



**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
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Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

**MANGANGENI EMMAUS WESTMEAD RETURNERS COMMUNITY TRUST v
MINISTER OF RURAL DEVELOPMENT**

The Supreme Court of Appeal today held that the Trust formed by the 250 successful claimants in a claim under the Restitution of Land Rights Act 22 of 1994 (to receive and hold the land and funds awarded on behalf of the successful claimants) had no right to receive and disburse the amounts awarded where the amounts had been paid to a third party (a bank) to invest, manage and disburse in accordance with the provisions of agreements providing for such control to be exercised by the bank. The Supreme Court of Appeal upheld the appeal against the finding of the KwaZulu-Natal High Court that the High Court did not have jurisdiction to hear the application and after considering the merits of the trust's claims dismissed the application.

The claimants had successfully claimed in terms of the Act and had formed a trust to receive and manage the land and the funds awarded. The Department and the regional land claims commissioner wished to safeguard the land and the funds to ensure that all of the claimants benefitted equally. The Department, the regional land claims commissioner, the bank (the third respondent) and the trust entered into an agreement in terms of which the funds would be paid over to the bank to invest, manage and disburse in accordance with the agreement and the Department's and regional land claims commissioner's instructions. Later, when the funds were to be paid, the Department and regional land claims commissioner and the bank

entered into two further agreements containing the same terms. These agreements provided that the bank would receive the amounts awarded and invest, manage and disburse the funds in accordance with the agreements and subject to the instructions of the Department and the regional land claims commissioner. The appellants sought orders declaring that the last two agreements were invalid or, if valid, had lapsed and an order for payment of the funds received by the third respondent. The KwaZulu-Natal High Court upheld a point that the High Court did not have jurisdiction to hear the application because the High Court's jurisdiction was excluded.

The Supreme Court of Appeal found that the High Court did have jurisdiction because the issues were not covered by the provisions of s22 of the Act which confers exclusive jurisdiction on the Land Claims Court. Nevertheless the Supreme Court of Appeal found that the agreements governing the management of the funds were still binding and the appellants were not entitled to the relief which they claimed.