



REPUBLIC OF SOUTH AFRICA

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 27 March 2007
STATUS Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment.

CASE CITY OF TSHWANE METROPOLITAN MUNICIPALITY v RPM BRICKS (PTY) LTD
(Case No 177 / 06)

Media Statement

Today the Supreme Court of Appeal upheld an appeal by the City of Tshwane against a judgment of the Pretoria High Court. The judgment of the High Court in the sum of R 2 646 134.40 in favour of the respondent RPM Bricks was altered to one of absolution from the instance.

The respondent, a supplier of coal, had caused summons to be issued for payment for coal which had been supplied and delivered to the appellant in consequence of a purported amendment to a supply contract that had subsisted between the parties. The appellant, in its defence, contended that the formalities prescribed for the varying of the supply contract by section 38 of the Gauteng Rationalisation of Local Government Affairs Act 10 of 1998 had not been complied with. The respondent asserted, in response, that the appellant was estopped from relying on s 38 of the Act to avoid payment. The High Court agreed with the respondent.

On appeal the SCA held that a distinction had to be drawn between an act beyond or in excess of the legal powers of a public authority on the one hand, and the irregular or informal exercise of power granted on the other. According to the SCA, persons dealing with a statutory body are not bound, when dealing in good faith with a statutory body, in the absence of knowledge to the contrary, to enquire whether the relevant internal formalities of the statutory body had been satisfied. Accordingly, in that situation estoppel could be successfully invoked. Where, however, a statutory body had failed to comply with provisions which the legislature had prescribed for the validity of a specified transaction, resort could not be had to estoppel for that would give validity to a transaction which is unlawful and therefore ultra vires. It followed therefore that the High Court was wrong in its conclusion that estoppel could be successful raised in this case. Accordingly, the appeal had to succeed.

--- ends ---