

THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA
MEDIA STATEMENT – CASE HEARING IN SUPREME COURT OF APPEAL

FirstRand Bank Limited v Nedbank (Swaziland) Limited

Supreme Court of Appeal -01/03

Hearing date: 23 March 2004

Judgment date: 30 March 2004

Special plea of prescription - amendment of particulars of claim - different rights of action - prescription not interrupted.

Media Summary of Judgment

From : The Registrar, Supreme Court of Appeal

Date: 30 March 2004

Status: Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

On 30 th March 2004 in *Firststrand Bank Ltd v Nedbank (Swaziland) Ltd* the Supreme Court of Appeal upheld an appeal against a decision of the High Court, Johannesburg, which had dismissed a special plea that Nedbank's claim founded on unjust enrichment had prescribed.

Summons was served on Firststrand Bank on 20 July 2000. On 26 June 2001 and after the period of prescription had elapsed, Nedbank amended its particulars of claim to allege that it no longer sued as a cessionary of a claim of one of its clients but in its own right as the actual party at whose expense Firststrand Bank had allegedly been unjustly enriched.

The Supreme Court of Appeal held that the amendment involved the introduction of a different right of action so that the running of prescription had not been interrupted by the service of summons on Firststrand Bank on 20 July 2000.