

In the Supreme Court of Appeal of South Africa

MEDIA SUMMARY –

**ANDRIES FREDERICK DREYER NO
LOUISE DREYER NO**

**FIRST APPELLANT
SECOND APPELLANT**

and

AXZS INDUSTRIES (PTY) LTD

RESPONDENT

From: The Registrar, Supreme Court of Appeal

Date: 2005-09-26

Status: Immediate

(1) The respondent obtained judgment against Mr and Mrs Dreyer, as the trustees of two trusts, in the Johannesburg High Court for the delivery of certain movable equipment used in the furniture manufacturing industry. On 26 September 2005 an appeal against that judgment was upheld by the Supreme Court of Appeal.

(2) The respondent's case was that it obtained ownership of the equipment at the auction sale of a company in liquidation. The respondent conceded that the equipment was not included amongst the items listed in the written conditions of the auction sale. It contended, however, that it had orally agreed with the provisional liquidators of the company, prior to the auction, that the equipment would be part of the sale. The representative of the provisional liquidators, Mr Leon Vermeulen, denied that such an oral agreement was ever concluded.

(3) With reference to these two mutually destructive versions, the High Court preferred the evidence of the respondent's witnesses to that of Vermeulen. This credibility finding constituted the essential basis for its judgment. On appeal the SCA, however, held that:

- a) The High Court's credibility findings could not be sustained, and
- b) Even on the respondent's version of the facts, Vermeulen had neither the authority nor the intention to pass transfer of ownership in the equipment to the respondent.

For these reasons, the judgment of the High Court was set aside.