



THE SUPREME COURT OF APPEAL  
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE  
SUPREME COURT OF APPEAL

01 December 2011

STATUS: Immediate

*TEB Properties CC v The MEC, Department of Health and Social Development,  
North West (792/10)*

*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*

The Supreme Court of Appeal (the SCA) today dismissed an appeal from the North-West High Court, Mafikeng.

The appellant concluded a lease agreement with the respondent. Before the respondent occupied the leased premises, it terminated the lease on the grounds that the lease was irregular for not complying with the law, that the appellant knowingly participated in the irregularity and the appellant failed to provide proof of participation in its public bidding. The appellant sought an order to declare the termination of the lease unlawful. The respondent opposed the application and filed a counter-application to declare the lease invalid for lack of compliance with the Constitution and other relevant legislation. The high court upheld the counter-application and dismissed the appellant's application.

On appeal, the appellant argued that the Treasury Regulations allowed the respondent to conclude the lease without following the bidding process. The SCA held that this argument was unsustainable on the basis that to interpret the wording of the regulations to circumvent the intention of the regulations would lead to an anomaly. The SCA also held that where a representative of the respondent deviated from the requirements of the bidding system, the provision of rational reasons for such deviation which is a material requirement, is obligatory.

The SCA held further that the turquand rule relied upon by the appellant was inapplicable because that rule was not available in circumstances where upholding the lease would contravene the law hence the lease was declared invalid.

The SCA held with regard to the defence of estoppel raised by the appellant that the respondent represented to it that the conclusion of the lease was regular was unsustainable. The SCA held quoting judicial precedent with approval that a state of affairs prohibited by law in the public interest cannot be perpetuated by reliance on the doctrine of estoppel.

The SCA accordingly dismissed the appeal with costs inclusive of costs of two counsel.

**-- ends --**