



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

Today, the Supreme Court of Appeal (the SCA) has delivered a judgment dismissing with costs, an appeal by the City of Cape Town (the City) against a decision of the Cape High Court in terms of which a defence raised by the City was rejected. The facts giving rise to the case were the following.

Mrs Marina Reader and Mr Ian Peploe of Sea Point, Cape Town objected to the approval of building plans of Mrs Julia Ikin. The plans in question were approved by the City and Mrs Ikin built a double-story house on her property in terms of the approved plans. Her neighbours complained that the building obstructed their view of the sea and diminished the value of their properties. The parties own adjacent properties in Sea Point.

Both Mrs Reader and Mr Peploe instituted a review application in the Cape High Court, challenging the validity of the permit to build and seeking an order for the demolition of Mrs Ikin's house. They cited her and the City as respondents. In opposing the application the City contended that the applicants should have exhausted domestic appeals before approaching the court and as a result their application must be dismissed. Veldhuizen J upheld this defence and without consideration of the merits, dismissed the application.

On appeal to the Full Bench, the above finding was set aside. The Full Bench found that s 62 of the Local Government: Municipal Systems Act 32 of 2000, on which the City had relied, did not afford objectors to building permits a "viable internal appeal" and therefore Mrs Reader and Mr Peploe were not obliged to exhaust internal appeals before launching their application. The Full Bench reversed the order granted by the single judge. On a further appeal to the SCA the provisions of s 62 of the Municipal Systems Act were interpreted and the judgment of the Full Bench was confirmed.