



## CONSTITUTIONAL COURT OF SOUTH AFRICA

**Olga Rademan v Moqhaka Local Municipality and Others**

**CCT 41/12**

**Date of hearing: 05 February 2013**

**Date of judgment: 26 April 2013**

---

### MEDIA SUMMARY

---

*The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.*

Today, the Constitutional Court handed down a judgment dismissing an appeal against a decision of the Supreme Court of Appeal in a matter relating to a municipality's right to terminate electricity supply to a resident who fails to pay property rates due to the municipality.

The applicant, Ms Rademan, is a resident of Kroonstad, a town within the jurisdiction of the Moqhaka Local Municipality (Municipality) and is a member of the Moqhaka Ratepayers and Residents Association (Association). In June 2008 the Association declared a dispute with the Municipality which related to the Association's dissatisfaction with the Municipality's alleged failure to provide efficient services to its residents. As a result, members of the Association, including Ms Rademan, withheld payment of property rates in protest. However, Ms Rademan paid her electricity and other accounts for municipal services in full. On or about 17 August 2009, the Municipality disconnected Ms Rademan's electricity supply as a result of her failure to pay her rates and taxes.

Ms Rademan approached the Free State High Court (High Court) seeking relief on the basis that the Municipality's conduct was unlawful. The High Court found against her and confirmed that the Municipality was entitled to cut off her electricity. Her appeal to the Supreme Court of Appeal was dismissed. Ms Rademan then applied to the Constitutional Court for leave to appeal against that judgment.

Before this Court, Ms Rademan's main contention was that the Municipality was precluded from disconnecting her electricity supply by the Electricity Regulation Act (ERA) because none of the grounds upon which the Municipality may cut off a resident's electricity supply was applicable to her. Ms Rademan contended that there was a conflict between the Local Government: Municipal Systems Act (Systems Act) and the Municipality's Credit Control and Debt Collection by-laws (by-laws) on the one hand, and the ERA on the other. She argued that the ERA should prevail. The Municipality contended that the Systems Act read with the by-laws entitled it to consolidate various accounts and to cut off Ms Rademan's electricity as she had not paid the rates component of the consolidated account. The Municipality contended that there was no such conflict between the relevant legal provisions.

Writing for the majority, Zondo J held that the consolidation of an account means that different components of the account belong to one account and a resident cannot pick and choose which components to pay. The majority held further that there is no conflict between the relevant provisions of the ERA on the one hand, and the Systems Act and provisions of the by-laws on the other. The majority therefore dismissed the appeal.

Froneman J agreed with the main judgment, but for different reasons. He found that the relevant provisions of the ERA do not apply to this case. He held that the ERA deals with the supply and termination of electricity in the context of national government, whereas the Systems Act and the by-laws deal with the termination of electricity in the context of local government and provide the manner and conditions for the payment of rates. Their constitutional validity was not challenged. Froneman J held that, as the main judgment shows, Ms Rademan has failed to comply with the provisions of the Systems Act and bylaws, therefore the appeal must fail.