



SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal

DATE 27 March 2015

STATUS Immediate

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.

NIEHAUS V THE REGIONAL LAND CLAIMS COMMISSIONER (116/14) [2015] ZASCA 51 (27 March 2015)

[1] The SCA today upheld with costs an appeal by Mr Niehaus against a judgment of the Land Claims Court.

[2] In his application in the Land Claims Court, the appellant had sought a declarator that there are no valid claims lodged against his two farms to wit Star 576LR and Onschuld 568LR both forming part of Onschuld 551LR, Limpopo. in terms of s 11(1) of the Restitution of the Land Rights Act 22 of 1994, and further that the Regional Land Claims Commissioner and the Chief Land Claims Commissioner amend their data records to reflect this, including the order that a notice published by the Land Claims Commissioner in terms of s 11(A)(4), being Government Notice No 343 in Government Gazette 36307 dated 5 April 2013 be set aside, and ordering the Regional Land Claims Commissioner to publish within 30 days of the order, and in terms of s 11(1) a notice of the fifth respondent's claim against the appellant's two farms, and to give notice that Government Notice No 343 in Government Gazette 36307 dated 5 April 2013 against his two farms to wit Star 567LR and Onschuld 568LR forming part of Onschuld 551LR in Limpopo, has been set aside by the court.

[3] The SCA expressed serious concern about the manner in which the Regional Land Claims Commissioner handled this matter. It found this matter to be interspersed by long and unexplained delays by the Regional Land Claims Commissioner. This was exacerbated by the Regional Land Claims Commissioner giving the appellant two conflicting explanations regarding the question whether the two farms were the subject of any valid land claims. The

Regional Land Claims Commissioner's ineptitude left the appellant in limbo for close to 7 years. The SCA found such conduct to have been unprofessional and subversive of the duties and responsibilities of the Regional Land Claims Commissioner.

[4] Furthermore, the SCA found that this uncertainty still persists to date. It found this state of affairs to be unfair to both the appellant and the fifth respondent who claimed to have lodged claims against the two farms as far back as 31 May 1995, 27 October 1996 and on 30 October 1996 respectively.

[5] In the result, the SCA upheld the appeal with costs and referred the matter to the Land Claims Court with certain directives.

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