

IN THE LAND CLAIMS COURT OF SOUTH AFRICA

RANDBURG

CASE NUMBER: LCC 92R/02

In chambers: **MOLOTO AJ**

MAGISTRATE'S COURT CASE NUMBER: 6605/2001

Decided on: 7 October 2002

In the review proceedings in the case between:

KELLER, J

Applicant

and

FOURIE, T

First Respondent

FOURIE, E

Second Respondent

JUDGMENT

MOLOTO AJ:

[1] This is a review in terms of section 19(3) of the Extension of Security of Tenure Act¹ ("the Act") of an eviction order of the Magistrate, Oudtshoorn against the respondents given on 30 August 2002.

[2] I am satisfied with the conclusion reached by the magistrate in the matter, but would like to amend the order slightly to ensure that its implementation will be just and equitable.

[3] The Magistrate's order reads as follows: -

"Die uitsetting bekragtig word maar artikel 13(a) bepaal die hof dan dat:

Die applikant die bedrag van R20 000,00 aan die respondente betaal wat regverdig en billik is vir strukture opgerig en verbeteringe aangebring deur die respondente.

Gevolglik word die uitsettingsbevel ook ingevolge artikel 10 gelees met artikel 12, toegestaan.

Die uitsettingsbevel is natuurlik onderhewig aan die betaling van die bedrag van R20 000,00.

1 Act 62 of 1997, as amended.

Nou die bevel van die hof is dat die respondente die huis moet ontruim binne 14 dae nadat die uitspraak van die grondeise hof (*sic*) op die prokureur vir die respondente beteken is. By versuim, die balju dan geregtig sou wees om na die gemelde 14 dae die respondente uit die huis uit te sit.

Verder gelas die hof dat elke party sy eie regskoste betaal omdat beide partye wesenlik suksesvol was.”

[4] In the place of the above order, the following order is substituted.

- (a) An order for the eviction of the respondents is hereby granted.
- (b) The applicant is ordered to pay the first respondent the sum of R20 000,00 (twenty thousand rand) only compensation for the structures erected and improvements effected by the first respondent on the farm Die Eiland.
- (c) The applicant is ordered to pay the said sum of R20 000,00 (twenty thousand rand) before the respondents vacate the farm Die Eiland.
- (d) The respondents are ordered to vacate the farm Die Eiland on or before 30 October 2002, subject to the applicant complying with paragraph (c) above.
- (e) Should the respondents fail to comply with paragraph (d) above, the sheriff is hereby authorised and required to evict the respondents on or soon after 3 November 2002.
- (f) Each party to pay its own costs.

ACTING JUDGE J MOLOTO

For the applicant:

J Le Grange of Pocock & Bailey Inc, Oudtshoorn.

For the respondents:

J P Duvenage of Duvenage Keyser & Jonck, Oudtshoorn.