

Supreme Court of Appeal of South Africa

MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 27 March 2008

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*

K J W SEALE v TYC

1. For many years the Transvaal Yacht Club (TYC) has conducted yachting activities on property leased from the Northwest Province at Hartebeestpoort Dam. In 2001 the Premier of the Province decided to grant a servitude in favour of Mr Seale over part of the property. The SCA set this decision aside in 2004, in ignorance of the fact that the servitude had already been registered.

2. In the present appeal the SCA ruled that because the Premier's decision to grant the servitude had been declared invalid, it followed that the registration of the servitude was also invalid. Mr Seale was ordered to pay the costs of the TYC.

3. In a separate appeal, the SCA ordered the TYC to pay most of the costs of the Province in the Pretoria High Court and on appeal, because the Province had at an early stage tendered to cancel the servitude at its

own cost. The SCA said that the costs of the proceedings after the tender were not of the Province's making and were due entirely to the opposition of Mr Seale. The court found itself unable to order Mr Seale to pay the TYC's costs because this formed no part of the TYC's appeal.

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