



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 16 March 2012

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

H S MATHEWSON & ANOTHER v M F VAN NIEKERK & OTHERS

1. The appellant sold and transferred land in a township in the course of development by him to the respondents. The respondents obtained an order in the court below which depended upon the valid cancellation of the sale. The court below held that the respondents were entitled to cancellation as essential services had not been installed, despite demand.

2. The SCA held that the court below was wrong in ignoring a tacit term relied upon by the appellant that before the essential services could be installed, the respondents had to indicate where on the property they required the installation to take place which, according to the appellant, they had not done. The argument that the tacit term was so farfetched or clearly untenable that it could be rejected on the papers was dismissed.

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