



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
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STATUS Immediate

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

***Minister of Water and Environmental Affairs v Really Useful Investments (436/2015)
[2016] ZASCA 156 (3 October 2016)***

MEDIA STATEMENT

Today, the Supreme Court of Appeal (SCA) upheld an appeal by the Minister of Water and Environmental Affairs and the MEC for Environmental Affairs and Development Planning, Western Cape, against an order of the Western Cape Division of the High Court, Cape Town, and consequently held that the particulars of claim of the first respondent, Really Useful Investments No 219 (Pty) Ltd (RUI), did not disclose a cause of action.

RUI owned a number of properties which it wished to develop. The City of Cape Town (the City) issued a directive in terms of s 31A of the Environment Conservation Act 73 of 1989 (ECA), ordering RUI to cease certain environmentally harmful activity and rectify any damage already caused. RUI did so, and then claimed compensation in terms of s 34 of ECA, which provides for compensation where a landowner's rights have been limited under that Act.

The issues before the SCA were (i) whether RUI could claim compensation in terms of s 34 for expenses incurred and losses allegedly sustained as a result of the directive issued by the City under s 31A; and (ii) whether the exemption provision contained in s 37 of ECA and/or s 49 of the National Environmental Management Act 107 of 1998 (NEMA) prevented a claim to compensation in terms of s 34.

Regarding the second issue, the SCA held that the exemption provisions contained in s 34 of ECA and s 49 of NEMA only applied to delictual claims and not to claims for compensation under s 34 of ECA.

Regarding the first issue, however, the SCA held that compensation was not claimable under s 34 of ECA for regulatory action taken under s 31A of ECA. To hold otherwise would result in absurdity. Therefore RUI's claim could not be sustained.

Accordingly, the SCA upheld the appeal and held that RUI's particulars of claim did not disclose a cause of action.

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