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

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eThekwini Municipality and Another v Independent Schools Association of Southern Africa and Others (960/2019) [2021] ZASCA 155 (3 November 2021)

Today the Supreme Court of Appeal (SCA) handed down judgment dismissing the appeal and the cross-appeal against the KwaZulu-Natal Division of the High Court, Durban (the high court).

This appeal concerns the 2010 amended regulations promulgated in terms of the Local Governance Municipal Property Rates Act, 6 of 2004 (the MPRA). The issues before the SCA were: whether the 2010 amended regulations promulgated in terms of the Local Governance Municipal Property Rates Act 6 of 2004 (the MPRA), properly interpreted, applied to the eThekwini Municipality; whether they were valid; and whether they were constitutional.

During March 2010, the Minister for CoGTA promulgated national regulations made under ss 19 and 83 of the MPRA. The amendment capped the rates that municipalities may levy on, *inter alia,* property owned by public benefit organisations, by means of a prescribed ratio based on rates of residential property.

The eThekwini Municipality, the first appellant, submitted that pre-2014, the MPRA did not prescribe what categories of property must be included in its rates policies. The eThekwini Municipality further argued that s 19(1) of MPRA is unconstitutional in that it impermissibly interferes with the autonomy of a municipality to levy rates according to its own rates and policies.

The SCA held that it is clear that the powers of the municipalities are subject to the national legislation, the MPRA. Section 19 of MPRA permits the Minister for CoGTA to regulate powers of a municipality to impose a cap on rates. Section 19(1)*(b)* is constitutionally permissible because the MPRA was constitutionally enacted by Parliament and it is a national legislation sanctioned by the Constitution. In respect of the cross-appeal by the Independent Schools Association of Southern Africa (ISASA), the SCA held that it was not necessary to deal with it because the main appeal was not successful.

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