



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
DATE 30 March 2012
STATUS Immediate

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

City of Cape Town v Strümpher (104/2011) [2012] ZASCA 54 (30 March 2012)

The Supreme Court of Appeal (SCA) dismissed an appeal against an order of the Western Cape High Court, Cape Town. The appellant supplied water to a property in the Strand owned by the respondent. The respondent declared a dispute regarding certain charges and refused to pay them. As a result the appellant cut off the water supply to the property.

The Strand Magistrates' Court granted a spoliation order in terms of which the appellant was directed to reconnect the water supply. This order was upheld by the high court, which order was the subject of the appeal before the SCA.

The SCA held that the respondent's right to water was not based solely on the contract which he had concluded with the appellant, but was underpinned by the constitutional and statutory obligations placed on the appellant in terms of s 27 of the 1996 Constitution and s 3(1) of the Water Services Act 108 of 1997.

The SCA further found that the appellant overlooked its own dispute resolution procedures as well as the requirement in s 4(3)(a) of the Water Services Act ie 'the limitation or discontinuation of water services must be fair and equitable' in its decision to cut off the water supply.

The Court also held that a spoliation order was an appropriate order, in the circumstances, as the respondent was summarily deprived of his property, as the respondent's use of the water was an incident of possession of property.

In the result the appeal was dismissed with costs.