

Supreme Court of Appeal of South Africa

MEDIA STATEMENT

From: The Registrar, Supreme Court of Appeal

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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.

The respondents in the appeal of *Holcim v Prudent Investors* (SCA no 641/09) had successfully contended in the Bophuthatswana High Court that the cement manufacturer had lost its mineral rights (and hence its mining licence) when the Mineral and Petroleum Resources Development Act 2002 took effect because, on the day preceding the effective date, Holcim was not conducting mining operations in respect of its mineral and mining rights over their properties, although it was doing so on other properties covered by its mining licence.

The SCA upheld the appeal. It decided that the requirements for the creation of an 'old order mining right' were satisfied by the conduct of mining operations on any part of the land covered by the mining licence on the day preceding the commencement of the Act albeit that mining had not begun on one or more of the properties in respect of which the mineral rights were held. It therefore ordered the respondent to give Holcim access to their properties in order to prospect and mine for limestone and clay.

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