



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF
APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 23 April 2025

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

The City of Johannesburg Metropolitan Municipality and Others v Occupiers [of Portion 971 of the Farm Randjesfontein No 405] and Others (Case no 636/23) [2024] ZASCA 47 (23 April 2025)

Today the Supreme Court of Appeal (SCA) handed down judgment in which it dismissed an appeal with costs, including costs of counsel where so employed.

This appeal concerns the scourge of homelessness in South Africa. The Gauteng Division of the High Court granted an order of eviction against the first respondent (the Occupiers) and ordered the City of Johannesburg Metropolitan Municipality, the Executive Mayor, the City Manager and the Director of Housing, collectively referred to as 'the City', to provide the Occupiers with temporary emergency accommodation subject to a condition that: 'The land chosen by the City shall be land where the 1st to 71st respondents can live at night and there lawfully and safely sort the reclaimed waste and from where they can reasonably go during the day to use their flat-bed trollies lawfully and safely to collect waste'. It is this condition which is the source of the dispute in this appeal

The issue for determination in this appeal was whether a court ordering an eviction under s 4(7) of the PIE Act must, as part of just and equitable enquiry, consider an occupier's 'right to earn a living'. The Occupiers eke out a living as waste pickers. The City objected to the high court's condition by seeking to subject the relocation of the Occupiers to a condition that prevents the latter from earning a living at the temporary emergency accommodation. This condition fails to recognise the principle that human rights are indivisible, interdependent and interrelated.

The SCA, per Mothle JA held that both this Court and the Constitutional Court have recognised that the right of Occupiers to earn a living is a relevant factor to be considered by a court in terms of s 4(7) of the PIE Act. For example, in *City of Johannesburg v Rand Properties (Pty) Ltd*, this Court acknowledged the link between the location of residence and employment opportunities and held that the State would be failing in its duty if it were to ignore or fail to give due regard to the relationship between location of residence and the place where persons earn or try to earn their living. This view was confirmed by the Constitutional Court in *Residents of Joe Slovo Community, Western Cape v Thubelisha Homes and Others* where the Court stated that in deciding on the locality of alternative accommodation, the government must have regard to the relationship between the location of residents and their places of employment.

The SCA found that the City misconstrued the conduct of the Occupiers as recyclers, when in effect, they are reclaimers, who collect and sell waste material to recyclers for re-use. Furthermore, the SCA held that the City sought to rely on the municipal zoning as prohibiting the sorting and storing of waste material, when in effect the zoning does not do so. The SCA found that the City acted unreasonably by seeking to subject the relocation of the Occupiers to a condition that prevents the latter from earning a living as reclaimers at the temporary emergency accommodation. This condition fails to recognise the principle that human rights are indivisible, interdependent and interrelated.

Lastly, the SCA further held that the City's condition that the Occupiers would not be allowed to conduct their waste picking activities on the identified alternative accommodation site was not supported by any law or policy and was thus arbitrary, irrational and unreasonable. In the circumstances the SCA ultimately found that the appeal must fail.

In its order the SCA directed that paragraph 2(b) of the high court's order should be amended and the City is directed to provide temporary emergency accommodation for the 1st to 71st respondents as specified in that paragraph, within sixty (60) days of the date of this Court's order.

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