

**In the Supreme Court of Appeal of South Africa  
MEDIA SUMMARY –**

Case number: 304/06

In the matter between

**DAVID SINCLAIR BARNETT  
PATRICIA STEPHANIE CANHAM NO  
STEPHEN HUGH CHURCH  
PETER CLOWES  
JAMES KEVIN DOVETON  
PETER GOSS  
HILTON LLEWELLYN LANE  
ASHTON HENRY MARTIN  
RICHARD JEREMY REEN  
JACOB JOHN ROTHMAN  
WILLIAM TURTON  
EDWARD LAWRENCE BARRY  
MICHAEL BERESFORD  
BRUCE DORNLEO  
R JOHN PICKERING  
NEVILLE DANSON TAYLOR**

*and*

**THE MINISTER OF LAND AFFAIRS  
THE MINISTER OF WATER AFFAIRS AND  
FORESTRY  
THE MINISTER OF ENVIRONMENTAL AFFAIRS  
AND TOURISM  
THE MEMBER OF THE EXECUTIVE COUNCIL  
RESPONSIBLE FOR ECONOMIC AFFAIRS,  
ENVIRONMENT AND TOURISM,  
EASTERN CAPE PROVINCE**

**FIRST APPELLANT  
SECOND APPELLANT  
THIRD APPELLANT  
FOURTH APPELLANT  
FIFTH APPELLANT  
SIXTH APPELLANT  
SEVENTH APPELLANT  
EIGHTH APPELLANT  
NINTH APPELLANT  
TENTH APPELLANT  
ELEVENTH APPELLANT  
TWELFTH APPELLANT  
THIRTEENTH APPELLANT  
FOURTEENTH APPELLANT  
FIFTEENTH APPELLANT  
SIXTEENTH APPELLANT**

**FIRST RESPONDENT**

**SECOND RESPONDENT**

**THIRD RESPONDENT**

**FOURTH RESPONDENT**

From: The Registrar, Supreme Court of Appeal  
Date: 2007-09-06  
Status: Immediate

On 6 September 2007 the SCA dismissed the appeal of Barnett and 15 others (Appellants) against the Minister of Land Affairs and 3 others (the Government).

The matter arose from the occupation by the appellants of sites and cottages on the Transkei Wild Coast, 13 kilometres north of Port St Johns. The Government sought and obtained an order for their eviction

in the Mthatha High Court on the dual basis that the sites occupied by them were situated in a nature conservation area and that it formed part of State land. The order directed the defendants to remove all structures built on the sites within four months of the order, failing which the Government was authorised to have the structures demolished and removed at the appellants' expense.

Though various defences were raised by the appellants, they concentrated on two of these on appeal. Firstly, they relied on the approval of their occupation by the Chief of the local tribe and the tribal authority having jurisdiction in the area. Secondly, they contended that the Government had failed to establish that their eviction would be just and equitable as envisaged by the provisions of the Prevention of Illegal Eviction from the Unlawful Occupation of Land Act 19 of 1998 (better known in legal parlance as PIE). As to the first defence, the SCA essentially found that, on a proper construction of the legislative enactments in operation in the Transkei at the time, neither the local chief, nor the tribal authority could validly approve the occupation and the building of cottages in the area where the sites are situated. As to the defence based on PIE, the SCA found that PIE only applies to the eviction of persons from their homes and that, since the cottages on the sites were put up and used by the appellants for holiday purposes, they did not qualify as 'homes', with the result that PIE found no application at all.