

## 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: 1 March 2019

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.

#### **Polokwane Local Municipality v Granor Passi (Pty) Ltd**

On 7 December 1988 Granor Passi purchased erf 5665, Pietersburg Extension from the then Pietersburg Municipality. A deposit of twenty percent of the price was paid immediately and the balance was payable, inclusive of interest, in 60 equal monthly instalments. For reasons that remain obscure, although conveyancers were appointed to attend to transfer of the property, it was not transferred to Granor Passi. When this was discovered in 2011 relevant extracts from the company's audited annual financial statements were furnished to the municipality to establish that the full purchase price had been paid. Notwithstanding the absence of any investigation on the part of the municipality into its own records and the fact that from 1993 onwards the municipality had charged rates to Granor Passi as owner of the property, approved building plans and sought to negotiate with it for an exchange of land, including portion of erf 5665, on 26 February 2015 the municipal council resolved that the proof of payment provided was insufficient and that it would not transfer the property to Granor Passi.

The SCA today dismissed an appeal against a decision by the Gauteng Division of the High Court, Pretoria setting aside this resolution. It did so on the grounds that the decision was based on material factual

error in that objective verification of whether the price had been paid led to the conclusion that it had and this was uncontentious. The court upheld the High Court order referring the matter back to the municipality's council. In doing so it stressed that the municipality owed constitutional obligations to Granor Passi to deal with it in openly, fairly and in an accountable way. Whether a decision to invoke other defences on which the municipality sought to rely would be constitutionally permissible, needed to be determined by the council itself and not its officials or legal advisers.