



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 28 September 2012
STATUS Immediate

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

Njemla v KSD Local Municipality (583/2011) [2012] ZASCA 141 (28 September 2012)

The Supreme Court of Appeal (SCA) today dismissed an appeal against a judgment of the Land Claims Court, which set aside a costs order it had granted in favour of Mr Monwabisi Morris Njemla. It set aside the costs order on the basis of misleading information that led it to grant an interim interdict against the respondent, the KSD Local Municipality, together with the costs order.

The Land Claims Court granted the interim interdict to halt a development on land which Mr Njemla had alleged was the subject of a land claim in terms of the Restitution of Land Rights Act 22 of 1994 by a community he represented. The interdict later became academic because processes in terms of that Act had run their course.

Subsequent to the interim interdict being granted, it came to light by way of information supplied by Mr Njemla's attorney himself, that that part of the land in respect of which the interdict had been sought was not subject to a land claim by the community represented by Mr Njemla. This caused the Municipality to seek rescission of the costs order granted by Bam JP, the then

judge president of the Land Claims Court. Unsurprisingly, the judge president rescinded the costs order on the basis of the court's common law power to rescind a judgment obtained in the circumstances referred to above. One would have expected the matter to end there. It did not. An appeal to this court followed. In the interim, Mr Njemla passed away and the executor of his estate took his place.

The Supreme Court of Appeal dismissed the appeal with costs and ordered the appellant's attorney to personally pay the costs of an application to submit further written argument. In its judgment, particularly at paras 23 to 26, this court dealt with what it considered improper conduct by the appellant's attorney. In addition to the orders referred to above, it directed the registrar to serve the judgment on the Law Society concerned for investigation and action in relation to what is stated in para 26.