Strict liability attaches to the owner for the behaviour of their animal.

In the Supreme Court of Appeal matter of Van Meyeren v Cloete, an innocent third party was attacked and seriously injured by Mr Van Meyeren's dogs while on a walk past Mr Van Meyeren's house. The injured party, Mr Cloete, instituted a claim for damages against Mr Van Meyeren for the damages caused by his dogs based on the actio de pauperie.

The actio de pauperie is a claim against the owner of an animal, where the domesticated animal caused harm to another person or animal by acting contra naturam sui generis, meaning it acted contrary to that of a well-behaved animal of the same type. To rely on this action, the animal must be domesticated and the damage must be caused to a human, another animal or property.

In a unanimous judgement, Judge Wallis held the essence of this principle to be that 'the owner of a dog that attacks a person who was lawfully at the place where he was injured and who neither provoked the attack nor by his negligence contributed to his own injury, is liable, as owner, to make good the resulting damage'.

It is important to remember that the actio de pauperie is a faultless action, which means that the injured party need not prove fault on the side of the animals' owner. The mere fact that a person is the owner of an animal, means that he or she is liable for the behaviour of his or her animal and subsequently the damages caused by the animal.

In the Van Meyeren v Cloete matter, the owner of the dogs tried to argue that a third party left his front gate open, which led to his dogs escaping his yard and subsequently attacking the injured party.

The Court concluded that a third party has no obligation towards the owner of an animal and, therefore, that this argument could not succeed. The Court further stated that the owner in this matter tried to escape liability by emphasizing the lack of fault on his side, resulting in the court again emphasizing the age-old

principle that strict liability attaches to the owner for the behaviour of their dog or any animal for that matter.

The court will only decide in favour of the owner and allow them to escape liability in the clearest of cases where someone else's culpable behaviour directly caused the animal to inflict harm.

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