



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: 13 March 2009

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*

ESKOM HOLDINGS LTD & ANOTHER v THE NEW RECLAMATION GROUP (PTY)  
LTD

The SCA today confirmed the decision of the Johannesburg High Court to set aside a R29 million tender awarded by Eskom to Kwanda Ferro-Alloy African Resources (Pty) Ltd for the collection and disposal of non-ferrous scrap metals. The court held that the Eskom committees that had evaluated tenders had committed an irregularity by taking into account the financial ability of Kwanda's holding company, Rappa Holdings (Pty) Ltd, to perform the contract, and not that of Kwanda itself. The court pointed out that it was clear from Kwanda's tender that Kwanda did not have the resources to perform the contract and that there was nothing to show that Rappa was under any obligation to finance Kwanda. Accordingly, the court found the award of the tender to Kwanda was not rationally connected to the information before Eskom and Eskom's appeal was dismissed.

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