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 20 September 2017

STATUS Immediate

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

Tudor Hotel Brasserie & Bar (Pty) Ltd v Hencetrade 15 (Pty) Ltd (793/2016) [2017] ZASCA 111 (20 September 2017)

Media Statement

The SCA today dismissed an appeal by a lessee against an order of eviction granted by the High Court, after the lessee had fallen into arrears with the rental payments. The lessee admitted that it had not paid the rental in terms of the lease agreement, but denied that any was due on the basis that its obligation to make payment was suspended as a result of the failure by the lessor to afford to the lessee, vacant occupation of the entire leased premises. The lease agreement obliged the lessee to make payment of the rental 'on or before the first day of each month' and 'without any deductions or set off whatsoever'. It was held that the rent had to be paid in advance by the lessee and was accordingly not reciprocal to the obligation of the lessor, to provide beneficial occupation of the entire premises. The terms of the lease therefore precluded suspension of the payment of rental by the lessee, as a result of the failure by the lessor to afford to the lessee beneficial use of the entire leased premises. As a result, the cancellation of the lease by the lessor was justified as the lessee was in arrears with the rental payments.

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