

IN THE LAND CLAIMS COURT OF SOUTH AFRICA

CASE NUMBER: 117/98

Held at **PAARL** on 27 October 1998
before **MEER, J**

In the case of:

P E REDELINGHUYS

Applicant

and

C CLAASEN

First Respondent

K ALEXANDER

Second Respondent

JUDGMENT

MEER, J:

- [1] An order granted in the Paarl Magistrate's Court for the eviction of the respondents from the applicant's farm was referred to this court for automatic review in terms of Section 19(3) of the Extension of Security of Tenure Act 62 of 1997 (hereinafter referred to as "the Act"). The parties were called upon to furnish written submissions and also given the opportunity to make oral submissions for the purpose of this review as is provided for at section 19(3) of the Act. The applicant only, made written and oral submissions. No submissions were received from respondents, who, despite notification, did not attend the Paarl Magistrates' Court on 27 October 1998, when this Court heard oral submissions.
- [2] The respondents became occupiers on applicant's farm after 4 February 1997 when they were employed by him as farmworkers. Evictions of such persons are governed by Section 11 of the Act. Section 11(2) provides that where there is no express and fair term that the consent to reside will terminate upon a fixed date, a court may grant the eviction if it is of the opinion that it is just and equitable to do so. Section 11(3) sets out the factors the Court shall have regard to in deciding whether it is just and equitable to evict:

“11(3) In deciding whether it is just and equitable to grant an order for eviction in terms of this section, the court shall have regard to -

- (a) the period that the occupier has resided on the land in question;
- (b) the fairness of the terms of any agreement between the parties;
- (c) whether suitable alternative accommodation is available to the occupier;
- (d) the reason for the proposed eviction;
- (e) the balance of the interests of the owner or person in charge, the occupier and the remaining occupiers on the land.”

[3] I am satisfied that regard being had to the above factors together with the facts and circumstances pertaining to the respondents’ dismissal, the reasons therefor and their subsequent eviction order, that it was just and equitable for the learned magistrate to have granted an order for the respondents’ eviction. I am satisfied moreover that sections 8(2) and 9 of the Act have been properly complied with.

[4] Accordingly I make the following order in terms of section 19(3)(a) of the Act:

The Order for the eviction of the respondents granted in the Paarl Magistrate’s Court on 28 September 1998 is confirmed in whole.

JUDGE Y S MEER

Heard on: 27 October 1998

Handed down on: 27 October 1998

For the applicant:

D H Blackburn instructed by *Basson Blackburn Ingelyf*

For the respondent:

Unrepresented