



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 03 April 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.

Ngomane & others v City of Johannesburg Metropolitan Municipality & another (734/2017)
[2018] ZASCA 57 (03 April 2019)

Today the Supreme Court of Appeal (SCA) declared the destruction of the homeless applicants' possessions removed by the City of Johannesburg Metropolitan Municipality (the City) during a clean-up operation conducted in terms of its Public Health By-Laws from a road traffic island in its business district on which they lived on 1 February 2017, unconstitutional and unlawful and ordered the City to compensate the applicants in the sum of R 1500 each for the loss of their property.

The SCA held that mandament van spolie or the substitution of the destroyed property thereof with similar goods, which the applicants sought, was not permissible. However, the SCA found that the destruction of the applicants' property violated their rights to dignity and privacy, which included the right not to have their possessions seized. In the SCA's view, a claim for damages would not be an appropriate remedy as it was unlikely that the applicants would be able to prove the market value of the property destroyed and the unwieldy was likely to fail or, at best, result in a nominal award of damages.

The applicants were willing to accept R1 500 as compensation for the wrong they had suffered. The SCA considered that such compensation, in addition to the declaration of unlawfulness,

would effectively place the applicants in the same position that they would have been but for the breach of their rights and constituted appropriate relief in the specific circumstances of the case.