

# IN THE LAND CLAIMS COURT OF SOUTH AFRICA

CASE NO: LCC26/98

**In Chambers**  
before **Dodson J** and **Moloto AJ** and **Plewman (assessor)**.

Decided on: 13 June 2001

In the matter of:

**KRANSPOORT COMMUNITY**

Claimant

Concerning

**THE FARM KRANSPOORT 48 LS**

---

## JUDGMENT

---

**DODSON, J**

[1] The Court granted an order of restitution in this matter subject to compliance with a number of conditions . Two of the three conditions have already been met. Compliance with a third condition was still outstanding . The first two conditions related to the formation and registration of a communal property association and the ratification by that association of the claimant community's decision to seek restoration of the farms generally known as Kranspoort. Full details of the background are set out in the Court's judgment entitled *In re Kranspoort community* and reported at 2000 (2) SA 124 (LCC). The third condition required that the claimant community formulate a plan to the satisfaction of the Court for the development and use of the farms and provide sufficient proof of, firstly, community participation in the planning and secondly the community's commitment to the proper implementation of the plan.

[2] An application as contemplated in the Court order (see pages 185-187 of the reported judgment) for confirmation of compliance with the conditions was previously brought and was successful in so far as confirmation of compliance with the first two conditions referred to above is concerned. The Court was however not satisfied with the plan presented at that stage and declined

to confirm compliance with the third condition. However, the Court granted the claimant community leave to renew the application on the basis of a re-formulated plan. The claimant community has duly renewed the application and the Court has before it a substantial document entitled “The Kranspoort Sustainable Development Plan” dated May 2001.

[3] All the members of the Court have considered the plan carefully and have raised with the parties their concerns in relation to it. The broad concern underlying the Court’s questions is that which appears from its original judgment, namely that the community should be able to resettle the land awarded in a viable and sustainable manner. The Court’s concerns have been debated with the parties in a conference and the Court has been given the assurance that the concerns will be taken into account in the implementation of the plan. Broadly speaking the concerns relate to the following areas:

- (1) Discrepancies in the report as to the precise number of households and household members who will resettle at Kranspoort and at what times and the number of households which will be dependent solely on the land for income. It is important that these discrepancies be resolved if there is to be proper planning.
- (2) The overall management of the community and its activities particularly in the context of scarce resources and a large number of households to be accommodated.
- (3) Plans to cater for the immediate needs of the community regarding resettlement, including food production, schooling, housing and fuel in the immediate short term.
- (4) The financial demands which the various processes envisaged by the plan will place on the community including the employment of agents, the preparation of further business plans and compliance with statutory requirements relating to the establishing of a settlement. In this regard the parties have assured us that the necessary budgeting has been done and that, wherever possible, the expertise and human resources of national, provincial and local government will be made available to the community at no cost to it in order to implement the plan.

[4] At the same time the Court takes note of the extensive effort which has gone into compliance with the Court's order and commends the parties and their agents for this achievement. The Court also notes the extent to which the cooperation of the various arms of government has already been secured. The Court, in its original judgment, stated at 183C-D that-

“In scrutinising that plan, the Court will not act as a super-planner judging the merits of the plan which is presented. Rather it will satisfy itself that:

- (1) a reasonable degree of planning has taken place,
- (2) on the basis of a sufficiently participatory planning process, and
- (3) there is a clear commitment to the implementation of the plan or plans formulated.”

[5] The Court is duly satisfied that all these three requirements have indeed been satisfied. At the same time, given that the Court has not specifically adjudicated the merits of the plan, this judgment should not be seen as an endorsement of the plan as a blueprint for future similar plans relating to the resettlement of land and land subject to restitution orders in particular. The Court accordingly makes the following order: :

- (1) The period of six months referred to in paragraph 2 of the order dated 10 December 1999 in the above matter is extended until 11 June 2001.
- (2) The Court confirms that the claimant has complied with paragraph 2.3 of the order dated 10 December 1999 in the above matter.

---

**JUDGE AC DODSON**

I agree

---

**ACTING JUDGE J MOLOTO**

I agree

---

**ASSESSOR PLEWMAN**

For the claimant:

*Adv Jansen* instructed by *Legal Resources Centre, Pretoria.*

For the Department of Land Affairs:

*Adv H Havenga* instructed by *the State Attorney, Pretoria.*