



## THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY OF JUDGMENT DELIVERED

**FROM** The Registrar, Supreme Court of Appeal

**DATE** 09 JUNE 2021

**STATUS** Immediate

*Please note that the media summary is for the benefit of the media and does not form part of the judgment.*

*Maxrae Estates (Pty) Ltd v The Minister of Agriculture, Forestry and Fisheries  
& Another (case no 407/2020) [2021] ZASCA 73 (06 May 2021)*

### MEDIA STATEMENT

Today the Supreme Court of Appeal upheld an appeal against an order of the Gauteng High Court, Pretoria, in terms of which an application brought by the appellant, Maxrae Estates, for review of a decision by the Minister of Agriculture, Forestry and Fisheries, refusing subdivision of Farm Yzervarkfontein 194, was dismissed.

Maxrae Estates is the owner of the farm located within the City of Tshwane Metropolitan Municipality. The farm lies to the North and South of the R50 Provincial Road linking the City of Tshwane to the town of Delmas in the Gauteng Province. Maxrae applied to the Department of Agriculture, Forestry and Fisheries for permission to subdivide the farm and to establish a sectional title ownership scheme on it with two sections on the southern portion as the proposed Portion A. On the proposed Portion A there is a warehouse that receives fresh produce from local farmers for packaging and distribution to different markets. The appellant wished to raise funds for extension of the warehouse.

The application for permission to subdivide was rejected by the delegate of the Minister mainly, on the ground that approval thereof would encourage establishment of sub-economic farming units thus endangering food security. An appeal to the Minister against that refusal failed for the same reason. The Minister was also of the view that the smaller subdivided unit would 'not be resistant in the long run considering the impact of climate change', and that Maxrae, in fact, intended to sell the farm for establishment of residential sectional units.

The appellant brought an application in the high court challenging the decision of the Minister on the grounds that the decision was irrational, unreasonable and arbitrary because the Minister took into account irrelevant factors, ignored relevant factors, and reached conclusions which were not supported by evidence. The high court dismissed the review application. It found that the Minister had exercised his wide discretion properly, in line with the purpose of the relevant laws and had considered all the evidence placed before him.

In upholding the appeal against the decision of the high court, the SCA held that the high court erred in its understanding of the Minister's wide discretionary powers. It held that wide Ministerial discretion was no licence for disregard of factors that were relevant to the decision he was required to make. The SCA found that the Minister ignored the evidence and conclusions set out in the expert reports submitted by Maxrae and instead made vague conclusions which included matters in respect of which there was no evidence before him. Also, rather than making an independent assessment of the information placed before him, the Minister extracted conclusions made in a memorandum prepared for him to sign by the Deputy Director of the department. The SCA ordered that the matter revert to the Minister for fresh consideration of Maxrae's appeal.

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