

IN THE LAND CLAIMS COURT OF SOUTH AFRICA

RANDBURG

In chambers: **MOLOTO AJ**

CASE NUMBER: LCC 09R/02

MAGISTRATE'S COURT CASE NUMBER: 769/01

Decided on: 11 March 2002

In the review proceedings in the case between:

ERMS SALATS FARMS (PTY) LTD

Applicant

and

LEWIES, H

First Respondent

BOOIS, M

Second Respondent

JUDGMENT

MOLOTO AJ:

[1] This is an automatic review in terms of section 19(3) of the Extension of Security of Tenure Act¹ (hereinafter “the Act”) of an order of the Magistrate, Piketberg granted on 14 February 2002, evicting the respondents from a certain piece of land known as Matroosfonteinplaas (hereinafter “the farm”) in the district of Piketberg, the property of the applicant. The applicant acquired the farm on 1 November 2000. The first respondent has lived on the farm since 1 May 1983 while it was owned by the applicant’s predecessor in title. The second respondent is the first respondent’s common law wife. They have three minor children, of whom two attend the local primary school. The third is a baby of two. The first respondent also has a major son born of a previous marriage.

[2] The respondents neither entered appearance to defend, nor attended court either in person or by representation.

[3] It is alleged that the first respondent’s rights of residence arose solely from an employment agreement and that such employment was terminated in accordance with the provisions of the

1 Act 62 of 1997, as amended.

Labour Relations Act² after a disciplinary hearing. No facts surrounding the termination of employment are mentioned.³ Then the applicant alleges that it complied with section 10(1)(c) of the Act. Without the surrounding facts the Magistrate could not decide whether the applicant had indeed complied with section 10(1)(c). Accordingly, it cannot be said that section 9(2)(c) of the Act has been complied with.

Order

[4] The order of the Magistrate, Piketberg made on 14 February 2002 in this matter is set aside wholly and the following order is made in its place.

“(a) The application is dismissed.

(b) No order as to costs.”

ACTING JUDGE J MOLOTO

For the applicant:

De Villiers-Van Zyl Inc, Porterville.

For the respondents:

Absent.

2 Act 66 of 1995.

3 See *Du Toit v George and Another*, LCC 31R/01, 28 February 2001 at para [17]; *Reeves v Nene and Others*, LCC 108R/01, 23 January 2002 at para [7], both cases available from www.law.wits.ac.za.