

Supreme Court of Appeal of South Africa

MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

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

QUALIDENTAL LABORATORIES v HERITAGE WESTERN CAPE

1. The Supreme Court of Appeal today dismissed an appeal against a decision of the Cape High Court which had upheld a condition imposed by Heritage Western Cape.
2. The appellant, the owner of certain immovable property in Mossel Bay, had applied to Heritage Western Cape for a permit for the total demolition of an annex and a villa situated on the property, to make way for an apartment block development. Heritage Western Cape granted the permit for the demolition of the annex building but not the villa. Heritage Western Cape had in addition imposed a condition that the appellant was to submit its building plans for the envisaged apartment block development to it for final approval.
3. The appellant had contended in the high court that the Heritage Resources Management Act did not empower Heritage Western Cape to impose the condition in respect of the villa as same was not formally protected in terms of the Act.
4. The Supreme Court of Appeal found that the objective of the condition imposed by Heritage Western Cape was the conservation of the villa which it had identified as culturally significant and worthy of protection. In this regard the SCA found that the condition was consonant with the overall scheme of the Act and the Constitution. The SCA further found that Heritage Western Cape was empowered by the Act to issue the condition, in the circumstances of this case, even though the villa did not enjoy any of the formal protections in the Act.