

Supreme Court of Appeal of South Africa

MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

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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

CITY OF JOHANNESBURG v DEBBIE INVESTMENTS CC

The Supreme Court of Appeal (SCA) today upheld an appeal by the local authority for the City of Johannesburg (City Council) against a decision of the Johannesburg High Court holding the local authority liable for flood damage to a Linksfield property in Johannesburg. The property, built on a ridge, is situated beneath a talus slope which extends under a municipal wall, which was erected to support a municipal road at the top of the property.

The damage had been caused after heavy rainfalls over the area in February 2000 precipitated a collapse of the slope on the property that is situated below the municipal road causing debris from the collapsed slope to dislocate and flood into a dwelling on the property. The owner of the property sued the City Council. It argued that the City Council's failure to construct or maintain the road properly had caused the flood damage.

The SCA held that the expert testimony adduced on behalf of the owner of the property and the City Council as to the cause of the catastrophe was inconclusive. This meant that no fault could be attributed to either of the parties. That being so, the SCA held that the High Court had been wrong to hold the City Council liable for the damage to the property.