

IN THE LAND CLAIMS COURT OF SOUTH AFRICA

Held in **Randburg** on **29 May 2002**
before **MOLOTO AJ**

Decided on: 31 May 2002

CASE NUMBER : LCC 123/00

In the matter between:

VAN DER SCHYFF, W

Plaintiff

and

PATU, DV

Defendant

CASE NUMBER: LCC 124/00

In the matter between:

VAN DER SCHYFF, W

Plaintiff

and

MONTSHO, S J

Defendant

JUDGMENT

MOLOTO AJ:

[1] The plaintiff, the person in charge of the farm Sterkfontein (“the farm”) in the district of Ventersdorp, brought an action for eviction in terms of the Extension of Security of Tenure Act¹ (“the Act”) against each of the defendants in the above two cases. In each case the plaintiff prayed that the defendant be evicted with his family and dependants, that is, all those whose right to occupy the farm emanated from the defendant. Both matters were heard in default of appearance by the defendants.

[2] In both cases I was satisfied that the plaintiff complied with the provisions of section 9(2) of the Act in that the right of residence was lawfully terminated, the defendants did not vacate during the period of notice to vacate, the plaintiff complied with the provisions of section 10 and

1 Act 62 of 1997, as amended.

that the required notices were served on the defendants, the relevant municipality and provincial head of the Department of Land Affairs. A report in terms of section 9(3) of the Act was filed in both cases and the plaintiff complied with section 13 relating to outstanding wages and related amounts, structures, improvements and standing crops on the land.

[3] The defendant in case LCC 123/2000 occupies the farm with his wife and children, all people whose right of residence depends on the defendant's right. The defendant in case LCC 124/2000 is an unmarried man. He lives with his parents, siblings and cousins on the farm. It appears his parents came to the farm of their own accord before he started working for the farm's owner. It is not clear what the origin of their right of residence is. Similarly, the origin of the right of residence of the siblings and cousins is not clear. What was, however, conceded by Mr Snyman, for the plaintiff, was that these people are not the defendant's dependants and it has not been shown that their right of residence depends on the defendant's right of residence. It was shown that suitable alternative accommodation is available in the Tshing township.

[4] In the circumstances, I made the following orders on 29 May 2002 with respect to the cases.

[5] Wilco Van der Schyff v Daniël Velile Patu LCC 123/00

“The court makes the following order:

- 1 The defendant, his family and dependants, are ordered to vacate together with their belongings the farm known as Sterkfontein on or before 31 July 2002.
- 2 Should the defendant, his family and dependants fail to vacate and remove their belongings from the said farm on or before the date referred to in paragraph (1), then the sheriff is ordered and authorised to remove the defendant, his family, dependants and belongings from the said farm on or after 7 August 2002.
- 3 No order as to costs.”

[6] Wilco Van der Schyff v Sekalake Jacobus Montsho LCC 124/00

“The court makes the following order:

- 1 The defendant is ordered to vacate the farm Sterkfontein and remove all his belongings from the said farm on or before 31 July 2002.
- 2 Should the defendant fail to vacate and remove his belongings from the said farm on or before the date referred to in paragraph (1), then the sheriff is ordered and authorised to remove the defendant and his belongings from the said farm on or after 7 August 2002.
- 3 No order as to costs.”

ACTING JUDGE J MOLOTO

For the plaintiff:

Adv Snyman instructed by *Allan Weideman Attorneys, Ventersdorp.*

For the defendants:

Absent.