



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: 20 March 2013

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

THE STEVE TSHWETE LOCAL MUNICIPALITY v FEDBOND PARTICIPATION
MORTGAGE BOND MANAGERS (PTY) LTD & ANOTHER

1. TNT Trading 23 CC (TNT) was the owner of four immovable properties. Mortgage bonds were registered over each of the properties in favour of the respondents (Fedbond) as security for a loan granted to TNT. TNT was placed in liquidation. The liquidators of TNT sold the properties at a public auction and gave instructions to transfer the property to the purchaser. Section 118(1) of the Local Government: Municipal Systems Act 32 of 2000 provides that the registrar of deeds may not register the transfer of property except on production of a certificate issued by the relevant municipality (clearance certificate) which certifies that all amounts that became due in connection with the property for inter alia property rates during the two years preceding the date of application for a certificate have been fully paid. TNT did not have sufficient funds to make payment to the appellant (the Municipality) to obtain the clearance certificates and Fedbond accepted that responsibility.

2. A dispute arose between Fedbond and the Municipality, as the Municipality maintained that in order to obtain the clearance certificates, property rates and interests thereon had to be paid for the longer period mentioned in s 89 of the Insolvency Act 24 of 1936, namely the period of two years immediately preceding the date of liquidation of TNT to date of transfer of the property. The Pretoria High Court decided this dispute in favour of

Fedbond and the Municipality appealed to the Supreme Court of Appeal. Today the SCA held that the period referred to in s 118(1) is applicable to transfer of immovable property by a trustee or liquidator and dismissed the appeal with costs.

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