

been warned by another spotter on the mountain that someone had entered the water. "The shark spotter then ran to Clowelly Corner to try and get the swimmer out of the water, but the attack took place before he could reach him," he said. Oelofse said the flag that indicated the pres-

...kicked off their shoes and plunged into the water. Douglas had called the emergency services before plunging into the water himself. As they reached the swimmer, Hugh grabbed him by the hand while Douglas grabbed Hugh and he dragged them

to a waiting helicopter. shorewards," Lambhonn said. He said that paramedics then stabilised the man. "He was found suffering complete amputation of his right leg, above the knee, and partial amputation of his left

leg, below the knee," he said, adding that the man was conscious. Lambhonn also said that from what he understood, the man had been warned not to go into the water.

for exceeding the speed limit by 92km/h, an offence that should have cost him his driver's licence. He had been driving at 158km/h in a 80km zone. Charges were withdrawn pending participation in a diversion programme. -Mercury Correspondent

# Case highlights risk of using multiple estate agents

Tania Broughton

A COUPLE who sold their Durban North home six years ago have to pay more than R230 000, plus interest, to Wakefields estate agency after the Supreme Court of Appeal ruled that they paid commission to the wrong agent.

In a judgment highlighting the risk to property sellers of using more than one agent, Judge Carole Lewis said the Pam Golding agent who sold the house had not been the effective cause of the sale and had "reaped where she had not sown."

"The fact that the sellers, Gavin and Tracey Attree, now found themselves liable to pay more than one agent "is of

their own making", the judge said.

The dispute began in the Durban High Court, where Judge Chris Nicholson ruled against Wakefields.

The agency then took the matter on appeal to Bloemfontein, where five judges found in favour of the company.

According to evidence, the Attrees bought a house in 2001. In 2004, they started building another house in Mount Edgecombe and, while they were unsure if they were going to move, they agreed to let agents bring potential buyers round.

Wakefields listed the house on its books and, the company contended, it had an oral mandate to sell the property for which it would receive com-

mission of 6 percent.

From time to time, Wakefields agent Phoula Walker took people around, including Fiona Howard in March 2005.

Howard "loved" the house but said it was too expensive.

## Lower price

By chance, soon afterwards, Howard was introduced to Pam Golding agent Daphne de Marigny.

She told De Marigny about the house and how much she liked it.

In April that year, a Remax agent suggested that the Attrees lower their asking price. Despite giving Remax a sole mandate, Gavin Attree told two other agents, including

De Marigny, that they had dropped the price.

Recalling her conversation with Howard, De Marigny contacted her, immediately prepared an offer to purchase of R3,4 million, with a reduced commission of R150 000, and the deal was done that same day. The commission was shared between Pam Golding and Remax, and Wakefields cried foul.

Judge Lewis, writing on behalf of all the judges, said that but for Walker's introduction of the house to Howard, she would not have been aware of the property's existence.

"Howard was not looking in the area at the time and wanted to buy in Mornington side. It was Walker's wisdom

and business acumen that made her take her to Durban North.

"De Marigny, on the other hand, learned that Howard was interested in the property quite fortuitously. She did nothing about it until she was phoned by Attree. At that stage it was only five weeks since Howard had seen the house with Walker.

"Had Walker not shown the Howards the house first, it would not have been sold to Howard through the agency. Pam Golding," the judge said.

The court ordered that the Attrees pay Wakefields R232 560 plus interest at 15,5 percent a year from October 2005, and the costs of the litigation.

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