



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: 7 October 2025

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 judgment of the Supreme Court of Appeal

Rustenburg Local Municipality v Burrie Smit Ontwikkelaars (Pty) Ltd (236/2024) [2025] ZASCA 147 (7 October 2025)

Today, the Supreme Court of Appeal (SCA) handed down judgment, wherein the appeal was upheld with costs and the cross-appeal was dismissed with costs. This is an appeal against the order of the North West Division of the High Court, Mahikeng (high court). Rustenburg Local Municipality (the municipality) expropriated land owned by Burrie Smit Ontwikkelaars (Pty) Ltd (Burrie Smit) in 2004 for the construction of a reservoir and servitude for pipelines. The municipality offered compensation (R1 941 000 for the reservoir area (ie, R60 per m²), plus R235 020 for the servitude area (ie, R30 per m²), and R55 000 as a solatium), later paying R2 622 703 plus interest. Burrie Smit rejected the offer, claiming higher compensation (R85/m², solatium, VAT, and damages for lost development potential). In 2023, the high court set compensation of R 2 264 500 for the reservoir area (ie, a rate of R70 m²) and R 274 190 (ie, a rate of R35 per m²) for the servitude area, plus R55 000 as a solatium. The high court further ordered interest to be paid and each party to bear its own costs.

The issues on appeal were whether interest on unpaid compensation under s 12(3) of the Expropriation Act 63 of 1975 (the Act) is simple statutory interest or compound interest and whether the high court erred in not applying the statutory formula in s 14(8)(e) and s 15 of the Act when considering the Municipality's without prejudice offer of R1.5 million (made in 2016).

The SCA confirmed that under s 12(3) of the Act, only simple statutory interest is payable and unpaid compensation from the date of expropriation until settlement, not compound interest. On the costs issue, it held that the municipality had already paid a significant amount towards compensation and later made a further offer of R1.5 million, which, when combined with earlier payments, exceeded the amount ultimately determined by the high court. Because Burrie Smit rejected this offer and the final award was less than the total amount offered, this Court found that s 14(8)(e)(ii) of the Act required the landowner to bear the municipality's legal costs after the date of the offer. The high court was obliged to make that order. In respect of the costs incurred before and until the offer the SCA ordered each party to bear its own costs.

As a result, the SCA upheld the municipality's appeal, and Burrie Smit's cross-appeal was dismissed.

-----oOo-----