



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

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City of Tshwane Metropolitan Municipality and Another v Summer Season Trading 63 (Pty) Ltd (988/2024 and 831/2024) [2026] ZASCA 81 (29 May 2026)

Today, the Supreme Court of Appeal (SCA) handed down judgment in two interrelated matters involving the same parties concerning an appeal against orders reviewing and setting aside a notice to expropriate the Remaining Extent of Portion 34 of the farm Kameellzynkraal 547 JR, district Bronkhorstspuit (the property). The SCA dismissed the appeal, with costs, while amending certain portions of the order by the Gauteng Division of the High Court, Pretoria (high court).

The matter arises from events dating back to 2003, wherein Mr Ben Gomeni (Mr Gomeni), who owned the property, which was vacant at the time, invited people to settle on the property. Owners of land in the vicinity of the property instituted urgent proceedings against Mr Gomeni to stop the occupation. A *rule nisi* (which was later confirmed) was granted against the occupation however, the municipality permitted people to settle on the property. The informal settlement was styled Kanana Village by the occupiers. Summer Season Trading 63 (Pty) Ltd (Summer Season) purchased the property in 2006 and, over the years, engaged in extensive attempts to negotiate with the City of Tshwane Metropolitan Municipality (the City) to relocate the occupiers.

On 18 December 2007, the municipality issued a notice of expropriation in respect of the property. Summer Season launched a review application in the high court to set aside the expropriation notice. The municipality later agreed to an order setting aside the expropriation notice. On 5 May 2011, Summer Season instituted eviction proceedings against the occupiers. On 30 April 2013, the high court granted the eviction order and concluded that the rights of the occupiers must yield to the property rights of the owners and that it was just and equitable to evict the occupiers. The City and the occupiers sought leave to appeal the eviction and relocation orders before the high court, the SCA, and the Constitutional Court, with all refusing leave to appeal.

On 24 March 2014, the City informed Summer Season that it intended to settle the occupiers on the property and was contemplating expropriation of the property, relying on s 79(24)(a)(i) of the Local Government Ordinance, 1939 (the Ordinance), read with s 5 of the Expropriation Act 63 of 1975 (the Expropriation Act). It stated that the expropriation was for a public purpose and invited Summer Season to make representations regarding the intended expropriation. Summer Season made representations objecting to the intended expropriation on several grounds. However, on 10 March 2015, the City delivered to Summer Season a notice of expropriation of the property, effective from 11 March 2015 and in response to the notice, Summer Season launched its review application before the high court. On 29 October 2018, the City informed Summer Season that it was withdrawing the 2015 expropriation notice, and it gave Summer Season a new notice of expropriation, informing it that the property was

expropriated with immediate effect. Summer Season challenged what it viewed as the unlawful withdrawal of the 2015 expropriation notice and the validity of the City's 2018 expropriation notice. The parties agreed that the review and eviction applications be set down for a joint hearing before the high court.

The occupiers launched a conditional counterclaim in the review application seeking just and equitable relief in terms of s 172(1)(b) of the Constitution. They sought to be permitted to remain on the property and, in the alternative, the City be directed to start the expropriation process *de novo*. On 31 October 2023, the high court reviewed and set aside the 2015 expropriation notice and declared the 2018 expropriation notice invalid. The court also dismissed the occupiers' counterclaim and enforced the eviction order. The City was ordered to relocate the persons in occupation of the property to portions of the Farm 370 Donkerhoek JR (Pretoria), owned by the City, and to complete the relocation on or before 30 October 2024.

The issues on appeal before the SCA concerned whether the 2018 expropriation notice constituted a valid and lawful exercise of the City's power to expropriate land, and if so, whether the expropriation was permitted in light of the order evicting the occupiers and requiring their relocation. However, if not, the SCA had to consider whether a just and equitable remedy is available to the occupiers to permit them to remain on the property. Having evaluated the contentions advanced by the parties and the prevailing legal framework, the SCA concluded that the high court's finding that the City did not withdraw the 2015 expropriation notice in accordance with the law was unassailable. The SCA held that in both expropriation notices, the City relied on s 79(24)(a)(i) of the Ordinance read with s 5 of the Expropriation Act. The 2018 expropriation notice stated that the expropriation was 'for public purpose and public interest' and the City's stated public purpose was to settle the Kanana Village on the property and to establish a permanent settlement, this notwithstanding a report by the City which found that the property was unsuitable for permanent settlement.

The SCA further held that s 5 of the Expropriation Act does not authorise the City to expropriate land as the section states that 'if a local authority has the power to expropriate property ... such power may only be exercised ... in accordance with the provisions of this Act'. Properly interpreted, the SCA found that the City's power to expropriate the property for permanently housing the occupiers on the property must therefore appear from other legislation. The SCA was also of the view that the right to expropriate property in terms of s 79(24)(a)(i) of the Ordinance is equally dependent upon the existence of duties or assigned functions conferred by other legislation. The SCA held that the avowed purpose of the expropriation was to forestall the relocation of the occupiers in light of the eviction order, which is unlawful. In relation to the eviction application, the SCA concluded that this Court and the Constitutional Court, in refusing leave to appeal the eviction order, approved the high court's findings in the eviction proceedings and that the relief that the occupiers be allowed to remain on the property would effectively render the eviction order nugatory. Emphasising the rule of law, the SCA stressed that the law demands that the City and the occupiers comply with the court order, which found that the eviction of the occupiers was just and equitable.

With the date of relocation set by the high court having elapsed due to the effluxion of time, the SCA found that, in light of the outcome of the appeal, the order should be rendered in a form that permits execution without confusion. The SCA concluded that the order should be varied to permit a period of one year from the date of the order, so that upon this Court's order terminating the suspension of the high court order pending the appeal, it might be executed to give effect to the high court's original intention.

As a result, the SCA dismissed the appeal with costs, and amended the high court's order to allow for the completion of the relocation of the occupiers within one year of the date of the judgment.

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