing the arrest of members for what they say at sittings. *Democratic Alliance v Speaker of the National Assembly and Others* 2015 (4) SA 351 (WCC)

Wages when captured by pirates

The court deals with a claim for wages of a ship's crew for the time they spent being held hostage by Somali pirates, with an interesting convergence of Indian and South African law. *The Asphalt Venture: Windrush Intercontinental SA and Another v UACC Bergshav Tankers AS* 2015 (4) SA 381 (KZD)

Universal partnership and eviction

When a romantic relationship soured, a businessman attempted to evict the lady of his former affections, but she resisted. The court examines cohabitation and the requirements for universal partnership. *Steyn v Hasse and Another* 2015 (4) SA 405 (WCC)

SOUTH AFRICAN CRIMINAL LAW REPORTS

Different treatment for gang rape perpetrators

The court points out an anomaly, in the different sentencing treatment accorded to first participant to be convicted for participation in gang rape, to that of subsequent participants convicted. *S v Cock; S v Manuel* 2015 (2) SACR 115 (ECG)

Deliberate neglect of a child

Where a child is deliberately neglected, the Legislature has cast the offence net wide, to cover any person who may temporarily or partially and voluntarily be caring for the child. *S v JR and Another* 2015 (2) SACR 162 (GP)

Proper prosecution

The prosecution case cannot be presented by pouring out a jumble of random facts. A fair trial needs to be coherent and orderly. In matters as serious as rape charges, an active role for the investigating officer ought to be mandatory in terms of standard prosecutorial and police procedures. *S v Sebofi* 2015 (2) SACR 179 (GJ)

NAMIBIAN LAW REPORTS 2015(2)**Disciplinary hearing at school**

The hearing was unfair when the school board disallowed legal representation to a minor child during a disciplinary hearing, where the child faced serious charges of a criminal nature. The hearing was held in absentia after the child and his parents refused to attend without a legal practitioner. *JS and Another v Chairperson of the Internal Disciplinary Panel of the Windhoek International School and Others* 2015 (2) NR 352 (SC)

Judicial case management

The objectives of Judicial Case Management are discussed in this application for rescission of a judgment. Also raised is the need for the Supreme Court to clarify the different approaches by courts in dealing with factual disputes and the adequacy of explanations in rescission applications, compared to other interlocutory applications. *Katzao v Trustco Group International (Pty) Ltd and Another* 2015 (2) NR 402 (HC)

Retrenchment award

The employer failed to prove that the retrenchment was both substantively and procedurally fair, and the manner in which employee was retrenched justified a higher award. However, the award should not be aimed at punishing the employer or enriching the employee. *Novanam Ltd v Rinquest* 2015 (2) NR 447 (LC)

WE WELCOME YOUR FEEDBACK

Please send any comments or queries to lawreports@juta.co.za

Kind Regards

The Juta Law Reports Team

SOUTH AFRICAN LAW REPORTS

AUGUST 2015

TABLE OF CASES

- Absa Bank Ltd v Snyman 2015 (4) SA 329 (SCA)
- Knipe and Another v Noordman NO and Others 2015 (4) SA 338 (NCK)
- Democratic Alliance v Speaker of the National Assembly and Others 2015 (4) SA 351 (WCC)
- Absa Bank Ltd v Collier 2015 (4) SA 364 (WCC)
- Seleka and Others v Minister of Police and Others 2015 (4) SA 376 (LP)
- Windrush Intercontinental SA and Another v UACC Bergshav Tankers AS: *The Asphalt Venture* 2015 (4) SA 381 (KZD)
- Steyn v Hasse and Another 2015 (4) SA 405 (WCC)
- FirstRand Bank Ltd v Nkata 2015 (4) SA 417 (SCA)
- Rahim and Others v Minister of Home Affairs 2015 (4) SA 433 (SCA)
- Orestisolve (Pty) Ltd t/a Essa Investments v NDFT Investment Holdings (Pty) Ltd and Another 2015 (4) SA 449 (WCC)
- Absa Bank Ltd v Keet 2015 (4) SA 474 (SCA)
- Elias Mechanicos Building & Civil Engineering Contractors (Pty) Ltd v Stedone Developments (Pty) Ltd and Others 2015 (4) SA 485 (KZD)
- Sarrahwitz v Maritz NO and Another 2015 (4) SA 491 (CC)
- Primedia Broadcasting Ltd and Others v Speaker of the National Assembly and Others 2015 (4) SA 525 (WCC)
- ZA v Smith and Another 2015 (4) SA 574 (SCA)
- Mbatha and Others v Johannesburg City and Others 2015 (4) SA 591 (GJ)
- GB Mining and Exploration SA (Pty) Ltd v Commissioner, South African Revenue Service 2015 (4) SA 605 (SCA)
- One Stop Financial Services (Pty) Ltd v Neffensaan Ontwikkelings (Pty) Ltd and Another 2015 (4) SA 623 (WCC)

FLYNOTES

ABSA BANK LTD v SNYMAN (SCA)

BRAND JA, CACHALIA JA, SHONGWE JA, WALLIS JA and PETSE JA
2015 MAY 7, 20
[2015] ZASCA 67

Magistrates' court—Civil proceedings—Judgments—Superannuation—Occurs three years after judgment—Execution to be effected within those three years—Magistrates' Courts Act 32 of 1944, s 63.

KNIPE AND ANOTHER v NOORDMAN NO AND OTHERS (NCK)

MAMOSEBO AJ

2015 FEBRUARY 13; MARCH

Company—Winding-up—Liquidator—Provisional liquidator—Powers—Power to sell company assets after final liquidation order granted—Not curbed by supervening business rescue application—Interdict refused—Companies Act 61 of 1973, s 386(5); Companies Act 71 of 2008, s 131(6).

Company—Business rescue—Liquidation proceedings already initiated—Final liquidation order granted—Application for business rescue not suspending liquidation—Provisional liquidators may continue carrying out their functions—May apply to sell company assets—Companies Act 61 of 1973, s 386(5); Companies Act 71 of 2008, s 131(6).

DEMOCRATIC ALLIANCE v SPEAKER OF THE NATIONAL ASSEMBLY AND OTHERS (WCC)

LE GRANGE J, CLOETE J and BOQWANA J
2014 MARCH 16; MAY 12

Constitutional law—Legislation—Validity—Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2000, s 11—Arrest and removal of any person creating or joining disturbance during parliamentary, house or committee sittings—Provision violating Constitution by allowing arrest of members for what they may say at such sittings—Constitution, ss 58(1) and 71(1).

Parliament—Members—Privileges—Constitutional right to freedom from arrest for anything said in National Assembly or Council of Provinces or any of their committees—Violated by provision in s 11 of Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2000 allowing arrest and removal of any person for what they may say at such sittings—Constitution, ss 58(1) and 71(1).

ABSA BANK LTD v COLLIER (WCC)

VELDHUIZEN J, GAMBLE J and SAVAGE J
2015 JANUARY 30; MARCH 12

Insolvency—Act of insolvency—Failure to satisfy judgment debt or indicate sufficient disposable property to do so—Disposable property—Mortgaged property—Qualifying as disposable if judgment creditor holds first mortgage bond—Order of special execution not required—Insolvency Act 24 of 1936, s 8(b).

SELEKA AND OTHERS v MINISTER OF POLICE AND OTHERS (LP)

MAKGOBA J
2014 NOVEMBER 3, 8

Prescription—Extinctive prescription—Interruption—By service of process—Letter of demand or notice of intention to sue state—Neither constituting service of 'process' affecting running of prescription—Prescription Act 68 of 1969, s 15(1); Institution of Legal Proceedings against Certain Organs of State Act 40 of 2002, s 3.

WINDRUSH INTERCONTINENTAL SA AND ANOTHER v UACC BERGSHAV TANKERS AS THE ASPHALT VENTURE (KZD)

OLSEN J
2014 AUGUST 6; 2015 APRIL 9

Shipping—Admiralty law—Maritime lien—Seaman's lien for wages—Lien for wages for crew captured and abducted by pirates—Claim falling within scope of maritime lien for wages—Lien transferable by cession or assignment—Admiralty Jurisdiction Regulation Act 105 of 1983, s 1(1)(s).

STEYN v HASSE AND ANOTHER (WCC)

GOLIATH J and SCHIPPERS J
2014 MAY 9; AUGUST 15

Cohabitation—Rights—Reciprocal duty of support—Though none arising by operation of law, it may be regulated by agreement—Universal partnership may come into being—Requirements—Both parties must contribute or bind themselves to do so; it must be carried on for joint benefit of both parties; and object must be to make profit.

FIRSTRAND BANK LTD v NKATA (SCA)

MAYA JA, CACHALIA JA, MAJIEDT JA, WILLIS JA and SALDULKER JA
2015 MARCH 6, 26
[2015] ZASCA 44

Credit agreement—Consumer credit agreement—Reinstatement of agreement in default—Not possible after execution of court order enforcing agreement—Meaning of 'execution'—Sale in execution at public auction—National Credit Act 34 of 2005, s 129(4)(b).

RAHIM AND OTHERS v MINISTER OF HOME AFFAIRS (SCA)

NAVSA ADP, MAJIEDT JA, MBHA JA, ZONDI JA and MEYER AJA
2015 MAY 18, 29
[2015] ZASCA 92

Immigration—Illegal foreigners—Detention pending deportation—Place of detention—To be determined by director-general of Home Affairs—Determination need accord with international best practice and be publicly proclaimed—Immigration Act 13 of 2002, s 34(1).

ORESTISOLVE (PTY) LTD t/a ESSA INVESTMENTS v NDFT INVESTMENT HOLDINGS (PTY) LTD AND ANOTHER (WCC)

ROGERS J
2015 MAY 18, 28

Company—Winding-up—Application—By creditor—Abuse of process—Rule that court will refuse application as constituting abuse of process where company bona fide disputing debt on reasonable grounds (Badenhorst rule)—Ambit—Provisional and final stages—Burden of proof.

Company—Winding-up—Grounds—Inability to pay debts—Discretion of court to refuse winding-up—When it arises—Competing application for business rescue—Difference of opinion among creditors on need for liquidation—Company solvent and misguidedly but genuinely disputed applicant's claim—Companies Act 61 of 1973, s 345(1) read with s 344(h).

ABSA BANK LTD v KEET (SCA)

MAYA JA, BOSIELO JA, WALLIS JA, ZONDI JA and MEYER AJA
2015 MAY 11, 28
[2015] ZASCA 81

Prescription—Extinctive prescription—Debt—Claim for rei vindicatio not constituting debt—Accordingly, not prescribing after three years—Prescription Act 68 of 1969, s 10.

ELIAS MECHANICOS BUILDING & CIVIL ENGINEERING CONTRACTORS (PTY) LTD v STEDONE DEVELOPMENTS (PTY) LTD AND OTHERS (KZD)

PLOOS VAN AMSTEL J
2014 DECEMBER 9, 11

Company—Business rescue—Moratorium on legal proceedings against company—Leave to institute proceedings to be obtained before commencement of proceedings and not as part of relief in main application—Companies Act 71 of 2008, s 133(1)(b).

SARRAHWITZ v MARITZ NO AND ANOTHER (CC)

MOGOENG CJ, MOSENEKE DCJ, CAMERON J, FRONEMAN J, KHAMPEPE J, LEEUW AJ, MADLANGA J, NKABINDE J, TSHIQI AJ, VAN DER WESTHUIZEN J and ZONDO J
2014 NOVEMBER 10; 2015 JUNE 4
[2015] ZACC 14

Housing—Right to housing—Protection of vulnerable purchasers—Seller’s supervening insolvency—Statute failing to give cash purchasers same protection (right to transfer) as instalment purchasers—Statute amended to provide equal protection to all vulnerable purchasers in event of insolvency of seller—Alienation of Land Act 68 of 1981, s 21 and s 22.

PRIMEDIA BROADCASTING LTD AND OTHERS v SPEAKER OF THE NATIONAL ASSEMBLY AND OTHERS (WCC)

DLODLO J, HENNEY J and SAVAGE J
2015 APRIL 20; MAY 28

Parliament—Proceedings—Broadcasting—Limitations on broadcasting of unparliamentary conduct and grave disorder—Jamming of electronic signals during turmoil in Parliament—Invocation of parliamentary rules and policy—Constitutionality of such measures—Whether limitations reasonable and justifiable in open and democratic society—Constitution, ss 57(1), 59(1)(b), 70(1) and 72(1)(b).

ZA v SMITH AND ANOTHER (SCA)

BRAND JA, CACHALIA JA, PETSE JA, FOURIE AJA and MAYAT AJA
2015 MAY 11, 27
[2015] ZASCA 75

Delict—Elements—Unlawfulness or wrongfulness—Liability for omission—Failure to warn paying visitor to nature reserve of danger of slipping on ice concealed by snow and sliding over edge of gorge.

MBATHA AND OTHERS v JOHANNESBURG CITY AND OTHERS (GJ)

MOSHIDI J
2014 NOVEMBER 5; DECEMBER 5

Local authority—Housing—Temporary emergency accommodation—Municipality offering flood-affected residents of informal settlement temporary shelter in community hall—Facilities inadequate in circumstances—Temporary accommodation to be provided in terms of emergency housing programme contained in National Housing Code—Housing Act 107 of 1997, s 9(1).

GB MINING AND EXPLORATION SA (PTY) LTD v COMMISSIONER, SOUTH AFRICAN REVENUE SERVICE (SCA)

NAVSA JA, SHONGWE JA, THERON JA, WALLIS JA and SWAIN AJA
2014 MARCH 6, 28
[2014] ZASCA 29

Revenue—Assessment to tax—Objection—Whether competent if assessment based on incorrect information supplied by taxpayer—Burden of proof when objecting against such assessment—Income Tax Act 58 of 1992, s 81(1).

ONE STOP FINANCIAL SERVICES (PTY) LTD v NEFFENSAAN ONTWIKKELINGS (PTY) LTD AND ANOTHER (WCC)

ROGERS J
2015 JUNE 2, 17

Company—Contracts—Authority—Internal formalities—Presumption of compliance (Turquand rule)—Codification of rule in Act—Provision to be construed consistently with conventional scope of Turquand rule—Companies Act 71 of 2008, s 20(7).

Company—Contracts—Authority—Interplay between actual authority, ostensible authority, constructive notice of company articles to third parties, and Turquand rule—Turquand coming to outsider’s aid, subject to implications of constructive knowledge of articles, once he makes out case for ostensible authority—Companies Act 71 of 2008, s 20(7) not changing common law on ostensible authority.

SOUTH AFRICAN CRIMINAL LAW REPORTS

AUGUST 2015

TABLE OF CASES

- Director of Public Prosecutions, Western Cape v Parker 2015 (2) SACR 109 (SCA)
- S v Cock; S v Manuel 2015 (2) SACR 115 (ECG)
- S v Motsepe 2015 (2) SACR 125 (GP)
- Lapane v Minister of Police and Another 2015 (2) SACR 138 (LT)
- Ho t/a BetXchange and Another v Minister of Police and Others 2015 (2) SACR 147 (GJ)
- S v JR and Another 2015 (2) SACR 162 (GP)
- S v Sebofi 2015 (2) SACR 179 (GJ)
- S v Sehoole 2015 (2) SACR 196 (SCA)
- S v Maliga 2015 (2) SACR 202 (SCA)
- S v Grobler 2015 (2) SACR 210 (SCA)

FLYNOTES

DIRECTOR OF PUBLIC PROSECUTIONS, WESTERN CAPE v PARKER (SCA)

BRAND JA, SHONGWE JA, LEACH JA, PILLAY JA and WILLIS JA

2014 NOVEMBER 12, 21

[2014] ZASCA 223

Theft—What constitutes—Misappropriation of VAT—Whether misappropriation by VAT vendor of VAT collected on behalf of Sars sustaining charge of common-law theft—Value-Added Tax Act 89 of 1991, ss 28(1)(b) and 58.

S v COCK; S v MANUEL (ECG)

PICKERING J, PLASKET J and SMITH J

2015 JANUARY 30; FEBRUARY 3

Rape—Sentence—Life imprisonment—Minimum sentence in terms of Criminal Law Amendment Act 105 of 1997—Gang rape—Different treatment accorded to first participant to be convicted for participation in gang rape to that of subsequent participants convicted—Court pointing out anomaly but holding that it was bound by Supreme Court of Appeal authority—Sentence of life imprisonment imposed under prescribed minimum sentence legislation accordingly set aside but, in exercise of court's common-law discretion, new sentence of life imprisonment imposed.

S v MOTSEPE (GP)

MOLEFE J and JANSE VAN NIEUWENHUIZEN J

2014 OCTOBER 6; NOVEMBER 5

Defamation—Elements of offence—Unlawful and intentional publication of matter concerning another which tended to injure his or her reputation—Journalist appealing conviction of defamation—Published story defamatory of magistrate—Based on incorrect facts which journalist believed to be true—Lacking intention—Appeal succeeding.

Defamation—Whether offence consonant with Constitution—Various amici seeking to have common-law crime of defamation declared unconstitutional in regard to media—Not succeeding—Whilst existence of criminal defamation undoubtedly limited right to freedom of expression, such limitation was reasonable and justifiable in open and democratic society and was consistent with criteria laid down in s 36 of Constitution.

LAPANE v MINISTER OF POLICE AND ANOTHER (LT)

VICTOR J

2014 SEPTEMBER 20

Arrest—Without warrant—Further detention of accused—Constitutional duty on police officers and public prosecutors handling case to ascertain reasons for further detention—Such reasons or lack thereof to be placed before court—Housebreaking implements found 'near' plaintiff not justifiable reason—Acted mala fide—First and second defendants liable to plaintiff.

Prosecution—Prosecutor—Powers and duties of—Prosecutor unable to assist court to assess whether prosecution and detention were justified in circumstances—Housebreaking implements found 'near' plaintiff not justifiable reason to refuse bail—Aware that without proof of presence of implements conduct would amount to mala fides—Prosecutors did not apply their minds, rubber-stamped requests of first defendant—Acted mala fide—First and second defendants liable to plaintiff.

HO t/a BETXCHANGE AND ANOTHER v MINISTER OF POLICE AND OTHERS (GJ)

SUTHERLAND J

2014 OCTOBER 27; NOVEMBER 24

Search and seizure—Search warrant—Warrant issued in terms of Counterfeit Goods Act 37 of 1997—Founding papers—Application for copies of documents or statement that led to warrant being issued—Person entitled to such information as part of judicial oversight of state's intrusion into individual's privacy—Form of such application not necessarily by way of rule 53 review but any procedure that was orderly and conducive to expeditious litigation acceptable—Relief justified in order to take steps to protect dissemination of private information to prejudice of applicant.

S v JR AND ANOTHER (GP)

MNGQIBISA-THUSI J and RANCHOD J

2014 AUGUST 11; NOVEMBER 26

Child—Offences against—Deliberate neglect of a child—Ambit of section in respect of persons who may commit offence—Legislature having cast net wide and section covers any person who may even temporarily or partially and voluntarily be caring for the child—Children's Act 38 of 2005, s 305(3)(a).

Child—Offences against—Deliberate neglect of a child—Sentence—Biological mother of child treated more severely than actual abuser as she had greater responsibility to child—Children's Act 38 of 2005, s 305(3)(a).

Rape—Sentence—Rape of minor—Mother convicted as accessory after fact—Sentenced to seven years' imprisonment on this count—Mother's boyfriend, convicted of having raped child, sentenced to life imprisonment.

S v SEBOFI (GJ)

SUTHERLAND J and OPPERMAN AJ

2014 SEPTEMBER 15; OCTOBER 14

Police—Duties of—Duty to investigate—Police officer involved in investigation ought to appreciate that axiomatic line of enquiry was circumstances which might offer corroboration or throw suspicion on truth or accuracy of complaint—Similarly, any response by accused is relevant and must be taken seriously and investigated—Investigating officers should ideally participate in running and presentation of evidence to court and should be active in assisting prosecution.

Trial—The prosecution—Duties of—Presentation of evidence—Case cannot be presented by pouring out jumble of random facts—Fair trial needs to be coherent and orderly—In matters as serious as rape charge, active role for investigating officer ought to be mandatory in terms of standard prosecutorial and police procedures.

Appeal—Powers of court on appeal—Remittal to court a quo in terms of s 304(2)(c)(v) of Criminal Procedure Act 51 of 1977—Court not satisfied on appeal that fair trial had taken place and expressing no view on guilt or innocence of appellant—Highly relevant aspects not pursued in court a quo—Matter remitted and regional magistrate required to call for evidence in terms of s 167 and s 186 of CPA.

S v SEHOOLE (SCA)

NAVSA ADP, PILLAY JA, MBHA JA, SCHOEMAN AJA and DAMBUZA AJA

2014 SEPTEMBER 8, 29

[2014] ZASCA 155

Prosecuting authority—Prosecutor—Authority of—Charge—State having discretion regarding prosecution and pre-trial procedures and could decide inter alia whether or not to institute prosecution—No statutory provision compelling state to charge for more serious offence where more than one option.

Arms and ammunition—Unlawful possession of ammunition in contravention of s 90 of Firearms Control Act 60 of 2000—Proof that items are ammunition—Although ballistics report would provide proof, no authority compelling state to produce such evidence—Where ammunition had been found inside properly working firearm, it could be deduced to be ammunition related to firearm.

S v MALIGA (SCA)

BOSIELO JA, PILLAY JA and SCHOEMAN AJA
2014 SEPTEMBER 11; OCTOBER 1
[2014] ZASCA 161

Trial—Presiding officer—Duties of—Discharge of accused at end of state’s case—State not making out prima facie case—Presiding officer must raise this question mero motu, irrespective of whether accused represented or not.

Prosecuting authority—Prosecutor—Powers and duties of—Paramount duty of prosecutor not to secure conviction but to assist court to ascertain truth and dispense justice—Prosecutor has duty to alert court to possible inadmissibility of evidence that state wished to lead and in appropriate circumstances to request trial-within-a-trial in order to determine admissibility of statements.

S v GROBLER (SCA)

SALDULKER JA, PONNAN JA and DAMBUZA AJA
2014 SEPTEMBER 12, 26
[2014] ZASCA 147

Fraud—Sentence—Correctional supervision—Generally—Fraud committed by misrepresenting that investments were going into JSE listed company whereas misappropriated for himself—Sentence of three years’ correctional supervision with strict supervision regime, entailing community service, monitoring and house arrest, appropriate sentence where 13 years had elapsed since accused charged—Accused first offender with tertiary qualification who had at all times been economically active—Sentence appropriate.

THE NAMIBIAN LAW REPORTS

2015 (2)

TABLE OF CASES

- Heidrun Diekmann Interior Lifestyles CC v L&B Commercial Services (Pty) Ltd 2015 (2) NR 303 (SC)
- Mega Power Centre CC T/A Talisman Plant and Tool Hire v Talisman Franchise Operations (Pty) Ltd and Others 2015 (2) NR 315 (SC)
- Ellis and Others NNO v Noabeb 2015 (2) NR 325 (HC)
- Katjaimo v Katjaimo and Others 2015 (2) NR 340 (SC)
- JS and Another v Chairperson of the Internal Disciplinary Panel of the Windhoek International School and Others 2015 (2) NR 352 (SC)
- United Africa Group (Pty) Ltd v Chairperson of the Tender Board of Namibia and Others 2015 (2) NR 370 (SC)
- Lisse v Minister of Health and Social Services 2015 (2) NR 381 (SC)
- S v Kapuire 2015 (2) NR 394 (HC)
- Katzao v Trustco Group International (Pty) Ltd and Another 2015 (2) NR 402 (HC)
- Purity Manganese (Pty) Ltd v Katjivena and Others 2015 (2) NR 418 (LC)
- Tjingaete v Lakay NO and Others 2015 (2) NR 431 (HC)
- Novanam Ltd v Rinquest 2015 (2) NR 447 (LC)

- Namibia Bunker Services (Pty) Ltd v Ets Katanga Futur and Another 2015 (2) NR 461 (HC)
- Matador Enterprises (Pty) Ltd v Minister of Trade and Industry and Others 2015 (2) NR 477 (HC)
- Telecom Namibia Ltd v Nangolo and Others 2015 (2) NR 510 (SC)
- PH v SH 2015 (2) NR 519 (HC)
- Meroro v Minister of Lands, Resettlement and Rehabilitation and Others 2015 (2) NR 526 (SC)
- Balzer v Vries 2015 (2) NR 547 (SC)
- S v Libongani 2015 (2) NR 555 (SC)
- Mwashekele v Prosecutor-General 2015 (2) NR 564 (HC)
- Maletzky and Others v The Electoral Commission of Namibia and Others 2015 (2) NR 571 (HC)
- National Housing Enterprise v Beukes and Others 2015 (2) NR 577 (SC)
- Gunchab Farming CC and Another v Barnard and Another 2015 (2) NR 587 (HC)

FLYNOTES

HEIDRUN DIEKMANN INTERIOR LIFESTYLES CC v L&B COMMERCIAL SERVICES (PTY) LTD (SC)

SHIVUTE CJ, MARITZ JA and MTAMBANENGWE AJA
2014 MARCH 26; NOVEMBER 3
[2014] NASC 20

Principal and agent—Creation of relationship—Whether party acting as agent for another in concluding contract—Party making offer (quotation) in which provision made for payment of design fee to third party—Offer submitted in offeror’s own name and acceptance thereof by offeree resulting in conclusion of contract by offeror and offeree only—Contract not concluded by offeror as agent acting on behalf of third party.

Contract—Parties—Contract for benefit of third party—Offer (quotation) containing provision for payment of a benefit (design fee) to third party (H)—Offer accepted on basis that third party was H—Action by close corporation of which H the sole member for payment of benefit dismissed—Close corporation not third party provided for in contract.

MEGA POWER CENTRE CC t/a TALISMAN PLANT AND TOOL HIRE v TALISMAN FRANCHISE OPERATIONS (PTY) LTD AND OTHERS (SC)

DAMASEB AJA, ZIYAMBI AJA and GARWE AJA
2014 JULY 10; SEPTEMBER 25; DECEMBER 18
[2014] NASC 27

Intellectual property—Passing off—Remedies—Damages—Once passing off proved, damages are presumed—Nominal damages can be recovered even where no damages proved—No requirement for proof of damages once passing off established.

Intellectual property—Passing off—Remedies—Interim interdict—Such interdict generally the remedy applied for in passing off cases—No other remedy affording necessary protection to person who is victim of passing off pending resolution of dispute between parties.

ELLIS AND OTHERS NNO v NOABEB (HC)

SMUTS J
2014 FEBRUARY 24; MARCH 12
[2014] NAHCMD 81

Trust and trustee—Trust—Validity—Sale of immovable property structured as agreement whereby trustees, in return for payment of amount of money, replaced by sole trustee who was to become sole trustee and sole beneficiary when payment consideration paid—Sole trustee cannot become sole beneficiary—Such inimical to entire notion of trust—Such resulting in failure of trust.

Contract—Legality—Illegal contract—Contract in fraudem legis—Sale of immovable property structured as agreement whereby trustees, in return for payment of amount of money, replaced by sole trustee who was to become sole trustee and sole beneficiary when payment

consideration paid—Effect of such agreement that transfer duty in terms of Transfer Duty Act 14 of 1993 not payable—Scheme clearly at least anomalous and ‘exudes an air of unreality’ to extent that trust failed as it expressly contemplated that ‘purchaser’ was to become sole trustee and sole beneficiary—Agreement to be regarded as simulated for purpose of evading payment of transfer duty under Transfer Duty Act—Agreement a nullity.

KATJAIMO v KATJAIMO AND OTHERS (SC)

DAMASEB DCJ, MARITZ JA and HOFF AJA
2014 NOVEMBER 3; DECEMBER 12

Appeal—Lapsed appeal—Reinstatement—Appeal had lapsed in terms of rule 5(5)(b) of Supreme Court Rules—Upon lapsing of appeal application for postponement of appeal became inept.

Appeal—Condonation—Late filing of record and filing incomplete record—Application for postponement of condonation and reinstatement of appeal—To enable appellant to file complete record—Persuasive explanation required in applying for postponement—When postponements granted for which there is no reasonable explanation it undermines public confidence in the administration of justice.

Costs—De bonis propriis—When to be awarded—Legal practitioner’s dereliction of duty, unpreparedness and inexcusable delay—Practitioner’s misconduct could not be attributed to litigant personally—Punitive costs order—Costs on scale as between legal practitioner and own client against appellant’s instructing legal practitioner.

JS AND ANOTHER v CHAIRPERSON OF THE INTERNAL DISCIPLINARY PANEL OF THE WINDHOEK INTERNATIONAL SCHOOL AND OTHERS (SC)

MARITZ JA, MAINGA JA and HOFF AJA
2014 OCTOBER 31; DECEMBER 12

School and school board—Learners—Misconduct—Disciplinary proceedings—Right to legal representation—School board disallowed legal representation to minor child during disciplinary hearing where child faced serious charges of criminal nature—Hearing was held in absentia after child and his parents refused to attend hearing without legal practitioner—Hearing unfair.

School and school board—Learners—Misconduct—Disciplinary proceedings—Right to legal representation—School policy providing for administrative due process for students, including right to have someone assist them in representation of their case—Word ‘someone’ not defined—School board had no discretion to limit representation for minor child to only his parents or school official.

School and school board—Learners—Misconduct—Disciplinary proceedings—Right to legal representation—Waiver of—Waiver not raised by respondents in their opposing affidavits or advanced in argument—Court a quo misdirected itself in finding that parents of minor waived their right to legal representation.

UNITED AFRICA GROUP (PTY) LTD v CHAIRPERSON OF THE TENDER BOARD OF NAMIBIA AND OTHERS (SC)

MARITZ JA, MAINGA JA and MTAMBANENGWE AJA
2013 MARCH 6; 2014 NOVEMBER 11

Review—Tender—Award—Guarantee—Terms and conditions of tender stipulated that letter of good standing and written guarantee from a bank will be required—Guarantees conditional upon successful award of tender—Tender committee not allowed to add new terms and require of tenderers to submit further written guarantees after submission of tenders—In terms of tender document required bank guarantee must be submitted by successful tenderer upon being awarded tender or when called upon to do so by tender board.

Review—Tender—Award—Tender price—Generally lowest tender must be accepted—In this matter tender board giving effect to price preference policy to redress social, economic and educational imbalances in terms of ss 15(5) and (6) of Tender Board of Namibia Act 16 of 1996.

LISSE v MINISTER OF HEALTH AND SOCIAL SERVICES (SC)

MARITZ AJ, STRYDOM AJA and O’REGAN AJA

2011 JUNE 21; 2014 DECEMBER 2014

Prescription—Extinctive prescription—Interruption of—By service of process—Prior litigation—Judicial review proceedings successfully instituted prior to damages claim—Whether review proceedings part of process in damages claim—Answer in affirmative—Hence interrupting running of prescription against damages claim—Prescription Act 68 of 1969, s 15(1) and 15(4).

S v KAPUIRE (HC)

NDAUENDAPO J and LIEBENBERG J
2014 JULY 25; SEPTEMBER 29
[2014] NAHCMD 285

Criminal procedure—Appeal—Notice of appeal—Grounds of appeal—Failure to properly set out grounds of appeal—Grounds of appeal provided were conclusions drawn by appellant and without merit—Magistrates' Courts Rule 67(1).

Criminal procedure—Appeal—Notice of appeal—Late filing of—Appellant failing to provide adequate reasons for late filing of notice and failing to show that there were prospects of success on appeal—Condonation nevertheless granted to enable court to interfere with sentence—Sentence on second count increased.

Criminal procedure—Appeal—Powers of court on appeal—Increase of sentence—Assault with intent to do grievous bodily harm—Sentence disproportionate to gravity of offence and disturbingly lenient—Sentence increased to three years' imprisonment—Criminal Procedure Act 51 of 1977, s 304(2).

KATZAO v TRUSTCO GROUP INTERNATIONAL (PTY) LTD AND ANOTHER (HC)

SMUTS J
2014 MAY 16; JUNE 4
[2014] NACHMD 175

Practice—Judicial case management—Objectives restated—Rescission of judgment—Application for relief from adverse consequences resulting from failure to comply with directions and orders—Applicant grossly negligent in his approach to his case and failing to establish reasonable and acceptable explanation for his default, even more so, taking into account objectives of judicial case management and obligations of parties and their legal representatives.

Practice—Judgments and orders—Rescission—Approach to determination of factual disputes and adequacy of explanation—Probabilities do not favour applicant—Semble: Need for different approaches by courts dealing with factual disputes and adequacy of explanation in rescission applications, compared to other interlocutory applications, requiring clarification by Supreme Court.

PURITY MANGANESE (PTY) LTD v KATJIVENA AND OTHERS (LC)

SMUTS J
2014 JANUARY 23; FEBRUARY 26
[2014] NALCMD 10

Labour law—Labour dispute—Conciliation and Arbitration—Referral for—Rules requiring referral document be signed by referral party—Form not signed by referral party—Referral party's participation in conciliation process and thereafter in arbitration amounted to ratification of referral—Despite use of word 'must' in rules, failure to sign referral form where there had already been participation in conciliation, had not resulted in award being nullity—Rules Relating to Conduct of Conciliation and Arbitration before Labour Commissioner, rules 5 and 14(2).

TJINGAETE v LAKAY NO AND OTHERS (HC)

SMUTS J
2014 MAY 21; JUNE 11
[2014] NAHCMD 178

Customary law—Succession—Intestate succession—Adoption in terms of Herero customary law—Evidence needs to be tendered to establish customary law and customs in question—No evidence was tendered—Applicant’s assertion of his right to succeed appeared to be based upon document setting out testamentary intention of deceased as being recognised under customary law rather than his adoption being accepted for purposes of intestate succession.

Administration of estates—Intestate succession—Heirs—Adopted child under common law—Only adoption under applicable legislation which was equivalent to blood relationships was recognised—Blood relationships under common law would determine intestate succession under common law—Applicant not intestate heir of deceased on this basis.

Administration of estates—Intestate succession—Heirs—Applicant, in his capacity as nephew of deceased was intestate heir by representation—Applicant never filed next-of-kin statement and inventory with master and as result failed to disclose prima facie right to relief sought.

Practice—Applications and motions—Ex parte applications—Applicant required to make full and proper disclosure to court and owed duty of utmost good faith to court—Non-disclosure of material facts in founding affidavit—Rule nisi also discharged for this reason.

NOVANAM LTD v RINQUEST (LC)

UEITELE J

2013 MARCH 8; 2014 AUGUST 22

[2014] NALCMD 35

Labour law—Appeal—Questions of law—Labour Act making provision for appeal against arbitrator’s award on questions of law only—Issue whether or not employee mitigated his losses was question of fact rather than law—Employer could not appeal on that ground—Arbitrator’s calculation of employee’s leave days was question of fact, but monetary value was question of law—Arbitrator erred in law by making incorrect calculation resulting in incorrect award, which stood to be reduced—Labour Act 11 of 2007, ss 86 and 89(1)(a).

Labour law—Dismissal—Unfair dismissal—Compensation—Arbitrator to award amount of compensation as he considers reasonable, fair and equitable—Award should not be aimed at punishing employer or enriching employee—Arbitrator’s award was not punitive but justified on basis of manner on which employment was terminated.

Labour law—Retrenchment—Severance allowance—Provision in Labour Act not precluding court from ordering employer to pay more than statutory minimum in appropriate circumstances—Employer failing to prove that retrenchment was both substantively and procedurally fair—Circumstances and manner in which employee was retrenched justifying higher award—Labour Act 11 of 2007, s 35(1) and (3).

NAMIBIA BUNKER SERVICES (PTY) LTD v ETS KATANGA FUTUR AND ANOTHER (HC)

VAN NIEKERK J

2010 MAY 5; 2014 JUNE 23

[2014] NAHCMD 197

Practice—Applications and motions—Ex parte application—Rule nisi granted—Anticipation of return date—When rule nisi may be anticipated—Rule 6(8) of High Court Rules intended to come to aid of litigant taken by surprise by order granted ex parte—If party agreed to extension of return date it cannot thereafter anticipate return date.

Court—Jurisdiction—Attachment to found or confirm jurisdiction—Incola plaintiff to attach property of peregrinus to confirm jurisdiction even if court had jurisdiction based thereon that cause of action arose within court’s jurisdiction.

Court—Jurisdiction—Attachment to found or confirm jurisdiction—Onus of proof of ownership—Property sought to be attached must be that of respondent—Onus was on applicant to establish on balance of probabilities that respondent was owner or had some other attachable interest in property—Applicant, relying on hearsay evidence, failed to prove that respondent was owner—Rule nisi discharged.

MATADOR ENTERPRISES (PTY) LTD v MINISTER OF TRADE AND INDUSTRY AND OTHERS (HC)

SMUTS J

2014 MARCH 14, 25; MAY 16

[2014] NACHMD 156

Statute—Repeal of—Earlier legislation—Import and Export Control Act 30 of 1994 did not expressly or by implication repeal Control of Importation of Dairy Products and Dairy Products Substitutes Act 5 of 1986—Latter Act continued to apply to dairy products—Since incorrect legislation having been invoked, decision embodied in notice fell to be set aside.

Administrative law—Administrative action—Validity—Functionary abdicating statutory obligations to exercise his decision-making functions—Functionary requesting cabinet to make decision to impose restrictions upon import of dairy products into Namibia—Cabinet instructing functionary to publish notice containing restrictions—Notice invalid.

Administrative law—Review—Right to fair administrative justice—Review of administrative decision—Incumbent on minister to apply his mind—Failure of minister to apply his mind and failure to give reasons for decision—Evidence tendered by permanent secretary on behalf of minister amounting to inadmissible hearsay evidence—Notice set aside.

Administrative law—Review—Right to fair administrative justice—Minister must observe audi alteram partem principle—Non-disclosure by minister that cabinet had already taken decision on matter, lacked transparency and adversely impacted upon rights of applicant companies to be heard.

TELECOM NAMIBIA LTD v NANGOLO AND OTHERS (SC)

MAINGA JA, MTAMBANENGWE AJA and HOFF AJA

2014 JUNE 23; NOVEMBER 25

[2014] NASC 23

Labour Court—Appeal—Condonation—Late filing of notice of appeal—Noting of appeal outside 30-day period—Delay in this matter extending beyond delay to file condonation application; delay in conduct of appellant's senior officials and legal representatives and delay in initiation of condonation application were also relevant factors—Court a quo's findings on question of explanation for delays could not be faulted and as result court did not have to express any views on appellant's prospects of success—Contravening factors overwhelmingly militated against granting condonation—Appeal dismissed—Labour Act 11 of 2007, s 89(2) and Labour Court Rules, rule 17.

Labour Court—Appeal—Notice of appeal—Grounds of appeal—If allegations made in grounds of appeal were correct and common cause, they should have been raised in limine before arbitrator and not ex post facto as appellant purported to do.

Practice—Service—What constitutes—Arbitration award was not served on appellant but was collected by appellant's employee at office of Labour Commissioner—Award did not contain notice informing parties of their right of appeal—Appellant had established legal department, manned by lawyers—Omission of mentioning right of appeal in award was in circumstances inconsequential.

PH v SH (HC)

UEITELE J

2014 NOVEMBER 7

[2014] NAHCMD 340

Practice—Judgments and orders—Rescission—Restitution order—Order erroneously sought in absence of defendant—High Court Rule 103(1)(a) applicable to restitution orders which are interlocutory in nature.

Practice—Irregular proceedings—Rule 30 of High Court Rules—Restitution of conjugal rights—Notice to defend—No address provided within radius of eight kilometres from court—Notice not void but irregular—Irregular proceeding cannot be ignored and must be set aside.

MERORO v MINISTER OF LANDS, RESETTLEMENT AND REHABILITATION AND OTHERS (SC)

MARITZ JA, CHOMBA AJA and MTAMBANENGWE AJA

2009 JUNE 12; 2015 APRIL 2

Land—Agricultural land—Lease of—A 99-year leasehold—Assignment of lease upon death of lessee—Executrix may assign lease to any person approved by Minister of Lands,

Resettlement and Rehabilitation upon recommendation by Land Reform Advisory Commission—Executrix failed to assign lease to person—Minister acted ultra vires his powers when he approved allocation of right to lease property to executrix, purportedly upon commission's recommendation—Agricultural (Commercial) Land Reform Act 6 of 1995, s 53(1).

Land—Agricultural land—Lease of—A 99-year leasehold—Executrix and family requested and authorised Minister of Lands, Resettlement and Rehabilitation to register and transfer farm to them—Agricultural (Commercial) Land Reform Act 6 of 1995 contemplating assignment of remainder of lease to person and not registration and transfer of ownership.

Practice—Applications and motions—Motion proceedings—Relief sought by applicant as formulated in notice of motion determining cause and evidence required to be presented and informing respondent of case to meet—Court a quo granting orders not sought by any party to proceedings—Orders irregular and unsustainable.

Administration of estates—Executor—Duties of—Intestate succession—Whether Land Reform Advisory Commission's failure to direct that appellant's application for resettlement on farm should be brought to attention of executrix for her to determine to whom she was going to assign lease invalidated commission's decision—Referral would not have assisted executrix in determining which beneficiary would be entitled to assignment of lease according to principles of law of intestate succession.

Administration of estates—Executor—Duties of—Intestate succession—Executor's decision to assign lease to particular person was not informed by 'suitability' of assignee under Agricultural (Commercial) Land Reform Act 6 of 1995 but by person's legal right to such assignment on applicable principles and provisions of law of succession.

Administration of estates—Executor—Duties of—Supervising authority—Any complaint about administration, liquidation or distribution of estate by executrix (which would include assignment of lease to herself), had to be lodged with magistrate or master, and not with Minister of Lands, Resettlement and Rehabilitation—Not knowing whether facts and submissions advanced in application for resettlement were in law relevant to assignment, there was no duty on Land Reform Advisory Commission to refer application to executrix.

BALZER v VRIES (SC)

MAINGA JA, SMUTS JA and O'REGAN AJA

2015 MARCH 6, 17

[2015] NASC 8

Appeal—Condonation—Late filing of notice of appeal—Requirements for condonation restated—Eight-month delay—Weighty and cogent explanation called for—Explanation for delay unsatisfactory and not credible—Application dismissed for this reason alone.

Appeal—Leave to appeal—Interlocutory matters—Leave of High Court required—Leave to appeal neither applied for nor granted—Matter struck from roll—High Court Act 16 of 1990, s 18(3).

S v LIBONGANI (SC)

DAMASEB DCJ, MAINGA JA and HOFF AJA

2014 OCTOBER 29; 2015 MARCH 18

[2015] NASC 5

Criminal procedure—Charge—Formulation—Charge sheet lacking particularity—Mere mention of s 2(1)(a) of Combating of Rape Act 8 of 2000 read with s 94 of Criminal Procedure Act 51 of 1977 insufficient for unrepresented accused—Requiring allegation that rape occurred on divers occasions.

Criminal law—Rape—Sentence—Combating of Rape Act 8 of 2000—Aggravating and mitigating circumstances—Magistrate failed to evaluate seriousness of crime in light of aggravating circumstances—Crime called imperatively for most extreme punishment, in excess of minimum prescribed sentence.

MWASHEKELE v PROSECUTOR-GENERAL (HC)

PARKER AJ

2014 OCTOBER 8; NOVEMBER 20

[2014] NAHCMD 349

Criminal procedure—Organised crime—Preservation order—Failure to comply with time period prescribed in s 52(4) of Preservation of Organised Crime Act 29 of 2004—Application for condonation in terms of s 60(1) of Act lodged out of time—Court did not have inherent power of condoning non-compliance with further time period stipulated in s 60(1).

MALETZKY AND OTHERS v ELECTORAL COMMISSION OF NAMIBIA AND OTHERS (HC)

MILLER AJ

2014 NOVEMBER 25, 26

[2014] NAHCMD 365

Constitutional law—Legislation—Constitutionality of—Electoral Act 5 of 2014, s 209(2)—Powers of Minister of Local Government and Housing did not conflate functions of legislature and those of executive—Power to determine when legislation should come into operation was vested in branch of executive dealing with legislation.

Election law—Elections—Validity of—Use of electronic voting machines—No impact upon voters' constitutional right to vote.

Court—Jurisdiction—High Court—Election-related matters—These matters fell within jurisdiction of Electoral Court and not High Court.

NATIONAL HOUSING ENTERPRISE v BEUKES AND OTHERS (SC)

MAINGA JA, ZIYAMBI AJA and GARWE AJA

2014 JULY 8; 2015 MARCH 2

[2015] NASC 3

Court—Jurisdiction—Labour Court—Creature of statute and had no inherent jurisdiction to intervene in untermiated proceedings of District Labour Court—Provisions of Labour Act 11 of 2007 did not authorise Labour Court to intervene in proceedings pending before District Labour Court or to make order for provision of security for costs in such proceedings.

GUNCHAB FARMING CC AND ANOTHER v BARNARD AND ANOTHER (HC)

VAN NIEKERK J

2012 APRIL 5; 2014 NOVEMBER 14

[2014] NAHCMD 345

Practice—Pleadings—Exception—Late filing of exception to plea—Plaintiffs ipso facto barred from delivering further pleadings in terms of High Court Rules 25(1) and 26—Not peremptory for defendants to adopt rule 30 procedure—Defendants entitled to raise objection by way of point in limine.

Sale—Land—Agricultural land—Donation of agricultural land without certificate of waiver and transfer of member's interest in close corporation, not prohibited by s 17 of Agricultural (Commercial) Land Reform Act 6 1995—Agricultural (Commercial) Land Reform Amendment Act 13 of 2002 expressly amended meaning of 'alienate' to include 'donate' and amended s 17 to include sale of member's interest rendering such transactions illegal.

BURRELL'S INTELLECTUAL PROPERTY LAW REPORTS

2014

TABLE OF CASES

- Adams & Adams Attorneys and Another v Pointer Fashion International CC and Others 2014 BIP 176 (SCA)
- Adcock Ingram Intellectual Property (Pty) Ltd and Another v Actor Holdings (Pty) Ltd 2014 BIP 191 (GP)
- Aloe Vera of America Inc v Tiasho Pharmaceutical Co Ltd 2014 BIP 166 (GP)
- Balenciaga SA v Shorty's Family Trust 2014 BIP 180 (GP)

- BASF Agro BV Arnhem (NL) Wädenswill Branch v Tsunami Crop Care (Pty) Ltd and Others. 2014 BIP 4 (CP)
- Bayer Pharma AG v Pharma Dynamics (Pty) Ltd 2014 BIP 87 (SCA)
- Boost Sports Africa (Pty) Ltd v South African Breweries Ltd 2014 BIP 499 (GP)
- Brown v Edcon Ltd. 2014 BIP 185 (GP)
- Chespak (Pty) Ltd v MCG Industries (Pty) Ltd 2014 BIP 465 (GP)
- Cipla Agrimed (Pty) Ltd v Merck Sharp Dohme Group and Another 2014 BIP 27 (CP)
- Cipla Medpro (Pty) Ltd v Société Des Produits Nestlé SA. 2014 BIP 146 (GP)
- CK3 LLC v Sun Mark Ltd and Another 2014 BIP 283 (GP)
- Cochrane Steel Products (Pty) Ltd v M-Systems Group (Pty) Ltd and Another 2014 BIP 248 (GJ)
- Discovery Holdings Ltd v Sanlam Ltd and Others 2014 BIP 210 (WCC)
- Etraction (Pty) Ltd v Tyrecor (Pty) Ltd 2014 BIP 127 (WCC)
- Firstrand Bank Ltd v First Central Insurance Ltd and Another 2014 BIP 137 (GP)
- Fuchs Petrolub AG v Castrol Ltd and Another 2014 BIP 302 (GP)
- Impala Platinum Holdings Ltd v Impala Warehousing and Logistics Africa (Pty) Ltd and Another 2014 BIP 349 (GJ)
- Lucky Star Ltd v Lucky Brands (Pty) Ltd and Others 2014 BIP 381 (WCC)
- Marine 3 Technologies Holdings (Pty) Ltd v Afrigroup Investments (Pty) Ltd and Another 2014 BIP 104 (SCA)
- Mega Power Centre CC t/a Talisman Plant and Tool Hire v Talisman Franchise Operations (Pty) Ltd and Others 2014 BIP 547 (NmS)
- Merial and Others v Cipla Vet (Pty) Ltd 2014 BIP 42 (CP)
- Multichoice South Africa (Pty) Ltd v Barron and Another 2014 BIP 121 (CP)
- National Association of Broadcasters v South African Music Performance Rights Association and Another 2014 BIP 405 (SCA)
- National Soccer League t/a Premier Soccer League v Gidani (Pty) Ltd 2014 BIP 426 (GJ)
- Pharma Dynamics (Pty) Ltd v Bayer Pharma AG and Another 2014 BIP 69 (SCA)
- Philip Morris Brands SARL vNV Sumatra Tobacco Trading Co and Another 2014 BIP 265 (GP)
- Pioneer Foods (Pty) Ltd v Bothaville Milling (Pty) Ltd 2014 BIP 486 (SCA)
- Piquante Brands International (Pty) Ltd and Another v Dinnermates (Tvl) CC 2014 BIP 274 (GP)
- Reynolds Presto Products Inc t/a Presto Products Co v PRS Mediterranean Ltd and Another 2014 BIP 152 (GP)
- Roodezandt Ko-operatiewe Wynmakery Ltd v Robertson Winery (Pty) Ltd and Another 2014 BIP 294 (SCA)
- Sasol Dyno Nobel (Pty) Ltd v Master Blaster (Pty) Ltd and Another 2014 BIP 114 (CP)
- Shezi Industrial Holdings (Pty) Ltd v Feltex Holdings (Pty) Ltd 2014 BIP 1 (CP)
- Shimansky and Another v Browns the Diamond Store (Pty) Ltd 2014 BIP 341 (SCA)
- Shimansky and Another v Forman and Another 2014 BIP 476 (GJ)
- Société Des Produits Nestlé SA and Another v International Foodstuffs Co and Others 2014 BIP 317 (SCA)
- Southern African Institute of Chartered Secretaries and Administrators v Careers-In-Sync CC 2014 BIP 528 (GJ)
- Strix Ltd v Nu-World Industries (Pty) Ltd 2014 BIP 36 (CP)
- Unilever PLC v Kemtek (Pty) Ltd 2014 BIP 195 (GP)
- Van Zyl and Another v Meat Matrix Software (Pty) Ltd and Another 2014 BIP 461 (GJ)
- Vodacom (Pty) Ltd v Registrar of Patents and Another 2014 BIP 99 (CP)