THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

JUDGMENT

Case no: 20789/2014

Reportable

In the matter between:

UNIQON WONINGS (PTY) LTD **APPELLANT**

and

CITY OF TSHWANE METROPOLITAN

MUNICIPALITY **RESPONDENT**

Neutral Citation: *Uniqon Wonings v City of Tshwane* (20789/2014) [2014] ZASCA 182 (30 November 2015)

Coram: Lewis, Cachalia, Theron, Wallis and Saldulker JJA

Heard: 2 November 2015

Delivered 30 November 2015

Summary: Local Authority – Municipality – Imposition of property rates in terms of s 10G(7) of the Local Government Transition Act 209 of 1993 – When exercising its power in terms of s 10G no need to comply with the prescripts of provincial rating ordinance – Not obliged to determine rates annually - Rates levied during a specific financial year did not lapse at the end of financial year.

ORDER

On appeal from: Gauteng Division of the High Court, Pretoria (Fabricius J sitting as court of first instance):

The appeal is dismissed with costs.

JUDGMENT

Theron JA (Lewis, Cachalia, Wallis and Saldulker JJA concurring):

[1] The primary question to be determined in this appeal is whether a municipality was obliged, in terms of s 10G(7)(*a*)(i) of the Local Government Transition Act 209 of 1993 (the Transition Act), to determine property rates annually and whether such rates automatically lapsed at the end of the financial year during which it was levied. If this question is answered in the affirmative, the appeal must be upheld.

Factual background

[2] The background facts are largely common cause. At the hearing of this matter in the high court the parties had compiled a document titled 'Common Cause Background Facts' which was handed in by consent. These facts are included in the summary that follows.

[3] The appellant, Uniqon Wonings (Pty) Ltd, a property developer, bought and developed farmland into a residential estate, Six Fountains Residential Estate. The respondent is the City of Tshwane Metropolitan Municipality, a Metropolitan Municipality created in terms of the Local Government: Municipal Structures Act 117 of 1998 (Structures Act).

[4] The residential estate is situated within the jurisdiction of what used to be the Kungwini Local Municipality (Kungwini) which was established with effect from

5 December 2000, with its demarcated area including various previously peri-urban areas, commonly referred to as the Bronberg area. The Bronberg area had previously formed part of the area of jurisdiction of the Eastern Gauteng Services Council, a local authority as contemplated in the Constitution and the Transition Act.[1] The Bronberg area, including Silver Lakes, Mooikloof and various agricultural smallholdings and farms, was not included in the formal valuation roll of the Eastern Gauteng Services Council. Kungwini was disestablished in 2011 and incorporated into the City of Tshwane Metropolitan Municipality.

[5] Prior to the comprehensive restructuring of Local Government initiated by the adoption of the interim Constitution and the Structures Act, which created inclusive Municipal areas, the Bronberg area did not form part of the area of jurisdiction of any municipality and the owners of property in this area were not required to pay property rates.

[6] Kungwini commenced with the preparation of a valuation roll which was applicable from July 2002 in terms of s 10G(6) of the Transition Act. The valuation process and roll was finalised during February 2003. The first time that Kungwini levied property rates in the Bronberg area was pursuant to Local Authority Notice 4/2003 dated 19 February 2003 (the notice). The notice was not linked to a financial year and did not have any specified end time frame of operation. In terms of the notice, assessment rate tariffs of 0,02 cents per rand value as per the valuation roll were levied from 1 April 2003. The notice was given in terms of s 10G(7) of the Transition Act read with s 26(2) of the Local Authorities Rating Ordinance 11 of 1977 (the Ordinance). The notice was not challenged or set aside by a court. Kungwini published various other notices which, save for the one next mentioned, are not relevant to this dispute. On 28 July 2004, it published a notice in terms of which the assessment tariff was increased to 0,054 cents in the rand for the Bronberg area.

[7] The appellant instituted action against the respondent in which it claimed repayment of R788 282 paid to the respondent in respect of property rates for the

[1] See *Gerber & others v Member of the Executive Council for Development Planning and Local Government, Gauteng & another* [2002] ZASCA 128; 2003 (2) SA 344 (SCA) paras 1, 6 and 7.

2004/2005 financial year, on the basis that such payment was not owing and was made without lawful cause. It was alleged in the particulars of claim that the Transvaal Provincial Division (as it then was) had, in *Kungwini Local Municipality & another* v *Silver Lakes Homeowners Association & others* (T) (unreported case no 3908/2005 (29 June 2006)), held that the increase in property rates for Kungwini's 2004/2005 financial year to 0,054 cents in the rand was invalid. It was further alleged that the increased property rates were set aside and no effective rate was payable for the 2004/2005 financial year. Reference was also made to the fact that this court had, on appeal to it, confirmed that decision of the court.[2]

[8] Upon application by the appellant, the court a quo in this matter ruled, in terms of Uniform Rule 33(4), that the issues be separated and that the following issue be determined first: 'whether the allegation [by the appellant] . . . that no effective property rate was payable for the 2004/2005 financial year of Kungwini Local Authority is correct or whether a property tax rate of 0,02 cents in the rand was applicable', as pleaded by the respondent. The court (Fabricius J) found in favour of the respondent. It is against that judgment that the appellant appeals with the leave of this court.

Legislative framework

[9] Reforms in the structure of local government began in the mid 1990's as a result of political changes in the country and the transition involved a staggered process to be implemented over several years.[3] The first step in this process was the enactment of the Transition Act, which according to its preamble, was intended, inter alia, to provide interim measures to promote the restructuring of Local Government. The Transition Act was 'part of the statutory scaffolding agreed upon by the negotiating parties as necessary before, during and after the transition of national and provincial government'.[4]

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[2] *Kungwini Local Municipality v Silver Lakes Home Owners Association & another* [2008] ZASCA 83; 2008 (6) 187 (SCA).
[3] *Liebenberg NO & others v Bergrivier Municipality* [2013] ZACC 16; 2013 (5) SA 246 (CC) para 41.
[4] *Executive Council, Western Cape Legislature & others v President of the Republic of South Africa & others* [1995] ZACC 8*;* 1995 (4) SA 877 (CC) para 162.

[10] The power of municipalities to impose property rates is derived from s 229 of the Constitution and from legislation.[5] In terms of this section, municipalities have direct original legislative capacity. Section 229(1)(*a*) of the Constitution provides that a municipality may impose '(a) rates on property and surcharges on fees for services provided by or on behalf of the municipality'. In terms of subsection (b) it may, if authorised by national legislation, impose 'other taxes, levies and duties appropriate to local government'. Section 229(2)(*b*) provides that the power of municipalities to impose rates may be regulated by national legislation.

[11] During 1996 a number of provisions, including in particular s 10G, which regulated the financial affairs of municipalities, were inserted into the Transition Act.[6] Section 10G(7)(a)(i) stipulated that a municipality may:

'by resolution, levy and recover property rates in respect of immovable property in the area of jurisdiction of the council concerned: Provided that a common rating system as determined by the metropolitan council shall be applicable within the area of jurisdiction of that metropolitan council: Provided further that the council concerned shall in levying rates takes into account the levy referred to in item 1 (c) of Schedule 2: Provided further that this subparagraph shall apply to a district council in so far as such council is responsible for the levying and recovery of property rates in respect of immovable property within a remaining area or in the area of jurisdiction of a representative council.'

[12] Historically, municipalities in the old Transvaal province derived their rating powers from the Ordinance. Section 21 of the Ordinance empowered a local authority to levy a general rate on rateable property listed in the valuation roll for a financial year to which the roll is applicable.

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[5] *Rates Action Group v City of Cape Town* [2005] ZASCA 111; 2006 (1) SA 496 (SCA) para 10.

[6] Local Government Transition Act Second Amendment Act No 97 of 1996. Section 10G was repealed by s 179 of the Local Government: Municipal Finance Management Act 56 of 2003, which came into operation on 1 July 2005. In terms of s 179(2) of that Act, the repeal of s 10G(6), (6A) and (7) was delayed until the legislation envisaged in s 229(2)*(b)* of the Constitution was enacted. The envisaged legislation is the Local Government: Municipal Property Rates Act 6 of 2004 which came into operation on 2 July 2005. The Municipal Finance Management Act must be read together with the Municipal Property Rates Act. In terms of the transitional provisions contained in s 88 of the Municipal Property Rates Act, municipalities were entitled to continue conducting valuations and property rating in terms of legislation repealed by that Act until the date on which the new valuation rolls prepared in terms of that Act took effect. See generally *Liebenberg NO & others v Bergvier Municipality* [2012] ZASCA 153; [2012] 4 ALL SA 626 (SCA).

Did the respondent, when imposing property rates, have to comply with the provisions of the Ordinance as well as s 10G of the Transition Act?

[13] According to the appellant, the answer to this question is in the affirmative. The appellant contended that s 10G of the Transition Act co-existed with the Ordinance until 2 July 2005, when the Rates Act came into effect. Therefore, so the argument went, for the 2004/2005 financial year, both the Transition Act and the Ordinance applied to the levying of property rates and a municipality, in order to validly impose property rates, had to comply with the provisions of both pieces of legislation.

[14] In order to correctly answer this question it is necessary to consider the legislative purpose of the Transition Act and the broader context within which it was enacted. In *Liebenberg NO & Others v Bergrivier Municipality*,[7] the Constitutional Court found that the legislative scheme was 'directed at ensuring a facilitated rating mechanism for municipalities until uniform and consistent rating systems have been put into place'[8] by the Local Government: Municipal Property Rates Act 6 of 2004 (the Rates Act), and that one of the broader objectives for the legislative scheme was to 'help, rather than hinder, the ability of municipalities finally to come into line with the Rates Act'.[9] In *City of Cape Town & another* v *Robertson & another*,[10] the Constitutional Court held (para 41) that the primary purpose of s 10G was 'to ensure that every municipality conduct[ed] its financial affairs in an effective, economical and efficient manner, with a view to optimising the use of its resources in addressing the needs of the community'.

[15] *Howick District Landowners Association v uMngeni Municipality*[11] and *CDA Boerdery (Edms) Bpk v Nelson Mandela Metropolitan Municipality*[12] are pertinent to the question to be decided in this matter. In *Howick*, the appellant, representing landowners whose land had previously fallen outside any municipality and who

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[7] *Liebenberg NO & others v Bergrivier Municipality* [2013] ZACC 16; 2013 (5) SA 246 (CC).
[8] *Liebenberg* para 44.
[9] *Liebenberg* para 50.
[10] *City of Cape Town & another v Robertson & another* [2004] ZACC 21; 2005 (2) SA 323 (CC).
[11] *Howick District Landowners Association v uMngeni Municipality & others* [2006] ZASCA 53; 2007 (1) SA 206 (SCA).
[12] *CDA Boerdery (Edms) Bpk & others v Nelson Mandela Metropolitan Municipality & others* [2007] ZASCA 1; 2007 (4) SA 276 (SCA).

had not been required to pay rates, had applied to declare a rates assessment invalid. Historically, municipalities in KwaZulu-Natal derived their rating powers from the Local Authorities Ordinance 25 of 1974 (the Natal Ordinance). The landowners contended, inter alia, that the valuation roll was invalid for want of compliance with certain time periods contained in the Natal Ordinance. Cameron JA held that the provisions of the Natal Ordinance were not applicable to the levying of rates as the council had invoked a power to impose rates derived from the Transition Act. The learned judge described such power as 'self-standing' and added:

' . . . Since the power in question does not derive from the [Natal] Ordinance, I am of the view that the council, in exercising it, is not obliged to follow the prescripts of the [Natal] Ordinance, which have no application to the newly rateable properties. It follows, in my view, that the time periods prescribed in the [Natal] Ordinance were applicable only to rates assessments of properties falling within a borough as defined "within the operation" of the Ordinance, and that where the council relied on the powers conferred on it under the LGTA [Transition Act] to rate newly rateable properties, the Ordinance did not apply.'[13]

[16] The main issue in *CDA Boerdery*, according to Cameron JA, who wrote for the majority, was whether a requirement in a Provincial Ordinance, which obliged the municipality to obtain the Premier's approval for a decision to levy rates exceeding two cents in the rand remained valid. He rightly said that this provision 'was embedded in a dispensation fundamentally different in the position and powers it accorded local authorities has survived the constitutional transition'.[14] Cameron JA found that the provision was impliedly repealed:

'A further indication that the approval requirement in s 82(1)*(a)* of the ordinance was impliedly repealed is that s 10G(6) of the Local Government Transition Act 209 of 1993 (the LGTA) requires that municipalities perform valuations of the properties "subject to any other law". By contrast, s 10G(7), which empowers municipalities to levy and recover property rates, has no parallel allusion to "any other law". This suggests that *s 10G(7) confers a freestanding rate-levying competence on municipalities.* I therefore respectfully differ from the suggestion in the judgment of my colleague Conradie JA (para 14) that the omission in s 10G(7) to subordinate the rate-levying power to requirements in "any other law" is a legislative oversight that we must adjust by interpretation. In my view, it is doubtful whether the ordinance is applicable to s 10G(7) at all, and this strengthens the

[13] *Howick* paras 30, 31 and 33.
[14] *CDA Boerdery* para 41.

conclusion that that portion of the ordinance was impliedly repealed when the constitutional order was established.'[15] (Footnotes omitted. My emphasis.)

[17] The Constitutional Court in *Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd* adopted an approach consonant with that of Cameron JA in *CDA Boerdery* when it stated that the enhanced status of local government structures 'necessarily includes the competence and capacity on the part of municipalities to administer land falling within their areas of jurisdiction without executive oversight.'[16]

[18] During the transition, the source of a municipality's rating power was s 10G of the Transition Act. Both this court and the Constitutional Court have confirmed that a municipality's power to levy rates was 'derived from and exercised' in terms of section 10G(7), which was national legislation, as envisaged by section 229(2)(b) of the Constitution.[17] A municipality's delegated rating power was replaced by original and constitutionally entrenched rating power as reflected in the Transitional Act.[18] In *Wary Holdings* the Constitutional Court explained the enhanced powers accorded to local government structures in the new constitutional order:

'They are no longer the pre-constitutional creatures of statute confined to delegated or subordinate legislation, but have mutated, subject to permissible constitutional constraints, to inviolable entities with latitude to define and express their unique character, and derive power direct from the Constitution or from legislation of a competent authority or from their own laws.'[19] (Footnotes omitted.)

[19] As previously stated the rating power of a municipality has been described by this court as 'self-standing'.[20] In *CDA Boerdery*, Cameron characterised the rating power of municipalities, under s 10G(7) as 'a freestanding rate-levying

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[15] *CDA Boerdery* para 43.
[16] *Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd & another* [2008] ZACC 12; 2009 (1) SA 337 (CC) para 33.
[17] *Liebenberg* (CC) para 41; *Liebenberg* (SCA) para 8; *Howick* para 30.
[18] *City of Cape Town & another v Robertson & another* [2004] ZACC 21; (CC19/04) 2005 (2) SA 323 (CC) para 60; *Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd* para 33; *CDA Boerdery* para 38. *Minister of Local Government, Western Cape v Lagoonbay Lifestyle Estate (Pty) Ltd & others* [2013] ZACC 39; 2014 (1) SA 521 (CC) para 24; *Gerber & others v Member of the Executive Council for Development Planning and Local Government, Gauteng & another* [2002] ZASCA 128; 2003 (2) SA 344 (SCA) para 23.
[19] *Wary Holdings (Pty) Ltd v Stalwo (Pty) Ltd* para 33.
[20] *Howick* para 30.

competence'.[21] In a similar vein, the Constitutional Court in *Liebenberg* stated that ss 10G(6) and (7) conferred 'a freestanding rate-levying competence on municipalities'.[22]

[20] This 'self-standing' or 'freestanding' rate-levying competence can only mean that a municipality could levy property rates in terms of the provisions of s 10G(7) without reliance on or reference to the Ordinance. Unlike s 10G(6),[23] which required that municipalities perform valuations 'subject to any other law', the exercise of rating power under s 10G(7) was not 'subject to any other law'. Old order or pre-constitutional legislation continued in force subject to amendment or repeal and consistency with the Constitution.[24] Resort was had to the old order Provincial Ordinances when necessary and in respect of matters not covered by the Transition Act.

[21] The applicability of the old order Provincial Ordinances arose from s 10G(6) of the Transition Act which dealt with valuations. Section 10G(6) provided that a municipality should, subject to any other law, ensure that properties within its area were valued or measured at intervals prescribed by law. It further provided that 'all procedures prescribed by law regarding the valuation or measurement of properties' had to be complied with.[25] Moseneke J in *City of Cape Town v Robertson*,[26] confirmed that the exercise of power in terms of s 10G(6) must be 'in accordance with procedures prescribed by any other applicable law'. He went on to express the view that 'any other law' refers to 'property valuation legislation

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[21] Para 43.
[22] Para 42.
[23] Section 10G(6) of the Transition Act provided:
'A local council, metropolitan local council and rural council shall, subject to any other law, ensure that –
(a) properties within its area of jurisdiction are valued or measured at intervals prescribed by law;
(b) a single valuation roll of all properties so valued or measured is compiled and is open for public inspection; and
(c) all procedures prescribed by law regarding the valuation or measurement of properties are complied with:
Provided that if, in the case of any property or category of properties, it is not feasible to value or measure such property, the basis on which the property rates thereof shall be determined, shall be as prescribed: Provided further that the provisions of this subsection shall be applicable to district councils in so far as such councils are responsible for the valuation or measurement of property within a remaining area or within the areas of jurisdiction of representative councils.'
[24] See *CDA Boerdery* para 5.
[25] *CDA Boerdery* para 14.
[26] *Robertson* para 43.

applicable to the predecessors of the City at the time of its enactment'.[27] The learned judge recognised that the power to levy property rates may be qualified but noted that:

'The mere qualification, that the power to impose levies on property must be exercised subject to the procedural and other prescripts of another law, does not render the power ineffectual or nugatory. It simply provides for the power to be supplemented and regulated by another compatible or complementary law.'[28]

[22] The court a quo was thus wrong in finding that there were two sources of rating power which existed side by side and that the municipality had a choice as to which legislative option it could follow:

'It is in my view therefore clear that if a municipality complies with the relevant provisions of the Transition Act, one cannot be heard to say that its action is unlawful or invalid if at the same time it does not also comply with every prescript of the Rating Ordinance.'[29]

[23] In reaching this conclusion the court a quo relied on the statement by the Constitutional Court in *Liebenberg*, that 'the old-order legislation in terms of which municipalities could levy rates on property remained in force'.[30] But this sentence was clearly *obiter*; this was not an issue the Constitutional Court was called upon to decide. As the Constitutional Court had affirmed that the power to levy rates arose from the Constitution itself and was embodied in s 10G(7) of the Transition Act, it cannot have intended to say that there was an alternative source of such power. All it meant was that where the constitutional power needed to be supplemented in order to be effective, the old provincial ordinances could be used for this purpose.

[24] A municipality is not obliged to apply both national (the Transition Act) and provincial legislation (the Ordinance). Unless specifically provided by legislation, or if there is a lacuna in the Transition Act, a municipality is not required to have regard to the Ordinance.[31] In the circumstances, Kungwini, when exercising its rating power under s 10G(7), was not obliged to comply with the provisions of the

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[27] *Robertson* para 44.
[28] *Robertson* para 44.
[29] Para 12.
[30] *Liebenberg* para 43.
[31] *Byrom v uMngeni Municipality* 2006 JDR 0442 (N).

Ordinance. The appellant does not contend that Kungwini was obliged to comply with certain separate obligations in terms of the Ordinance not catered for in the Transition Act, but rather that s 21(1) of the Ordinance (which provides that property rates be levied for one financial year) by implication formed part of s 10G(7)(*a*)(i). The appellant's contention that s 10G(7) and s 21(1) of the Ordinance should be applied together, cannot be sustained.

Was Kungwini obliged to levy property rates annually?

[25] In terms of the Ordinance rates were required to be determined annually. As has already been mentioned s 21(1) empowered a local authority to levy a general rate on rateable property listed in the valuation roll for a financial year to which the roll is applicable. The appellant contended that the intention was clear that property rates and taxes would be determined each year and only be applicable for one financial year and this remained unaltered in the new dispensation. The appellant argued that s 10G(3)*(a)*(i) (which obliged a municipality to annually approve a budget for, inter alia, operating income and expenditure for the next financial year) must be read together with s 10G(7) and this reinforced the conclusion that rates were fixed for one year only.

[26] In support of its argument, the appellant also referred to s 12 of the Rates Act[32] which provides that: (i) a municipality must levy a property tax rate for each financial year and the rate lapses at the end of the financial year for which it was levied; and (ii) the levying of rates must form part of the municipality's annual budget process. Section 13 provides that rates become payable from the start of the financial year or when the municipality's annual budget is approved. It was argued that s 12(1) of the Rates Act continued the approach and position that applied before it was promulgated.

[32] Section 12 of the Rates Act provided:
'(1) When levying rates, a municipality must levy the rate for a financial year. A rate lapses at the end of the financial year for which it was levied.
(2) The levying of rates must form part of a municipality's annual budget process as set out in Chapter 4 of the Municipal Finance Management Act. A municipality must annually at the time of its budget process review the amount in the Rand of its current rates in line with its annual budget for the next financial year.
(3) A rate levied for a financial year may be increased during a financial year only as provided for in section 28(6) of the Municipal Finance Management Act.' This section has since been amended.

[27] There is no indication in s 10G of the Transition Act that the fixing of property rates had to form part of the municipality's budgetary process; that it had to be determined yearly; or that property rates would come into operation at the commencement of the new financial year, as argued by the appellant. The obligatory process of approving the budget 'on or before the date determined by law' in terms of s 10G(3)*(a)* was materially different from s 10G(7)*(a)*(i) which provides that a council may, by resolution, levy and recover property rates with no indication as to when the municipality should pass such resolution. In terms of s 10G(7)*(c)*(ii) a municipality was obliged to indicate in the relevant notice the date on which the determination of the property rates would come into operation. This implied that such determination would not necessarily come into effect on the first day of the new financial year as does a budget.

[28] In any event, the interpretation contended for by the appellant requires words to be read into s 10G(7). It suffices to say that this is not something that is lightly done and then only to avoid absurdity. One can read words in but only in rare instances.[33] Effect can clearly be given to s 10G(7) without requiring that property rates be levied as part of the municipality's budgetary process.

[29] Although municipalities were entitled, in terms of s 10G(7), to fix property rates separately for each financial year (which happened in many instances), s 10G(7) did not oblige municipalities to do so and did not provide that any property rates which had been levied during a specific financial year automatically lapsed at the end of such financial year. The meaning of s 10G(7) is apparent and does not produce any absurdity, repugnancy or inconsistency.

[30] There is no corresponding provision in the Transition Act to s 12 of the Rates Act. The Systems Act, the Local Government: Municipal Finance Management Act 56 of 2003 (Finance Act), and the Rates Act are the national legislation envisaged in s 229(2)(*b*) of the Constitution and they govern the new system of local government.[34] In terms of the Finance Act, the financial year of municipalities commences on 1 July of each year and ends on 30 June the

[33] *Barkett v SA National Trust & Assurance Co Ltd* 1951 (2) SA 353 (A) at 363 A-F.
[34] The Preamble to the Systems Act reads, in relevant part: 'Whereas this Act is an integral part of a suite of legislation that gives effect to the new system of local government'.

following year.[35] The council of a municipality must approve an annual budget for each financial year before the start of the financial year.[36] When an annual budget is tabled it must be accompanied by, among other documents, draft resolutions approving the budget of the municipality and imposing any municipal tax and setting any municipal tariffs as may be required for the financial year.[37] It is clear from these provisions that the budget must contain information about anticipated revenue from rates. As already mentioned, s 12(2) of the Rates Act provides that the levying of rates must form part of a municipality's annual budget process. In terms of the new constitutional dispensation, the levying of rates is an integral part of the budget process.[38] During the transitional phase there was no budgetary process as provided in the Finance Act and the two processes, namely, setting the annual budget and the fixing of rates, were not inter-related.

[31] It was common cause that Kungwini's various attempts to increase property rates in the Bronberg area during the period 1 April 2003 and 30 June 2005 were unsuccessful. In *Kungwini Local Municipality v Silver Lakes Homeowners Association*,[39] this court confirmed the order of the high court setting aside the rate increases as from 1 August 2004. This court did not find that the rates promulgated by Kungwini for that year were invalid, as contended by the appellant.

[32] For these reasons, the inescapable conclusion is that a municipality, acting in terms of s 10G(7), was not obliged to impose property rates annually and the levied rate did not lapse at the end of a financial year but continued to apply until changed. In this matter, the rate of 0,02 cents in the rand applied until changed.

[33] The appeal is dismissed with costs.

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L V Theron

Judge of Appeal

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[35] See the definition of 'financial year' in the Finance Act.
[36] Section 16(1) of the Finance Act.
[37] Section 17(3)*(a)* of the Finance Act.
[38] *South African Property Owners Association v Johannesburg Metropolitan Municipality & others* [2012] ZASCA 157; 2013 (1) SA 420 (SCA) para 32.
[39] *Kungwini Local Municipality* v *Silver Lakes Home Owners Association & another* [2008] ZASCA 83; 2008 (6) SA 187 (SCA).

APPEARANCES

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