



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: 18 July 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

Basfour 3327 (Pty) Ltd v Thwala and Others (1008/2023) [2025] ZASCA 105 (18 July 2025)

Today, the Supreme Court of Appeal (SCA) upheld an appeal against a Land Claims Court (LCC) decision regarding an unauthorized structure on a farm, erected without the owner's consent.

In 2017, the farm owner, Basfour 3327, who is the appellant, objected to the structure built by Mr. Robert and Ms. Lucy Thwala, the respondents. The respondents, along with their families, occupied several mud dwellings on the farm under rights granted to their late parents through the Extension of Security of Tenure Act (ESTA). The appellant took the issue to the LCC, which, despite acknowledging that the mud structures were dilapidated, declared the structure unlawful and ordered its demolition (the 2017 structure) due to lack of prior consultation with the owner. The LCC relied on the principle in *Daniel v Scribante (Scribante)*, stating that meaningful consultation is required even when occupants seek to improve their dwellings. Ultimately, the 2017 structure was demolished by the Sheriff after the respondents failed to comply with the court's order.

Despite the earlier demolition, the respondents destroyed two additional structures in 2023. They started new construction without the owner's permission, claiming they were making the structures habitable in accordance with the previous LCC ruling. The appellant once again approached the LCC to declare the new construction (2023 structure) illegal, stop any further building, and order its demolition, along with a contempt of court motion. However, the LCC rejected the application, ruling there was no contempt and that the rest of the application depended on that decision.

The SCA upheld the appeal and found that the contempt of court relief was distinct from other remedies sought; the respondents misinterpreted the LCC's earlier ruling and failed for the second time to comply with the requirements in *Scribante*. The SCA declared the 2023 structure unlawful and ordered its demolition for several reasons, including that the structure would encroach upon the rights of the appellant. No order was made as to cost.