In the Supreme Court of Appeal of South Africa

MEDIA SUMMARY –

BUSINESS AVIATION CORPORATION (PTY) LTD	**FIRST APPELLANT**
ORPHEUS PANAYIOTOU	**SECOND APPELLANT**
and	
RAND AIRPORT HOLDINGS (PTY) LTD	**RESPONDENT**

From: The Registrar, Supreme Court of Appeal
Date: 2006
Status: Immediate

(1) Today the SCA, in the appeal of Business Aviation Corporation (Pty) Ltd v Rand Airport Holdings (Pty) Ltd, decided the issue whether two ancient Dutch statutes, called *placaeten,* which were promulgated in 1658 and 1669, applied only to leases of agricultural land or whether they also extended to leases of urban tenements.

(2) The appellant ('BAC') leased part of the Rand Airport from the respondent ('RAH'). After RAH had terminated the lease, it sought an eviction order against BAC in the magistrate's court of Germiston. One of the defences raised by BAC was that it had the right to retain possession of the property in terms of an enrichment lien until compensated for structural improvements of several million rand which it allegedly effected to the leased property during the currency of the lease. RAH's answer, which was upheld by both the magistrate and the Johannesburg High Court on appeal, was that the enrichment lien relied upon by BAC had been abolished in terms of the two *placaeten.*

(3) The issue in the further appeal to the SCA turned on the contention by BAC that the *placaeten* were limited in their application to leases of agricultural land and therefore had no effect on the lease under consideration,

which involved urban property. The validity of this contention had been the subject of controversy in South African law for over a century. Although BAC's contention had the support of judicial authority, it was in conflict with the view expressed by the majority of academic writers.

(4) In resolving the controversy, the SCA was persuaded by the academic authors. Accordingly it was held that the *placaeten* did not apply to urban tenements and that consequently they provided no answer to BAC's reliance on a right to retain possession of the leased property until compensated for improvements. In the result, the appeal was upheld with costs and the matter referred back to the magistrate's court for continuation of the trial on the outstanding issues.