



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

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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

G PAPPALARDO v G HAU

1. The Supreme Court of Appeal today allowed an appeal by a resident of a township in Gauteng who had been ordered by the South Gauteng High Court to permit his neighbour to insert a number of drainage ports in the wall which he had constructed along the common boundary between the two erven. The purpose of the drainage ports was to allow rainwater gathering on the neighbour's side of the boundary wall to flow down the natural slope of the two properties on to the appellant's erf. The high court had held that the appellant, as the owner of the lower lying property, was obliged to accept the water from his higher lying neighbour.

2. The SCA held that the appellant's obligation was limited to the 'natural flow' of rainwater between the properties before the erven had been developed by the construction of residences etc on them. Since there was no proof of what this 'natural flow' was and how it would have been distributed over the common boundary, the neighbour's contention that he was entitled to drain the water through such drainage ports could not succeed. The question whether the Roman Dutch law recognised an obligation on the part of a lower lying owner in the urban context to accept the 'natural flow' of rainwater from a higher lying neighbour was discussed but not decided.

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