

# IN THE LAND CLAIMS COURT OF SOUTH AFRICA

**RANDBURG**

In chambers: **MEER J**

**CASE NUMBER: LCC 37R/03**

**MAGISTRATE'S COURT CASE NUMBER: 17/02**

Decided on: 22 May 2003

In the review proceedings in the case between:

**GELDENHUYS, HJK**

Plaintiff

and

**MSIMANG, VS**

First Defendant

**MSIMANG, MRS**

Second Defendant

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## JUDGMENT

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**MEER J:**

[1] This is an automatic review under section 19(3) of the Extension of Security of Tenure Act<sup>1</sup> ("the Act") of an order granted by the Magistrate, Dannhauser on 4 March 2003, for the eviction of the respondents from the farm Doornpoort, Dannhauser. I am unable to confirm the order for the reason set out below.

[2] I am satisfied that the grounds for the eviction of the first defendant have been established in accordance with sections 8 and 10 of the Act. I am, however, of the view that it is just and equitable in terms of section 13 of the Act, with due regard to all relevant factors, that the first defendant should be compensated for the cost of any dwelling he may have erected on the plaintiff's premises. It is not clear from the papers whether the defendant himself in fact erected a dwelling and paid the costs thereof. What appears from the papers is that the occupiers themselves built the structures in which they are residing.

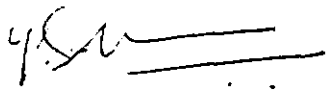
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<sup>1</sup> Act 62 of 1997, as amended.

[3] In terms of Section 19(3)(d) of the Act, this case is accordingly remitted to the magistrate's court with the following direction:

The magistrate is directed to determine

- (a) whether the first defendant himself bore the costs for the building of any dwelling on the premises and if so to fix the value thereof;
- (b) to make an order (in the event of a finding that the first defendant himself paid for such building) that the plaintiff pay compensation to the first defendant in terms of section 13(1); and
- (c) dates in terms of section 12(1)(a) and (b) of the Act, on which the defendants are to vacate the farm and on which the eviction may be carried out should they fail to vacate the premises.



**JUDGE YS MEER**

For the plaintiff:

*Cox & Partners, Vryheid.*

For the defendant

*Absent.*