



SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
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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.

Farjas (Pty) Ltd & another v Minister of Agriculture and Land Affairs of RSA & others (173/11)

Today, the Supreme Court of Appeal (SCA) dismissed an appeal against an order of the Land Claims Court (Mia AJ).

The appellants had purchased immovable properties for the purpose of developing a township thereon. The properties were, however, expropriated in 1991 in terms of the Expropriation Act 63 of 1975. The appellants received financial compensation. They were promised an amount of R10 000 each as *solatia* but this was never paid. The appellants were not satisfied with the compensation paid and instituted proceedings first, in terms of the Expropriation Act and later under the Restitution of Land Rights Act 22 of 1994 claiming increased compensation. The respondent obtained a report from a land valuer, who confirmed that the appellants had been under-compensated. The parties agreed on the amounts proposed by the valuer but not on the method of adjusting the amounts of under-compensation. As the amounts remained unpaid for more than 19 years, the appellants sought compensation with interest. Various methods for adjusting the amounts of under-compensation were proposed by their experts, inter alia, by applying the Absa House Price Index or building society rates or the addition of compound interest. All the experts considered that the Consumer Price Index was an inappropriate measure of value of money over time to compensate a developer of property for loss of growth on an investment.

The matter was heard by Mia AJ with an assessor in the Land Claims Court. The judge rejected the methods proposed by the appellants' experts and concluded that the CPI adequately catered for changes over time in the value of money. She thereafter applied the CPI to adjust the amounts of under-compensation. She did not make any order regarding the appellants' claims for *solatia*. The appellants appealed against that conclusion and persisted in their claim for compound interest and *solatia*.

The SCA had to consider whether the LCC erred in rejecting the methods proposed by the appellants and whether the appellants were entitled to payment of *solatia*. The

last issue related to costs - the appellants contending that the LCC should have issued a punitive costs order against the respondents.

Regarding the first question, the SCA concluded that the LCC correctly considered and evaluated all the evidence and exercised its discretion properly in accepting the CPI as an appropriate measure of the change over time of the value of money. In so far as the claims for *solatia* were concerned, this court concluded that the appellants had failed to adduce evidence of any of hardship caused by the expropriation to justify payment of *solatia*.

On the issue of costs, this court held that both parties were responsible for the delays and that a costs order on the ordinary scale was appropriate under the circumstances. The SCA accordingly concluded that there was no basis to interfere with the discretion of the LCC.

Consequently the SCA dismissed the appeal with costs.

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