



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: 11 July 2023

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

The Municipal Manager: The City of Johannesburg Metropolitan Municipality and Others v San Ridge Heights Rental Property (Pty) Ltd (517/2022) [2023] ZASCA 109 (11 July 2023)

Today, the Supreme Court of Appeal (SCA) upheld an appeal, although to a limited extent, against the judgment of the Gauteng Division of the High Court, Johannesburg, per Strydom J (the high court), in terms of which the high court granted an order that, inter alia, declared invalid and set aside the decision of the second and/or third respondents to classify Erf 827 Erand Gardens, Ext 36 Township, in terms of the second respondent's tariff policy. Each party was ordered to pay their own costs in the appeal.

The Municipal Manager of the City of Johannesburg Metropolitan Municipality was the first appellant (the municipal manager). The City of Johannesburg Metropolitan Municipality was the second appellant (the City). Johannesburg Water (SOC) Limited (Johannesburg Water) was the third appellant. The respondent, San Ridge Heights Rental Property (Pty) Ltd (San Ridge) was the owner of immovable property described as Erf 827, Erand Gardens known as San Ridge Heights. The property was purchased from Zotec Developments (Pty) Ltd (Zotec), a property development company.

The City and/or Johannesburg Water classified San Ridge Heights under the category 'multi dwelling', which attracted a tariff of R416.47 per month, per unit effective 1 July 2019. Zotec, the previous owner of San Ridge Heights, lodged an internal appeal, in terms of s 62 of the Local Government: Municipal Systems Act 32 of 2000 (Municipal Systems Act) against the City and Johannesburg Water's decision to classify San Ridge Heights as a 'multi dwelling'. The notice of appeal and a subsequent follow-up letter to the City and Johannesburg Water were simply ignored. Dissatisfied with this classification, San Ridge contended that its property should have fallen under the category/classification of 'blocks of flats' and the tariff should have been R250.00 per month, per unit. On 18 May 2020, San Ridge instituted review proceedings in terms of the Promotion of Administrative Justice Act 3 of 2000 (PAJA), alternatively on the grounds of legality. It submitted that the City did not comply with s 5 of PAJA to the extent that it did not provide reasons for its decision to classify San Ridge Heights as a 'multi dwelling'.

The SCA found that San Ridge was not provided with any reasons by the City and/or Johannesburg Water for their decision to classify San Ridge Heights as a 'multi dwelling,' which San Ridge submitted had adversely and materially affected its rights. The failure to give reasons by the City and/or Johannesburg Water, the SCA found, was fatal and dispositive of the matter.

Notwithstanding, the SCA found further that it had to consider the appropriateness of the high court substituting its decision for that of the administrator. The high court had substituted its decision, that

San Ridge Heights be classified as 'blocks of flats' in terms of the tariff policy, for that of the City and/or Johannesburg Water's decision to classify the property as a 'multi dwelling'.

In this regard, the SCA found that the high court erred. This was because it was common cause that there were no rates valuations of the individual flats attached to either San Ridge's or to the City and/or Johannesburg Water's affidavits. The high court required this information before making a determination as to whether or not San Ridge Heights was a 'multi dwelling' or not. As the high court did not have this information before it, the SCA found that it was not competent to substitute its decision for that of the administrator. Similarly, the SCA found that it did not have sufficient facts before it to substitute the administrator's decision. Accordingly, the SCA held that the matter be remitted to the decision-maker for reconsideration.

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