



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE
SUPREME COURT OF APPEAL

25 November 2015

STATUS: Immediate

A HENDRICKS V M HENDRICKS & OTHERS (20519/14)

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 Supreme Court of Appeal (the SCA) today upheld an appeal against an order of the Somerset West Magistrates' Court, confirmed on appeal to the Western Cape Division of the High Court, Cape Town, refusing an application for eviction. The appellant had sold her house to her son, but a right of habitation was registered in the property's title deed in the appellant's favour. The appellant occupied the house with her son (the second respondent) and his wife (the first respondent) whom he had married shortly after taking transfer of the house. Serious problems arose between the appellant and the first respondent, causing the former to temporarily leave the house whereafter she lived elsewhere.

The appellant brought an eviction application in the magistrates' court, which was dismissed on the basis that the first and second respondents were not unlawful occupiers in terms of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (the PIE Act). The high court endorsed this finding. On appeal the SCA held that in law the appellant's right of habitation is stronger than the respondents' right of ownership. The SCA held further that the appellant, as holder of the right of habitation, is a 'person in charge' as defined in section 1 of the PIE Act and, absent her consent, the respondents occupy the house unlawfully. The SCA, while finding that the magistrates' court and the high court had erred, remitted the matter to the magistrates' court for a full enquiry to determine whether it would be just and equitable, as contemplated in Section 4(7) of the PIE Act, to evict the first respondent and all those occupying the house through her.

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