



REPUBLIC OF SOUTH AFRICA

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 31 May 2006
STATUS Immediate

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

CASE *A MELAMED FINANCE (PTY) LTD v VOC INVESTMENTS LTD*
(Case No 364 / 05)

Media Statement

The appellant discounted four post dated cheques drawn by the respondent on the Standard Bank of South Africa Ltd. The respondent's system for producing cheques could not generate post dated cheques, so the printed dates on the cheques were altered by hand. The four cheques were delivered to Damelin Textiles who, despite having agreed not to negotiate them, discounted three of them with the appellant. The first cheque was met but payment of the other two was stopped by the respondent.

The appellant who had taken the cheques in good faith and for value, sued the respondent on the basis that it was a holder in due course of the cheques which, if correct, would mean that the respondent could not raise against it any defence it might have raised against Damelin Textiles.

The court below held that since on each cheque the date had been changed, the cheque was not, in the words of the Bills of Exchange Act, 'complete and regular on the face of it'. The appellant for that reason did not qualify as a holder in due course. The fact that the alterations were validly made did not matter. A cheque with an alteration to it – even if authorised - was not good enough to ensure a holding in due course. The Supreme Court of Appeal found that the lower court had been correct in its approach, and dismissed the appeal.

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