



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 28 September 2018

STATUS Immediate

Monde v Viljoen NO & others (1162/17) [2018] ZASCA 138 (28 September 2018)

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.

The SCA today upheld an appeal and set aside an order of the Worcester Magistrate's Court evicting the appellant from the Millhurst Farm in De Doorns, Western Cape, owned and managed by the first and second respondents.

In November 2016 the Land Claims Court (LCC) confirmed an order made by the Worcester Magistrate's Court for the eviction of the appellant, on automatic review, in terms of s 19(3) of the Extension of Security of Tenure Act 62 of 1997 (ESTA).

The appellant was appointed as a general farm worker on 6 January 1995 and given a house to occupy on the farm. The respondents' case was that the appellant's right of residence arose solely from an employment contract which he concluded in November 2011. In March 2013 he was dismissed from his employment because he was absent without leave or permission. The respondents contended that his right of residence terminated automatically upon termination of the employment contract. The SCA held that the respondents failed to prove this. Consequently the appellant's eviction was unlawful and invalid.

The SCA also confirmed the recent approach by the LCC that a probation officer's report in terms of s 9(3) of ESTA, is compulsory. In terms of s 9(3) a court granting an eviction order must consider, inter alia, the availability of suitable alternative accommodation, the effect of an eviction order on constitutional rights including the rights of children and any hardship which an eviction would cause.