IN THE LAND CLAIMS COURT OF SOUTH AFRICA

Held at **RANDBURG** on 1 November 1999 **CASE NUMBER**: LCC10R/98
before **Gildenhuys J**
Decided on 16 November 1999

In the case between:

CITY COUNCIL OF SPRINGS Applicant

and

OCCUPANTS OF KWA-THEMA 210 Respondents

JUDGMENT

GILDENHUYS J :

[1] This matter has a long and tortuous history. It involves an informal settlement established on land which forms part of the farm Kwa-Thema No 210, in the district of Springs. The land belongs to the City Council of Springs. The Council intends to establish a township on the land and to that end requires the informal settlers to vacate the land. Alternative accommodation on other land ("the waiting area") was offered to the informal settlers, but they would not move.

[2] The Extension of Security of Tenure Act [1] ("the Tenure Act") applies to the land and the informal settlers are occupiers as defined in the Tenure Act. I will refer to them as "the occupiers". Their numbers run into several hundred. The Council does not know the names of all of them. The Council applied for their eviction under the Tenure Act in the Magistrate's Court of Springs. The Council relied upon the availability of the waiting area as alternative accommodation to fulfill the requirements of sections 10 and 11 of the Tenure Act.[2] A rule *nisi* was issued by the Magistrate, calling upon the occupiers to show cause why an order for their eviction should not be granted.

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1 Act No 62 of 1997, as amended.

2 Compliance with section 10 or 11 of the Tenure Act is a requirement for an eviction order in terms of section 9(2)(c) of that Act.

[3] The rule *nisi* issued by the Magistrate came before this Court on automatic review under section 19(3) of the Tenure Act. The review was argued before me and my colleague Moloto J. We set the rule *nisi* aside and substituted it with a different rule *nisi*, which read as follows:

> "A . . .
>
> B A rule nisi is hereby issued returnable on 1 December 1998, calling upon -
>
> (i) every occupier of land forming part of the land proposed for the establishment of a township to be known as Kwa-Thema Extension 3 on the farm Kwa-Thema No 210, Registration Division IR, Transvaal, as shown on a map attached to Applicant's founding affidavit and marked Annexure "E" (hereinafter referred to as "the property"); and
>
> (ii) the head of the provincial office of the Department of Land Affairs, Gauteng,
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> to appear at the Magistrate's Court for the district of Springs, at Springs, on 1 December 1998 at 09:00, personally or by counsel or attorney, to object if they (or any of them) choose to do so, to the granting of orders as set out below:
>
> 1 ordering each occupier and every person holding title under an occupier to vacate the property and to remove every informal structure (other than a permanent structure) occupied by him or her on the property, within fourteen days from service of the final order in a manner of service as ordered by the Court;
>
> 2 interdicting and restraining each occupier and every person holding title under an occupier from thereafter depriving the Applicant or its agents or employees of the possession, use and enjoyment of the property;
>
> 3 ordering the Applicant to make available free of charge to each occupier vacating the property in terms of 1:
>
> (a) land to be used for the erection of a temporary structure or structures for the occupiers' accommodation at the waiting area as described in Annexure "F" to the Applicant's founding affidavit; and
>
> (b) transport of the occupiers' belongings, including the materials salvaged from any structure to be removed in terms of 1;
>
> 4 in the event of any occupier failing to vacate the property within the time limit set in 1, authorising and directing the Sheriff -
>
> (a) to evict all persons occupying the property, provided that such eviction shall not be carried out earlier than three days after the expiry of the thirty-day period in 1;
>
> (b) to ascertain and note the identity of each person so evicted;
>
> (c) to demolish all informal structures found on the property and to move all material salvaged therefrom to the waiting area as indicated on Annexure "F" to the Applicant's founding affidavit;

5 granting the Applicant such further or alternative relief as the Honourable Court may deem appropriate;

6 ordering -

(a) those occupiers who oppose this order; and

(b) any other person who opposes this order,

to pay the Applicant's costs.

C The Applicant is ordered -

1 to serve a copy of the rule nisi (in B) on Mr David Mahlangu, and to provide Mr Mahlangu with 500 copies thereof for distribution amongst the occupiers of the property by no later than 11 September 1998;

2 to annex to each of the 500 copies of the Order provided to Mr Mahlangu -

(a) a copy of Form 9 of Schedule 1 to the Land Claims Court Rules; and

(b) a notice informing the occupiers that -

(i) the Land Claims Court has substituted the eviction order issued by the Magistrate's Court on 31 July 1998 by the rule nisi; and

(ii) copies of the papers filed in the matter (and, in particular, Annexure "E" and Annexure "F" to the Founding Affidavit) may be obtained free of charge from the Applicant at its offices at an address and applicable room number to be stated in the notice;

3 to exhibit a copy of the rule nisi with its annexures (as in C 2) at a conspicuous place -

(a) on a suitable notice board at the offices of the Applicant; and

(b) on suitable notice boards to be erected by the Applicant on Sibolayi Street, on Ndlela Street and on Madiba Street, within the property,

and continue to exhibit these copies up until and including 25 September 1998;

4 to have available at its offices up until and including 25 September 1998, a copy of all the papers filed in the matter for inspection by any occupier, and to give to every occupier, on request and free of charge, a copy of such papers;

5 to serve a copy of this Order and of all papers filed with the Magistrate's Court in the matter, on the head of the provincial office of the Department of Land Affairs, Gauteng, by no later than 11 September 1998; and

6 to file with the Clerk of the Magistrates' Court at Springs by no later than 30 September 1998, proof (by way of affidavit or otherwise) that the provisions of C1 to C5 of this Order have been complied with.

D The Magistrate -

1 may upon the return date of the rule nisi, discharge or change the terms of the order as may be appropriate in the light of evidence presented and submissions made to her;

2 is directed to give consideration to and make suitable orders in respect of the matters referred to in section 13 of the Extension of Security of Tenure Act, 1997 (Act 62 of 1997), if and when an eviction order is made;

3 is directed to include in any eviction order which he or she may grant, directions in respect of the persons on whom and the manner in which such order must be served, such service to be effected only after the automatic review of the order by this Court; and

4 is directed to forward any eviction order which may be made against an occupier forthwith to the Land Claims Court for automatic review under section 19(3) of the Extension of Security of Tenure Act, 1997.

E . . ."

The reasons for the decision are contained in a judgment which I gave on 3 September 1998, with which my colleague Moloto J concurred. [3]

[4] The rule *nisi* was duly published and properly served. A large number of occupiers delivered answering affidavits, opposing the orders. I will refer to them as "the opposing respondents". Because they filed affidavits, their names are now known. The opposing respondents might not include all the occupiers whose eviction the Council seeks, although they probably constitute the overwhelming majority of them.

[5] On 22 April 1999, the pending application was transferred to this Court by agreement between the applicants and the opposing respondents. It was heard by me, sitting alone. I could not decide all the issues between the parties on the affidavits before me and I referred a limited number of the issues to oral evidence. These issues concerned the physical characteristics of the waiting area and its suitability as alternative accommodation for the occupiers. After hearing oral evidence, I found that the physical characteristics of the waiting area do not make it unsuitable as alternative accommodation, as the opposing respondents had professed. During the hearing of oral evidence it emerged from the evidence of a consultant employed by the Council, that the waiting area no longer has sufficient room to accommodate all the occupiers at the same time. Other persons are living on portions thereof. This evidence caught the legal representatives of the parties, if not the parties themselves, completely by surprise. It was not raised or canvassed in the affidavits by either side.

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3 *City Council of Springs v Occupants of the Farm Kwa-Thema 210* [1998] 4 All SA 155 (LCC).

[6] The oral evidence indicated that the waiting area presently has room for approximately one hundred additional families. Many people already living there have applied for subsidies under a housing scheme, and will move if and when subsidies are granted to them and formal houses are allocated to them. Confronted with the unexpected difficulty of being unable to make alternative accommodation available to all the occupiers at the same time, Mr Putter, on behalf of the Council, put forward a suggestion that the occupiers be ordered to vacate the land in batches, as and when space in the waiting area becomes available. If such an order would be made, it would entitle the Council to identify each batch of occupiers and to decide on which date they must vacate the land. Mr Botha, on behalf of the opposing respondents, strongly objected to this suggestion.

[7] Having considered the suggestions put forward by Mr Putter and the objections raised by Mr Botha, I made an order as follows:

> "(1) This order applies to every respondent and to every other person who on 22 May 1998 was an inhabitant of that portion of the farm Kwa-Thema No 210, Registration Division IR, Transvaal, which is shown on a map attached to the applicant's founding affidavit and marked annexure E (herein referred to as "the farm"), and to every person holding under a respondent or under such an inhabitant (herein individually or collectively referred to as "an occupier" or "occupiers").
>
> (2) The applicant is entitled to have every occupier evicted from the farm according to the directions contained in par (3)-(9) of this Order.
>
> (3) Every occupier must vacate the farm and remove every informal structure (other than a permanent structure) occupied by him or her on the farm, if the occupier is served with a notice to vacate (herein "the vacation notice") by the applicant, by not later than a date to be stated in the vacation notice (herein "the vacation date"). The vacation date must not be earlier than 28 days after the date of service of the vacation notice.
>
> (4) The vacation notice to each occupier:
>
> (4.1) must have annexed to it a copy of this order;
>
> (4.2) must state the vacation date;
>
> (4.3) must contain an offer of alternative accommodation to be made available free of charge on an area to the east of the Eskom power line and south-west of the cemetery in the proposed township of Kwa-Thema Extension 3, as indicated in annexure F to the applicant's founding affidavit (hereinafter referred to as "the holding area"); provided that the alternative accommodation offered may not be smaller than a half erf as presently demarcated on the holding area; the half erf which is offered must be identified in the vacation notice; and
>
> (4.4) contain an offer of transport to be made available to the occupier, free of charge on the vacation date, for moving all building materials used in any structure inhabited by the occupier on the property, and for moving the personal effects of the occupier and of those holding title under him or her, to the allocated half erf within the holding area.

(5) The vacation notice must be served personally on an occupier or on a member of his or her household who is apparently over the age of 18 years, unless the Court authorises a different form of service. Service may be effected through the Sheriff or by an official of the applicant.

(6) Every occupier must, at the time when a vacation notice is served upon him or her, give to the Sheriff or to the official of the applicant serving the notice:

(6.1) his or her full names and identity number;

(6.2) the full names and identity numbers, if any, of all those residing in his or her household;

(6.3) if requested to do so, the date of commencement of his or her occupation of the property; and

(6.4) information on any application made by him or her for a housing subsidy.

(7) The Sheriff is hereby authorised:

(7.1) to evict every occupier who has been served with a vacation notice and who has not vacated the property by the vacation date stated in the vacation notice; and

(7.2) to demolish all informal structures (other than permanent structures) occupied by such occupier on the farm and to move all materials salvaged therefrom to the half erf allocated to him or her in the holding area;

The Sheriff may evict such occupiers and demolish such structures not earlier than seven days after the vacation date, if they have not by then vacated the farm.

(8) The applicant must maintain a register indicating in respect of each occupier served with a vacation notice:

(8.1) his or her name and identity number;

(8.2) the date, time and manner of service of the vacation notice;

(8.3) the vacation date as contained in the vacation notice;

(8.4) the half erf allocated in the holding area to the occupier on whom the vacation notice is served; and

(8.5) the name of the person who effected service of the vacation notice.

The register must be available for inspection by any occupier during office hours at the applicant's offices at Room 311, Block F, Community Centre, South Main Reef Road, Springs.

(9) The alternative accommodation to be made available in terms of par (4.3) of this order must be made available for an indefinite period, but subject to termination in terms of the common law and the provisions of the Extension of Security of Tenure Act, 1997.

(10) In the event of damage to property of occupiers in the process of transporting their belongings, the occupiers shall be entitled to institute action against the applicant on the normal principles of delict.

(11) This order will lapse in respect of all occupiers who have not been served with a vacation notice by 30 June 2000.

(12) Application may be made to this Court for further directions on the implementation of the order in par (2), or for a variation or clarification of the directives contained in par (3) to (9). Such application must:

(12.1) if made by the applicant, be on notice to the respondents, to be served at the address of their present attorney or at any other address as they may indicate;

(12.2) if made by a respondent, be on notice to the applicant, to be served at the address of its present attorney or at any other address as it may indicate; and

(12.3) if made by an occupier who is not a respondent, be made on notice to both the applicant and the respondents, to be served as set out in (12.1) and (12.2).

(13) No order is made as to costs, in respect of this hearing and in respect of previous hearings where a decision on costs was held over for final determination. "

My reasons for the order are contained in the judgment handed down on 2 September 1999.[4]

[8] On 22 September 1999, the opposing respondents applied for leave to appeal against the order on the following grounds:

"1 The Order operates against an unidentified group of people which is not legally permissible: The Court had to find that the Applicant had to identify specific people whom it wants to evict and had to seek an order against them.

2 It was not proper for the Court to allow the Applicant to decide which occupiers will be served with evacuation notices. The effect of paragraphs (2) to (9) of the Order is that a litigant to proceedings (the Applicant) is empowered to decide which specific persons shall be evicted, which decision is the function of the Court and not of the Applicant. Accordingly the Court had to find that the Applicant, in failing to identify specific Respondents (which the Applicant must now do and therefore could have done before initiating the Application), is not entitled to an Eviction Order.

3 The Court erred in finding that Section 9(2)(c) of Act 62 of 1997 was complied with. There may be suitable alternative accommodation available, but not for all occupiers against whom the Order is operative in this regard. The Court had to find that the Applicant had to prove exactly the extent of the alternative accommodation available and exactly who must be relocated there.

4 The Court erred in making an Order for Eviction of more or less 100 families who are not identified in the Order.

5 The Court erred in finding that it had to be innovative in the Order it made, it was not proper to make an Order which substantially deviates from the Notice of Motion and the Rule Nisi."

[9] During the hearing of the application for leave to appeal, Mr Botha explained the first ground for appeal. It is not directed at the inclusion of unnamed occupants in the eviction order (that is people other than the opposing respondents). The complaint is that the eviction order entitles the Council to identify the batches of occupiers which must move, and to determine the

4 *City Council of Springs v Occupants of Kwa-Thema* LCC10R/98, 2 September 1999, [1999] JOL 5280 (LCC).

date on which they must move.[5] This, in Mr Botha's submission, makes it an order "against an unidentified group of people."

[10] Mr Botha, when arguing the application for leave to appeal, referred me to the judgment of Conradie J in the case of *Kayamandi Town Committee v Mkwaso and Others*.[6] In that case, a rule *nisi* was issued at the behest of the Kayamandi Town Committee against nine respondents and others whose names it had not been able to establish, in the following terms:

> "4. Dat 'n bevel nisi uitgereik word wat nie van toepassing is op eerste en sesde respondente nie ingevolge waarvan enige persone wat die applikante se persele soos vermeld in aanhangsel "A" hiertoe okkupeer sonder die toestemming van die applikant op Donderdag 2 Augustus 1990 in die Vierde Afdeling van hierdie agbare Hof redes aanvoer waarom 'n bevel met die volgende bepalings nie uitgereik behoort te word nie, naamlik dat:
>
> (a) Enige persoon/persone wat die applikant se persele vermeld in B aanhangsel "A" hiertoe okkupeer sonder die toestemming van die applikant beveel word om sodanige persele te ontruim en verbied word om voormelde persele te betree sonder die toestemming van die applikant.
>
> (b) Die persoon/persone vermeld in subpara (a) hierbo gelas word C om die koste van hierdie aansoek te betaal.
>
> 5. Dat betekening van afskrifte van hierdie bevel sowel as die kennisgewing van mosie en aanhangsels daartoe in hierdie aangeleentheid geskied op die persone vermeld in para 4 hierbo deur afskrifte van voormelde dokumente te laat by elke woonstruktuur op die persele vermeld in aanhangsel A hiertoe. "[7]

[11] On the return date of the rule in the *Kayamandi* matter, doubt was expressed on whether a court order can properly be made against unidentified occupiers ("faceless respondents", as they were called):

> "One of the tests, of which there are several, for determining whether a particular act is to be classed as a judicial act is whether there is a *lis inter partes* (Wiechers Administrative Law at 96).

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5 Section 12(1) of the Tenure Act requires the court to determine the vacation and eviction dates. The subsection reads as follows:

> "(1) A court that orders the eviction of an occupier shall-
>
> (a) determine a just and equitable date on which the occupier shall vacate the land; and
>
> (b) determine the date on which an eviction order may be carried out if the occupier has not vacated the land on the date contemplated in paragraph (a).

6 1991 (2) SA 630 (C).

7 Above n 6 at 632J-633D.

> In De Smith's *Judicial Review of Administrative Action* 4th ed at 83, the author calls this perhaps the most obvious characteristic of ordinary Courts'. It is, as remarked in *Saskatchewan Labour Relations Board v John East Ironworks Ltd* [1949] AC 134 at 149:
>
> > **'... a truism that the conception of the judicial function is inseparably bound up with the idea of a suit between parties, whether between Crown and subject or between subject and subject, and that it is the duty of the Court to decide the issue between those parties.'**
>
> These *dicta* proclaim that there must be parties to a lawsuit. They do not say how persons may be made parties. The Uniform Rules of Court provide how this is to be accomplished. Rule 6(2) in the case of applications and Rule 17(4) in the case of actions deal with the citation of parties. Rule 4 deals with notification to them of the proceedings. Notification is, of course, sometimes dispensed with. In circumstances of grave urgency or where notification might defeat the object of the order, a party to the proceedings may not be notified of them until a preliminary order against him had been made. But I know of no case in which, either under an inherent power or under the power granted by Rule 6(12), citation has been replaced by a notification to a group or to persons in general so as to bring a number of faceless respondents into the proceedings.
>
> A notification to persons in general or to a group of individuals by way of a rule *nisi* that the Court is about to pronounce upon a suit between parties is, of course, permissible. It is a procedure frequently adopted in order to give interested parties an opportunity of joining in the litigation. But it does not by itself make them parties to the litigation and they do not merely by virtue of having been notified of the litigation become liable to be punished for contempt of Court for failure to comply with any order which is eventually made. A failure to identify defendants or respondents would seem to me to be destructive of the notion that a Court's order operates only *inter partes*, not to mention questions of *locus standi in iudicio*. An order against respondents not identified by name (or perhaps by individualised description) in the process commencing action or (in very urgent cases, brought orally) on the record would have the generalised effect typical of legislation. It would be a decree and not a Court order at all."[8]

[12] The Court in the *Kayamandi* matter was referred to the judgment in *Ntai and Others v Vereeniging Town Council and Another*,[9] where van den Heever JA held that a warrant for ejectment given against a respondent is intended to give the applicant undisturbed occupation of the property. In order to accomplish this, it is necessary and proper that all those who claim under or through the offending respondent should also be ejected, even though they were not individually named. This practice, which originates from Roman-Dutch law,[10] was considered by Conradie J to be -

> "[a]n exception to the general rule that an order operates only against the person to whom it is addressed *inter alios iudicatas aliis non praejudicare*"[11]

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8 Above n 6 at 634B-I.

9 1953 (4) SA 579 (A).

10 See 589E-591E of the *Ntai* judgment.

11 Above n 6 at 635I.

[13] The Kayamandi Town Committee alleged -

> "that it is impossible to identify the persons residing on the stands in question. There are too many of them and they constantly come and go."[12]

Conradie J spurned this practical difficulty by pointing out that the Town Committee had other remedies, particularly under the Prevention of Illegal Squatting Act, No 52 of 1951.[13] That Act has now been repealed and has been replaced by the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act.[14] The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act [15] amended section 29(2) of the Tenure Act, so that section 29(2) now reads:

> "The provisions of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998, shall not apply to an occupier in respect of land which he or she is entitled to occupy and use in terms of this Act."

[14] I can envisage considerable practical difficulties in some cases if a land owner is required to name every individual occupier against whom he asks for an eviction order under the Tenure Act.[16] Naming them would, in some circumstances, be very difficult, if not impossible. The City Council referred to such difficulties in the affidavits filed on its behalf.

[15] Mr Botha submitted that the power which I gave to the Council to serve vacation notices on selected opposing respondents together with the authority which I gave to the Sheriff to evict those respondents who received but did not comply with such vacation notices, make the order an order against "faceless respondents". [17] The power "to put faces to them", which in Mr Botha's submission is an unalienable function of the Court, was wrongly given to the Council.

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12 Above n 6 at 635J.

13 Above n 6 at 635J-636A.

14 Act 19 of 1998. See section 11(1) read with Schedule I.

15 Section 11(2) read with Schedule II.

16 See par [3] and [23] of my judgment in *City Council of Springs v Occupants of the Farm Kwa-Thema 210* [1998] 4 All SA 155 (LCC).

17 It was held in *Beyers and Others v Mlanjeni and Others* 1991 (2) SA 392 (C) at 395F that a judicial act is characterised by a dispute between identifiable parties.

[16] Having come to the conclusion that the occupiers (including the opposing respondents) must vacate the land, I followed a purposive approach in applying the provisions of the Tenure Act and formulated an order which serves the purpose rather than the letter of the legislation.[18] I built safeguards into the order, particularly provisions which allow for further directives, variation or clarification by the Court. In doing so, I was mindful of the statutory power which the Court has under Tenure Act to vary any term of an eviction order.[19] Notwithstanding the above, there is a reasonable prospect that another court might find that an order to vacate, directed at amorphous batches of occupiers without naming the individuals comprised in each batch and without stating when each batch must move, transgresses the essence of a judicial act.

[17] The second and fourth grounds of appeal [20] involve the same basic objection against the order as the first ground. I need not deal with them separately. The third ground of the appeal relates to the fact that there is insufficient alternative accommodation simultaneously available for all the occupiers to be accommodated. Therefore, so the argument ran, section 9(2)(c) of the Tenure Act was not complied with. If my order is flawed because it provides for the occupiers to vacate the land in batches as determined by the Council, then this (third) ground of appeal might also be well founded.

[18] The last ground of appeal is that it was not proper to make an order which substantially deviates from the notice of motion or from the rule *nisi*.[21] The deviation was necessitated by the emergence of evidence that the waiting area has insufficient vacant space to accommodate simultaneously all the occupiers at whom the order was directed. I alerted the parties to the general terms of the order which I had in mind, and I heard argument on it, undoubtedly in a much more improvised form than might otherwise have been the case if the parties had more time. None of the parties asked for a postponement to consider or prepare further argument on the suggested new order. In my view, there exists a reasonable possibility that another court might find that my order deviates so fundamentally from the order envisaged in the rule *nisi* that it should not have been made.

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18 See section 12(1) of the Tenure Act, quoted in n 5 above.

19 Section 12(5) of the Tenure Act, which read as follows:

> "(5) A court may, on good cause shown, vary any term or condition of an order for eviction made by it."

20 The notice of appeal is quoted in para [8] of this judgment.

21 The rule *nisi* is quoted in para [3] of this judgment.

[19] I asked Mr Botha to address me on whether the Court's power to vary the eviction order makes the order unappealable.[22] I am satisfied that it does not. My order disposed of the *lis* between the parties. The possibility of a variation does not take it out of the realm of an appealable order as envisaged in section 37(1) of the Restitution of Land Rights Act,[23] which provides for appeals against orders of this Court.

[20] Leave to appeal was applied for on limited grounds, and should, in my view, be confined to those particular grounds. I consider some reformulation of the particular grounds of appeal to be desirable in the interests of clarity, and both Mr Botha and Mr Putter conceded that I am entitled to reformulate them.

Order

[21] Leave to appeal against the order which I handed down on 2 September 1999 is hereby granted, but limited to the following grounds only:

(1) The order does not constitute a proper judicial act nor does it comply with section 12(1) of the Extension of Security of Tenure Act, 1997, because the order:

- allows the City Council of Springs to select batches of opposing respondents to be served with vacation notices and to determine the date when the opposing respondents in each batch must vacate the land; and

- authorises the Sheriff to evict an opposing respondent who has been served with a vacation notice and who has not vacated the land by the date stated in the vacation notice.

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22 A variation is permitted under section 12(5) of the Tenure Act and also under para (12) of the order itself.

23 Act 22 of 1994, as amended. Sections 37(1) and (2) read as follows:

> "(1) No appeal shall lie against a judgment or order of the Court except with leave of the Court or, where such leave has been refused, with the leave of the Supreme Court of Appeal.
>
> (2) An appeal from a judgment or order of the Court shall be heard by the Supreme Court of Appeal."

(2) The prerequisites for an eviction order referred to in section 9(2)(c) of the Extension of Security of Tenure Act, 1997, have not been complied with because there is insufficient alternative accommodation simultaneously available to all the opposing respondents.

(3) The order deviates to an unacceptable extent from the rule *nisi* issued by the Court on 3 September 1998.

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JUDGE A GILDENHUYS

For the Applicant:
Adv L G F Putter instructed by *Davies Theunissen*, Springs.

For the Respondents:
Adv J J Botha instructed by *Nico van Rensburg and Associates*, Johannesburg.