

SOUTH AFRICA / JUDGMENT

LA Group (Pty) Ltd v Stable Brands (Pty) Ltd and Another (650/2020) [2022] ZASCA 161 (25 November 2022) [2022] ZASCA 161

COURT

Supreme Court of Appeal

BEFORE

Ponnan, Makgoka, Schippers, Plasket, Phatshoane

CASE / FILE NUMBER

650/2020

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THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

JUDGMENT

Not reportable

Case no: 650/2020

In the matter between:

LA GROUP (PTY) LTD

APPELLANT

and

STABLE BRANDS (PTY) LTD

FIRST RESPONDENT

THE REGISTRAR OF TRADE MARKS

SECOND RESPONDENT

Neutral citation: LA Group (Pty) Ltd v Stable Brands (Pty) Ltd and Another (Case no 650/2020)
[2021] ZASCA 161 (25 November 2022)

Coram: PONNAN, MAKGOKA, SCHIPPERS and PLASKET JJA and PHATSHOANE AJA

Delivered: 25 November 2022

Summary: Correction of patent error in order.

AMENDED ORDER

Paragraph 2(c) of the order granted in this matter is amended by the deletion of ‘2013’ and the substitution therefor of ‘2014’.

Schippers JA (Ponnan, Makgoka and Plasket JJA and Phatshoane AJA concurring):

[1] Paragraph 2(c) of the order granted in this appeal on 22 February 2022 reads:

‘2 The first respondent’s counter-application for the removal from the register of trade marks, in terms of s 27(1)(a) of the Act, of the following trade mark registration numbers is upheld:

...

(c) 2013/31832 POLO PONY & PLAYER DEVICE in class 9, save for ‘glasses, spectacles, sunglasses’;

[2] On 12 October 2022 the parties to the appeal drew to the attention of the registrar of this Court that the aforesaid order contained a patent error, namely that ‘2013’ in the order should be deleted and substituted with ‘2014’. They accordingly sought the correction of the order. The error may be corrected,[1] particularly because the order in question is one in rem that affects a public register.[2]

[3] It is accordingly ordered that:

A SCHIPPERS

JUDGE OF APPEAL

[1] Firestone South Africa (Pty) Ltd v Genticuro A.G.

[1977] 4 All SA 600 (A); 1977 (4) SA 298 (A) at 307A-308A. See Afgri Grain Marketing (Pty) Ltd v Trustees for the time being of Copenship Bulkurs A/S (in liquidation) and Others

[2019] ZASCA 104 para 6; Oosthuizen and Another v The State

[2020] ZASCA 1 para 1.

[2] The Gap Inc v Salt of the Earth Creations (Pty) Ltd and Others

[2012] ZASCA 68; 2012 (5) SA 259 (SCA) para 2.

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