



SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 12 March 2021
STATUS Immediate

City of Cape Town Metropolitan Municipality v Nu-Way Housing Developments (Pty) Ltd (1139/2019) [2021] ZASCA 19 (12 March 2021)

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 upheld an appeal against a judgment of the Western Cape Division of the High Court concerning an application by a developer (the respondent in the appeal) for a supply of electricity to a business erf located in a township established pursuant to the now-repealed Less Formal Township Establishment Act 113 of 1991.

The less formal settlement was approved by the Western Cape Provincial Government in November 2001. The application for a supply of electricity to the business erf was made in November 2014. The court a quo held that the City of Cape Town (the appellant) was not entitled to impose, as a condition for the electricity connection, a development capital charge as contemplated in the City's electricity tariff for 2014/2015. This was said to be so because the terms of approval in November 2001 had made no mention of a development capital charge and because as at November 2001 a charge of the said kind was not in existence.

The SCA reversed this decision, holding that in terms of the November 2001 approval the developer had to comply with the City's 'conditions' for making the connection; that this referred to the conditions prevailing by law at the time the application for supply was made; and that 'conditions' included any requirements as to payment applicable at that time (ie November 2014).

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