



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 29 May 2014

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

Neutral citation: *The Local Municipality of Madibeng v Paphiri Business Enterprise* (134/2013) [2014] ZASCA 77 (29 May 2014)

In a case about garbage, the Supreme Court of Appeal held that the local municipality of Madibeng was liable to the respondent for services rendered under a refuse and waste removal contract relating to an area to the east of the Hartbeespoort Dam.

As set out in the judgment, the conclusion of the contract and the litigation in the magistrate's court which flowed therefrom was a litany of chaos and confusion. Ultimately common sense prevailed when the matter came before the high court which calculated an amount due by the municipality taking into account the best available evidence. It was against this judgment that the municipality appealed to the Supreme Court of Appeal.

The first ground of appeal relied upon was that the respondent had not proved the terms of the agreement upon which it sued. In the light of the fact that it had been common cause in the high court that the contract had been in the terms alleged by the municipality in its pleadings, the Supreme Court of Appeal dismissed this argument as spurious.

The second issue argued by the municipality was that the respondent had failed to prove the relevant numbers of houses, businesses and containers it had serviced from time to time. The municipality, however, had no evidence in regard to those particulars and relied upon the differences between the records kept by the respondent and allegations in the particulars of claim drawn by the respondent's attorney. The court held that the claim had been riddled with errors and inconsistencies which may have been the product of an incorrect transcription from documents used in its preparation. The records of the respondent were the best evidence and the information they contained could be accepted. Those records showed that the municipality was indebted to the respondent.

The appeal was therefore dismissed.

---ends---