



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 26 March 2015
STATUS Immediate

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

Simcha Trust v Madeleine de Jong (20001/2014) [2015] ZASCA 45 (26 March 2015)

The Supreme Court of Appeal (SCA) today dismissed an appeal against a decision of the Western Cape Division, Cape Town in terms of which it dismissed an application by the appellant, the Trustees of the Simcha Trust (IT 1342/93) for compensation, purportedly in terms of s 8(1)(c)(ii)(bb) of the Promotion of Administrative Justice Act 3 of 2000 (PAJA) against the City of Cape Town, for approving building plans that were later set aside when the owners of an adjacent property applied to court for an order in those terms. The SCA was critical of the high court for allowing the review application in which the trustees were co-respondents with the City to be transformed into litigation in terms of which they sought redress against the City on the basis of the latter's asserted reckless or negligent conduct in approving the plans. And that purely on the strength of a 'further affidavit'.

The SCA nevertheless considered that the high court had rightly dismissed the claim for compensation. It held that the provisions of PAJA, on which the trustees relied, did not permit for a setting aside of an administrative decision, the effect of which was a remittal to the decision maker in addition to

compensation. It agreed with the high court's reasoning in this regard.

The SCA also agreed that the phrase 'in exceptional circumstances' in the legislation in question was not concerned with whether the administrative decision was a conspicuously bad one but with whether there are unusual circumstances which make it appropriate to grant the remedy of compensation. The SCA reiterated that courts were rightly aware of the dangers of imposing liability on public bodies for the negligent but honest exercise of powers.

The appeal was dismissed with costs including the costs attendant upon the employment of two counsel.