

SOUTH AFRICA / JUDGMENT

Simpson v Ntsele and Another (LCC38/03) [2007] ZALCC 21 (11 October 2007)

[2007] ZALCC 21

COURT

Land Claims Court

BEFORE

Gildenhuys

CASE / FILE NUMBER

LCC38/03

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IN THE LAND CLAIMS COURT OF SOUTH AFRICA

HELD AT PIETERMARITZBURG

Case no: LCC38/03

Before Gildenhuys J

Date: 11 October 2007

In the matter of:

CARL LIONEL MILLIN SIMPSON Applicant

and

THULANI NDLELA ZIMHLOPE DAVID NTSELE First Respondent

THE DIRECTOR GENERAL OF LAND AFFAIRS Second Respondent

ORDER

WHEREAS the Applicant and First Respondent have negotiated and agreed to settle this matter;

AND WHEREAS the Second Respondent (being an interested party), herein duly represented by Mr Dumisani Xulu (duly authorised thereto) was joined

in these proceedings in terms of an Order of this Court dated 11 October 2007;

AND WHEREAS the Second Respondent has monitored and facilitated the negotiations between the Applicant and the First Respondent;

AND WHEREAS the Applicant, the First Respondent and the Second Respondent have agreed to request the Honourable Court to issue an Order pursuant to this Deed of Settlement,

NOW THEREFORE THE FOLLOWING ORDER IS MADE:

The First Respondent, acting in his capacity as head of his household, situated on the Remainder of Sub 1 of the farm Uithoek Nr 1335, KwaZulu Natal Province (hereinafter referred to as “the farm”), together with his wife, children and all other persons occupying the farm on the basis of their association with the First Respondent, must vacate the farm by not later than 11 January 2008 (“the relocation date”) together with all their loose assets and livestock.

It is noted that the First Respondent intends to acquire alternative land with the assistance of the Second Respondent, as is provided for below.

It is noted that, for settlement purposes alone and without admitting to it, the Applicant has no objection against the Second Respondent dealing

with the First Respondent as if he is a labour tenant as defined in the Land Reform (Labour Tenants) Act No 3 of 1996 (“the Act”), the First Respondent having applied to the Second Respondent for an award of land in terms of the provisions of Section 16 of the Act.

The Second Respondent undertakes to assist the First Respondent to look for, find and acquire alternative land as soon as possible. The Second Respondent must provide the necessary finance in the form of any grants to which the First Respondent may be entitled in terms of the Act, or in terms of any mechanisms of the Land Reform Program of the Government of the Republic of South Africa, to enable the First Respondent to acquire such alternative land. The Applicant undertakes to assist the Second Respondent as far as possible to identify suitable alternative land to be acquired as stated above.

Between the date of this Order and the relocation date, the Applicant and the First Respondent will desist from interfering with each other and with each other’s family members and affairs, and will not commit any unlawful act or omission against each other or each other’s family members, employees or associates.

The Applicant will contribute and pay over an amount of R 15 000.00 to the First Respondent’s relocation costs on or before 31 October 2007.

The First Respondent and his family will be allowed to maintain the existing structures where they live on the farm up to the relocation date to ensure that it remains in good state of repair. The First Respondent will, however, not be entitled to erect any new structures or to make any additions to existing structures on the farm or to expand the current extent of the premises where they currently live on the farm.

In vacating the farm, the First Respondent will remove all assets which he considers to be his own property, after which all remaining structures at the residential site may be demolished by the Applicant.

Should any of the First Respondent, his family members and/or his associates fail to leave and vacate the farm together with all their belongings and livestock by the relocation date, the Applicant will be entitled:

8.1 to an eviction order against all persons who have not

vacated the farm; he will be entitled to apply to this Court on the same papers for authority to take out a warrant of eviction; and

8.2 to repayment of the sum of R 15 000.00 referred to in paragraph 6 above.

The First Respondent and his family will have the right to visit any existing graves of family members situated on the farm, in accordance with applicable legislation.

It is recorded that:

No eviction order is presently sought by the Applicant

against the First Respondent's mother, Maureen Ntsele;

Maureen Ntsele may remain on the farm together with a family member of her choice; and

Maureen Ntsele may not keep more than six cattle on the farm;

11.4 The Applicant will not provide any services in respect of the cattle, and will determine the location on the farm where the cattle may graze.

Maureen Ntsele, who was present in Court when this Order was made and who was given an explanation of paragraphs 11.2, 11.3 and 11.4 thereof, has consented to paragraphs 11.2, 11.3 and 11.4 being made an Order of Court.

INGE OSCHMAN

REGISTRAR OF JUDGE GILDENHUYS

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