



THE 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: 3 May 2024

Status: Immediate

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City of Tshwane Metropolitan Municipality and Others v Copperleaf Country Estate (Pty) Ltd and Another (245/2023) [2024] ZASCA 69 (3 May 2024)

Today the Supreme Court of Appeal (SCA) dismissed an appeal against a judgment and order of the Gauteng Division of the High Court, Pretoria (the high court) reviewing and setting aside certain aspects of the City of Tshwane Metropolitan Municipality's (the City's) valuation rolls for the years 2010-2011 and 2013-2017. The Court confirmed the high court's direction that the City adjust the valuation rolls to reflect that the properties in question be categorized as 'business/commercial', and not as 'vacant land'.

The appellant, Copperleaf Country Estate (Pty) Ltd (Copperleaf), is the owner of two portions of immovable property. In 2005 the first portion, Peach Tree Extension 1, which is held under a registered deed of transfer, was subdivided into erven according to a general plan and a township register was opened. The same steps were taken in respect of Copperleaf's second property, Peach Tree Extension 2, in 2007. The only difference between the two properties being that in 2008 Copperleaf substituted its title deed for a certificate of registered title (CRT) under s 43 of the Deeds Registries Act 47 of 1937 (the Deeds Act).

The City took the view that under its relevant rates policies, once the property was held under a CRT, it was no longer 'registered in a township title', in terms of the definition of the category business/commercial. Consequently, the substitution of title had the effect that the erven in Peach Tree 2 were no longer to be classified business/commercial but were to be categorised as vacant land. It amended its valuation rolls accordingly.

This change in Peach Tree 2's rating category had a substantial effect on the rates payable by Copperleaf in respect of its Peach Tree 2 properties in that vacant land attracts a substantially higher rates charge than land that is categorised as business/commercial. The reason for this is that the City's policy historically has been to support township developers by giving them the benefit of the lesser, business/commercial rating to encourage development within the municipality. Undeveloped township land is treated as part of the developer's 'stock' and rated more favourably than other vacant land.

The City argued that once the Register of Deeds issued a CRT as a substitute form of title, this had a material effect on the legal status of the properties in Peach Tree 2. It converted the properties into individual erven, rendering them individually ratable and thus excluding them from the township register. In short, the legal effect of the CRT was that the properties could no longer be considered as part of the township developer's 'stock' for rates purposes.

The Court found that the City's argument could not prevail. On a proper interpretation of the City's rates policy, the purpose of the definition of the business/commercial category was to give township developers the benefit of the lower rates scale until they dispose of individual erven to third party purchasers. The City's case that 'registered in a township title' should be interpreted to exclude properties held under a CRT was contrary to the policy's stated purpose, was insensible and must be rejected. The properties were still owned by the township developer albeit under a different nomenclature than before. For all legal and practical purposes, the properties in Peach Tree 2 still formed part of the developer's stock, and there was no rational reason to exclude them from the definition of 'business/commercial' for rates purposes. They remained properties 'registered in a township title' and thus fell within the definition of the category 'business/commercial'.

The Court dismissed the appeal. At the same time, the Court upheld a cross-appeal by Copperleaf and granted an order varying the order of the high court. In terms of the order as varied, the Court reviewed and set aside the 2010-2011 supplementary valuation roll and the 2013-2017 general valuation roll to the extent that they categorised the Peach Tree 2 properties as vacant land. It substituted the City's decision with a decision to categorise the properties as business/commercial and directed the City to adjust the valuation rolls accordingly. The order also directed the City to repay to Copperleaf the difference between the rates it had paid based on the categorisation of the properties as vacant land, and the amount of rates that ought to have been charged on the properties when rated business/commercial.

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