



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
Date: 01 December 2008
Status: Immediately

Please note that the media summary is intended for the benefit of the Supreme Court of Appeal.

LEBOWA PLATINUM MINES LTD V GERHARD VILJOEN

The Supreme Court of Appeal today dismissed an appeal brought by Lebowa Platinum Mines Ltd against a judgment of the Land Claims Court given in proceedings launched by the latter in terms of s 4 (1) of the Prevention of Illegal Eviction from an Unlawful Occupation of Land Act 19 of 1998 for the eviction of Mr Viljoen, its erstwhile employee, in occupation of its premises. The Land Claims Court had found that Mr Viljoen is an ‘occupier’ under the Extension of Security of Tenure Act 62 of 1997 (ESTA) and could be evicted only in terms of its provisions.

Affirming the Land Claims Court judgment, the Supreme Court of Appeal accepted that Mr Viljoen had not been an ‘occupier’ in terms of ESTA during the tenure of his employment with Lebowa Mines because he earned income in excess of the sum of R 5000 prescribed by ESTA to bring an employee within its definition of ‘occupier’ and the protection provided in its section 8.

The SCA however held that on the plain wording of the provisions of ESTA, as to whether a tenant is an ‘occupier’ as it envisages must be resolved by a consideration of a tenant’s circumstances when his lawful occupation ceases ie when the permission or right to occupy land is

withdrawn or ceases or, if coincident, when the eviction proceedings are instituted.

The SCA then held that the fact that Mr Viljoen remained in occupation of Lebowa Mines' premises with its consent, after his dismissal when he no longer earned an income, rendered him an 'occupier' under ESTA.