



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

Date: 13 November 2024

Status: Immediate

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Nkomazi Local Municipality v The Valuation Appeal Board for the District of Ehlanzeni & Others
(615/2023) [2024] ZASCA 155 (13 November 2024)

Today the Supreme Court of Appeal (SCA) dismissed, with costs, an appeal against the decision of the Mpumalanga Division of the High Court, Mbombela (the high court).

The Nkomazi Local Municipality (the Municipality), is empowered by s 2 of the Local Government: Municipal Property Rates Act 6 of 2004 (the MPRA) to levy rates on the properties located in its area of jurisdiction. Leopard Creek is a share block company, established in terms of the provisions of the Share Blocks Control Act 59 of 1980, and is the registered owner of Portion 20 of the Farm Riverside 173, JU (which is in the extent of 335 724 hectares of undivided land). The property comprises of 251 residential sites divided between 80 residential riverfront sites bordering the Crocodile River, overlooking the Kruger National Park and 171 bush or golf course sites. During February 2018, the general valuation roll reflected that the property was valued at R1 300 000 000. Leopard Creek objected to this value but was unsuccessful and on 24 July 2018, an appeal was lodged against the decision to dismiss the objection.

The Valuation Appeal Board for the District of Ehlanzeni (the VAB) is appointed as such in terms of Mpumalanga Provincial Notice 148 of 2018 in accordance with s 56(1) read with s 60 of the MPRA. The appeal commenced before the VAB on 9 July 2019. Leopard Creek led evidence of three expert witnesses Mr David Nagle (Mr Nagle), Mr Sam Hackner (Mr Hackner) and Mr Norman Roger Griffiths (Mr Norman Griffiths). The Municipality's only witness was Mr Derrick Griffiths, a registered professional valuator with more than 30 years' valuation experience. On 15 July 2020 the VAB accepted the valuation method proposed by Mr Derrick Griffiths and dismissed the appeal. It did so without assessing and evaluating the evidence of the witnesses, particularly the evidence of Leopard Creek's witnesses. The VAB also did not give reasons for preferring the evidence of Mr Derrick Griffiths to that of Mr Norman Griffiths. The high court granted an order reviewing and setting aside the VAB's decision and remitted the matter to a differently constituted VAB for a decision.

The issues before the SCA were therefore: firstly, whether the VAB assessed and evaluated the evidence of the expert witnesses; secondly whether the VAB gave reasons for the rejection of the evidence of Leopard Creek's expert witnesses; and thirdly, whether the VAB gave reasons for preferring the evidence of Mr Derrick Griffiths to that of Mr Norman Griffiths. Lastly, if it was found that no reasons were provided, whether the SCA, could substitute the VAB decision and assess and evaluate the evidence and give reasons to its decision.

The SCA held that the VAB was an administrative decision-making body, tasked with an administrative duty to decide appeals brought before it. As such, it was obligated to assess and evaluate the evidence before it and provide reasons for its decision. The SCA found further that, the Municipality was required to carry out a general valuation of the property, which could only be done through the assistance of expert valuers. The SCA therefore found that the evidence of both Mr Norman Griffiths and Mr Derrick Griffiths was of considerable importance in deciding on the correct approach to the valuation, or the methods to be used, in determining the market value of the property. The SCA therefore held that the VAB was required to assess every piece of evidence, analyse it and provide reasons for its decision. The SCA finally found that it could not substitute the decision of the VAB, analyse and evaluate the evidence of the witnesses and give reasons as doing so would have usurped the functions entrusted by the Constitution to the VAB and violate the doctrine of separation of powers.

As a result, the appeal was dismissed with costs, including the costs of two counsel.

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