

Recent articles and research

By Henk Delport

ABBREVIATIONS:

AHRLJ: African Human Rights Law Journal (Juta)

PLD: Property Law Digest (LexisNexis)

SA Merc LJ: SA Mercantile Law Journal (Juta)

TSAR: Tydskrif vir die Suid-Afrikaanse Reg (Juta)

Cession

Scott, S 'Security cessions and beneficiary appointments: A belated but necessary footnote to Nienaber's analysis?' 2012 24.3 *SA Merc LJ* 323.

Competition law

Mongalo, TH and Nyembezi, N 'The court refuses to grant a certification order in the bread-cartel class action cases: A closer examination of the Western Cape judgment – *The Trustees for the Time Being of the Children's Resource Centre Trust v Pioneer Foods (Pty) Ltd and Imraahn Ismail Mukaddam v Pioneer Foods (Pty) Ltd* (Cases No 25302/10 and 25353/10 (referred to in the judgment as "the consumer application" and "the distributor application" respectively)' 2012 33.2 *Obiter* 367.

Consumer protection

Otto, JM 'Bêrekope en die Consumer Protection Act' 2013.1 *TSAR* 139.

Corporate law

Beukes, HGJ and Swart, WJC 'Blurring the dividing line between the oppression remedy and the derivative action: *Kudumane Investment Holdings Ltd v Northern Cape Manganese Company (Pty) Ltd and Others*' 24.4 *SA Merc LJ* 467.

Cooke, M 'A critical analysis of the regulation of distributions by a company's board' 2012 24.4 *SA Merc LJ* 371.

Gutuza, T 'Has recent United Kingdom case law affected the interplay between "place of effective management" and "controlled foreign companies"?' 2012 24.4 *SA Merc LJ* 424.

Idensohn, K 'The Fate of *Foss* under the Companies Act 71 of 2008' 2012 24.3 *SA Merc LJ* 355.

Stander, AL 'Die aanspreeklikheid van 'n insolvente maatskappy en die likwidateur van 'n insolvente maatskappy vir vergoeding as gevolg van omgewingsbenadeling' 2012 24.3 *SA Merc LJ* 273.

Credit law

Afrika, S-L 'Do sequestration proceedings fall within the overall ambit of "any proceedings" as stipulated in section 130(3) of the National Credit Act 34 of 2005? – a case comment on *Naidoo v Absa Bank Limited* [2010] 4 All SA 496 (SCA)' 2012 33.2 *Obiter* 403.

Kelly-Louw, M 'Should all natural persons standing surety be protected by the National Credit Act 34 of 2005?' 2012 24.3 *SA Merc LJ* 298.

Stoop, PN and Vettori, S 'The National Credit Act and so-called "rental agreements"' 2012 24.3 *SA Merc LJ* 361.

Criminal law and procedure

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Delict

Ahmed, R 'Voluntary assumption of risk as a defence, excluding delictual liability with regard to sports injuries – *Hattingh v Roux* 2011(5) SA 135 (WCC)' 2012 33.2 *Obiter* 414.

Neethling, J 'Delictual liability of prison authorities for contagious diseases among inmates' 2013.1 *TSAR* 177.

Neethling, J and JM Potgieter, JM 'Unlawful detention: A disappointing judgment – *Alves v Lom Business Solutions (Pty) Ltd* 2012 (1) SA 399 (GSJ)' 2012 33.2 *Obiter* 390.

Scott, J 'How safe should a sidewalk be? The evergreen question of a municipality's liability for negligent omissions' 2013.1 *TSAR* 164.

Evidence

Naudé, BC 'The probative value of post-offence conduct evidence' 2012 33.2 *Obiter* 320.

Husband and wife

West, A and Bekker, JC 'Possible consequences of declaring civil and customary marriages void' 2012 33.2 *Obiter* 351.

Information technology

Hurter, E 'Not the lesser evil: Amending the regulations for the resolution of domain name disputes in the ".za" domain to combat reverse domain name hijacking' 2012 24.4 *SA Merc LJ* 416.

Insurance

Van Niekerk, JP 'A confusion of third parties in insurance law: *Hollard Insurance Co Ltd v Unitrans Fuel and Chemicals (Pty) Ltd and Another*' 2012 24.4 *SA Merc LJ* 449.

Intellectual property

Alberts, RW "'I love the smell of perfume in the morning" – the *L'Oréal* case and trade mark infringement' 2013.1 *TSAR* 74.

Visser, C 'Of liability for patent infringement, public interest, and effective patent terms: *Cipla Medpro v Aventis Pharma; Aventis Pharma SA v Cipla Life Sciences*' 2012 24.4 *SA Merc LJ* 456.

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International law

Schlemmer, EC 'International organisations, the rule of law and immunity' 2013.1 *TSAR* 21.

Interpretation of statutes

Bhamjee, S 'Back to the future: A lesson in fairness and retrospectivity – *S v Acting Regional Magistrate, Boksburg; Venter and Another* (CCT 109/10) [2011] ZACC 22; 2011 (2) SACR 274 (CC)' 2012 33.2 *Obiter* 396.

Labour law

Calitz, K 'Will the 2012 amendments to the Labour Relations Act solve the problems with minimum service agreements in *Eskom Holdings Ltd v NUM ?*' 2012 24.4 *SA Merc LJ* 438.

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Dekker, AH 'Did he jump or was he pushed? Revisiting constructive dismissal' 2012 24.3 *SA Merc LJ* 346.

Qotoyi, T 'Should refusal to work following breach of contract by the employer really be a strike? – *National Union of Mineworkers on behalf of Employees v Commission for Conciliation, Mediation and Arbitration* (2011) 32 ILJ 2104 (LAC)' 2012 33.2 *Obiter* 427.

Legal education

Martinek, M 'Comparative jurisprudence – what good does it do? History, tasks, methods, achievements and perspectives of an indispensable discipline of legal research and education' 2013.1 *TSAR* 39.

Legal profession

Palmer, R and Crocker, A 'The payment of trust-account interest: The ethical duties of attorneys towards their clients, and the implications of the new Legal Practice Bill' 2012 33.2 *Obiter* 345.

Medical law

Millard, D 'Cure or curse? Regulations on the demarcation between health insurance policies and medical schemes' 2012 33.2 *Obiter* 334.

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Van der Bijl, C 'Account aggregation fraud and the allocation of liability' 2012 24.3 *SA Merc LJ* 257.

Persons

Barrie, GN 'Giving due consideration to views expressed by the child in family law proceedings: The Australian experience and lessons for South Africa' 2013.1 *TSAR* 124.

Nkosi, G 'Social work and child law in South Africa – a legal perspective' 2012 33.2 *Obiter* 360.

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Ford, S 'South Africa's R3bn fire loss statistic' 2013 17.1 *PLD* 8.

Maree, T 'Sectional Title Schemes – The unremitting financial pinch' 2013 17.1 *PLD* 2.

Niehaus, P 'Placing the spotlight on the application of the Municipal Property Rates Act, again!' 2013 17.1 *PLD* 5.

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Public law

Acirokop, P 'A truth commission for Uganda? Opportunities and challenges' 12.2 2012 *AHRLJ* 417.

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Mujuzi, JD 'The Ugandan Transfer of Convicted Offenders Act, 2012: A commentary' 12.2 2012 *AHRLJ* 599.

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Rautenbach, IM 'The liability of organisers for damage caused in the course of violent demonstrations as a limitation of the right to freedom of assembly' 2013.1 *TSAR* 151.

Senghore, AA 'Press freedom and democratic governance in The Gambia: A rights-based approach' 12.2 2012 *AHRLJ* 508.

Subramanien, D 'One for the asylum seeker – *Bula v Minister of Home Affairs* (589/11) [2011] ZASCA 209' 2012 33.2 *Obiter* 448.

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Otto, JM 'Koop van 'n saak vir sy normale of vir 'n bepaalde doel. En die een en ander oor *winkeldochters*' 2013.1 *TSAR* 1.

Tax

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Moosa, F 'The power to search and seize without a warrant under the Tax Administration Act' 2012 24.3 *SA Merc LJ* 338.

Oguttu, AW 'Challenges in taxing derivative financial instruments: International views and South Africa's approach' 2012 24.4 *SA Merc LJ* 385.