

SOUTH AFRICA / JUDGMENT

Motyre (Pty) Ltd - Conradie Family Trust v Gurah and Others (01R2019, 4334/2016) [2019] ZALCC 6 (29 January 2019) [2019] ZALCC 6

COURT
Land Claims Court

BEFORE
Y S Meer

CASE / FILE NUMBER
01R2019

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IN
THE LAND CLAIMS COURT OF SOUTH AFRICA
HELD
AT RANDBURG
CASE NO: LCC 01R2019
MAGISTRATE'S
COURT CASE NUMBER: 4334/2016
Before: The
Honourable Acting Judge President Meer

Delivered: 29 January 2019
In

the matter between: MOTYRE
(PTY) LTD – CONRADIE FAMILY TRUST
Applicant
And
RANDALL
GURAH
1st
Respondent
ALL
OTHER PERSONS RESIDING
2nd Respondent
THE
MUNICIPAL
MANGER
3rd Respondent
THE

CAPE WINE LAND DISTRICT
MUNICIPALITY
THE
MUNICIPAL
MANGER
4th Respondent
THE
BREEDE RIVER VALLEY
THE
DEPUTY DIRECTOR / THE HEAD
5th Respondent
OF
DEPARTMENT
THE
DEPARTMENT
OF
RURAL DEVELOPMENT AND RURAL REFORM

JUDGMENT

DELIVERED 29 JANUARY 2019

MEER AJP.

- [1] This matter comes before me on automatic review. I am satisfied that the order for the eviction stands to be confirmed. The following, which appears to have escaped the Court a quo, must however be noted.
- [2] The right of residence of the First Respondent predated his contract of employment. His right to reside therefore flowed from consent and not from his employment contract. The factors at Section 8 (1) of the Extension of Security of Tenure Act No 62 of 1997 (“the ACT”) thus had to be considered. The founding affidavit did in fact address such factors.
- [3] The Second Respondent’s right of residence also flowed from consent and not from the rights of occupation of the First Respondent. The Constitutional Court judgment of Klaase and Another v Van der Merwe No and Others 2016(6) SA131(CC) recognized that the rights of residence of persons like the Second Respondent derived from consent flowing from the combined operation of subsections (4) and (5) of section 3 of the Act. Post Klaase the Second Respondent can no longer be regarded as a mere resident who occupied under the First Respondent. Section 8 (1) applies also in respect of the Second Respondent.
- [4] I have carefully considered the evidence and pleadings and I am satisfied that the eviction of the Respondents was just and equitable having regard to all relevant factors and particularly those set out at Section 8 (1) of the Act.
- [5] I accordingly order as follows:

The order of eviction is confirmed save that the dates in the order are amended as follows:

Date of eviction: Friday 28 June 2019

Date Sheriff to execute order: Mon 1 July 2019

Y S MEER

Acting Judge President

Land Claims Court

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Prepared on 14 October 2026 · Esheria