



THE SUPREME COURT OF APPEAL REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY - JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

Home Talk Developments (Pty) Ltd & others v Ekurhuleni Metropolitan Municipality (225/2016) [2017] ZASCA

From: The Registrar, Supreme Court of Appeal

Date: 2 June 2017

Status: Immediate

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

Today, the Supreme Court of Appeal (SCA) dismissed the appellants' claims against the judgment of the Gauteng Local Division of the High Court, South Africa in favour of the Ekurhuleni Metropolitan Municipality (the Municipality). The issue at the nub of this appeal concerned the question as to whether the Municipality was vicariously liable in delict for pure economic loss suffered by the appellants, allegedly caused by the Municipality's former City Manager, on the basis that the City Manager had acted mala fide in withholding the issuance of the s82 certificates.

The dispute between the parties which gave rise to the appeal originates from an alleged land swap transaction, pursuant to which a land developer and the Municipality, each transferred land respectively owned by them to the other for the development of what has come to be described as the Meyersdal Nature area.

During July 2000, the Municipality approved in principle, the establishment of the Meyersdal Nature area consisting of certain portions of land, inclusive of land involved in the land swap transaction. Subsequent to this, the appellants were required to complete various services where the approval of a township would be sought in terms of The Town-Planning and Townships Ordinance 15 of 1986 (the Ordinance).

In the court a quo, it was held that it cannot be in the public interest and the interests of justice to hold the Municipality liable for the conduct of an administrative functionary who withheld the issuance of the s82 certificates based on the genuine belief that at the time, he was preventing fraudulent conduct from taking place. In that court, the action was dismissed.

On appeal to the SCA, the majority found that it was by no means persuaded that the conduct the appellants complained of was indeed the cause of their asserted loss. Based on the considerations of legal and public policy, the SCA held that the Municipality did not act wrongfully in the delictual sense and was not in breach of any legal duty owed by it to the appellants.

As a result, the appeal was accordingly dismissed with costs.