Smile, You’re on Camera! Are Your Security Cameras Invading Your Neighbour’s Privacy?

Security remains a priority for many South African homeowners. With ongoing concerns about crime, it is understandable that people are taking steps to safeguard their properties and families. One of the most common protective measures is the installation of CCTV cameras. However, while surveillance systems may improve security, they must still comply with constitutional and legal principles.

This was made clear in the judgment of Phillips and Another v Bradbury, decided by the Western Cape High Court and its subsequent appeal.

The case involved a dispute between neighbours in Camps Bay. The homeowners installed CCTV cameras on their property for safety reasons. Two of the cameras were positioned in such a way that they had a continuous line of sight into significant portions of the neighbouring property.

The cameras overlooked and recorded activities in areas such as the swimming pool, courtyard and entertainment space. The neighbour objected to the placement of the cameras and argued that he was effectively under constant surveillance within his own private space. The neighbour approached the High Court for relief, alleging that his constitutional right to privacy had been infringed.

The legal issue

The central question before the court was whether the positioning of the CCTV cameras amounted to an unlawful invasion of privacy, and whether any such infringement could be justified based on the security concerns of the neighbour.

The court’s findings

While the court acknowledged the serious reality of crime in South Africa and accepted that homeowners are entitled to take reasonable steps to protect their property, it emphasised that such measures must be proportionate. The court

reiterated that the right to privacy is not limited to the interior of a dwelling, but that it extends to private outdoor spaces where a person has a reasonable expectation of privacy, including gardens, swimming pools and entertainment areas.

The homeowners were unable to demonstrate that the intrusive positioning of the cameras were necessary. The court found that less restrictive alternatives were available that would have secured the property without invading the neighbour's privacy.

As a result, the court ordered that the cameras be removed or repositioned so that they no longer overlooked the neighbouring property. The homeowners were also ordered to pay the legal costs of the proceedings.

Why this judgment matters?

This decision serves as an important reminder that constitutional rights apply even in private spaces and between neighbours. The use of modern technology, such as CCTV systems, does not override the right to privacy.

Homeowners must ensure that surveillance equipment is directed primarily at their own property and does not unnecessarily capture private areas of neighbouring premises. Failure to do so may result in court intervention and financial liability.

Before installing CCTV cameras, property owners should carefully assess their placement. Cameras should be positioned to achieve security objectives while minimising intrusion of neighbouring properties. Where uncertainty exists, legal advice should be obtained to ensure compliance with constitutional and neighbour law principles.

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