



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date:

Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

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According to a decision of the Supreme Court of Appeal a bitter dispute amongst the members of a sectional title development in Faerie Glen, Pretoria, turned out to be no dispute at all. Two of 150 unit owners in the Faerie Glen Renaissance Scheme opposed the body corporate in an application to court to amend the management rules of the scheme. The amendment granted to the body corporate by the Pretoria High Court and appealed by the two owners was to expressly include in the management rules a statement that the Housing Development Schemes for Retired Persons Act 65 of 1988 is applicable to the sectional title development called the Faerie Glen Renaissance Scheme. The contention of the two appealing owners was that the said Act was not applicable and to enforce it by inclusion in the management rules would adversely affect the proprietary rights of the owners of units in the scheme as it restricts occupation of the units to persons 50 years of age and older.

The Supreme Court of Appeal found that the Housing Development Schemes for Retired Persons Act undoubtedly applies to the Faerie Glen Renaissance Scheme since its inception and that an amendment to the management rules to reflect that state of affairs would serve the interests of existing and prospective owners of units in the scheme.