CONCOURT TO RULE ON RATES CASE

25 April 2013

The Constitutional Court will deliver judgment on Friday in the case of a woman whose lights were cut off after she refused to pay rates on the grounds her municipality was not delivering services.

Kroonstad resident Olga Rademan, a member of the Moqhaka Ratepayers and Residents' Association, declared a dispute with the Moqhaka municipality in June 2008.

She and other members withheld payment of their rates and taxes in protest against poor service delivery, but paid for electricity, water and other services.

The municipality disconnected her electricity in August 2009.

Rademan brought an application in the Kroonstad Magistrate's Court, which ruled the municipality was not entitled to disconnect her electricity.

The municipality appealed the ruling in the Bloemfontein High Court. It argued it was entitled to disconnect electricity when a ratepayer failed to pay for the provision of any service in terms of the Credit Control and Debt Collection By-laws.

This legislation and the Local Government: Municipality Systems Act showed the municipality had done nothing wrong because it was entitled to do so even if the actual service terminated was paid.

The Moqhaka municipality argued residents had no right to pick the services for which they wanted to pay.

Rademan argued that in terms of the Electricity Regulation Act (ERA), the municipality was not entitled to cut electricity supply to her property.

The high court overturned the lower court's decision.

Rademan then appealed to the Supreme Court of Appeal, which dismissed the case and said a municipality had the option, under the systems act, of consolidating the accounts for various services. It was intended to prevent residents from electing for which municipal accounts they wished to pay.

The Constitutional Court heard argument on whether there was a conflict between the ERA and the systems act, and whether the ERA should prevail.

The municipality contended there was no conflict and that the systems act should prevail.

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