

# **SUPREME COURT OF APPEAL OF SOUTH AFRICA**

## **MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL**

### **LINDERT HANEKOM AND BUILDERS MARKET KLERKSDORP (PTY) LTD AND OTHERS CASE NO 63/05**

**From: The Registrar, Supreme Court of Appeal**

**Date: 2 March 2006**

**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***

The Supreme Court of Appeal today dismissed the appeal of Mr Lindert Hanekom who had sought to have a suretyship signed by him on behalf of a close corporation declared invalid in terms of s 52 of the Close Corporations Act. The section provides that if a member of a CC signs a suretyship on behalf of that CC to secure the debt of a company which he controls the suretyship will be invalid in the absence of the 'express previously obtained consent in writing of all the other members of the CC'. Mr Hanekom was the only member of the CC and he relied on the fact that he had not previously given himself consent in writing before signing the suretyship. The SCA held that although on a literal reading of the section such previous consent in writing would be required, it was appropriate to disregard the requirement of a previous consent in writing in order to avoid an absurdity. The court pointed out that it was notionally impossible for a member to sign a suretyship without having previously given himself permission to do so.

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