



**THE SUPREME COURT OF APPEAL OF SOUTH AFRICA  
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME  
COURT OF APPEAL**

**FROM** The Registrar, Supreme Court of Appeal

**DATE** 11 September 2020

**STATUS** Immediate

***Please note that the media summary is for the benefit of the media and does not form part of the judgment.***

*Van Meyeren v Cloete* (636/2019) [2020] ZASCA 100 (11 September 2020)

The SCA today dismissed an appeal by Mr van Meyeren against a finding by the Eastern Cape Division of the High Court, Port Elizabeth that he was liable to compensate Mr Cloete for injuries suffered by him when set upon by Mr van Meyeren's three dogs in the street outside Mr van Meyeren's house in Port Elizabeth. Mr Cloete, an itinerant gardener and refuse collector, was on his way to the shops pulling his trolley, when he was attacked without any warning or reason by the dogs. His injuries were serious and resulted in the loss of his left arm.

Mr van Meyeren and his family were not home at the time of the attack. The basis for the defence to the claim was that the dogs had been locked inside the property, but an intruder must have endeavoured to gain access through a locked gate, broken both padlocks fastening it and either left the gate open or in a state where the dogs could open it. The case was argued on the basis that this was in fact what had occurred.

Mr Cloete's claim was based upon the legal principle dating back to the Roman Law that the owner of a domesticated animal is ordinarily held strictly liable for

harm caused by that animal. The injured party does not have to prove negligence on their part. There are three recognised defences to such a claim, namely that the injured party was in a place where they had no right to be; that the animal was provoked either by the injured party or a third party; and that custody and control of the animal has passed to a third party who negligently failed to prevent the animal from causing the harm. Mr van Meyeren's argument that these defences should be extended to include any situation where the harm was caused by negligence on the part of any third party was rejected by the court. It held that constitutional norms did not justify such an extension. Where harm is caused by a domesticated animal, it is in principle appropriate that responsibility for that harm rests with the owner of the animal and not the injured party.