



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

Date: 27 May 2011

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.

SIMILANIE v KUSWAYO

The O’Kiep Copper Company owned the farm Nababeep on which the mining town with the same name was developed. When the company ceased mining operations it donated the land and houses in the town to the Namakwa municipality. The municipality resolved to donate the land and houses in the town to the persons who occupied them at that time. One of the houses was donated to the respondents, Mr and Ms Kuswayo, on 17 November 2003. The latter sold it to the appellants, Mr and Ms Similanie, on 6 November 2006. The purchase price was R50 000 and a deposit of R15 000 was paid by the appellants. At the time of the conclusion of the agreement of

sale the property was not yet registered in the name of the respondents. Registration only occurred on 22 May 2007. The deed of transfer contains the condition that the property may not be sold or alienated within a period of 5 years from the date of donation. Both the purchasers and the sellers were unaware of this condition at the time they concluded the agreement of sale.

When the sellers became aware of the condition they alleged that the agreement of sale was invalid and refused to give transfer of the house.

On appeal the Supreme Court of Appeal held that the agreement of sale was valid and set aside the judgment of the full bench that came to a different conclusion. The result of the SCA's decision is that the order of the magistrate, Springbok, stands requiring the sellers to transfer the house to the purchasers.