



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

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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.

Snyers v Mgro Properties (Pty) Ltd (20816/2014) ZASCA 151 (30 September 2016)

The Supreme Court of Appeal (SCA) today handed down judgment in a matter concerning the eviction, under the Extension of Security of Tenure Act 62 of 1997 (ESTA), of a farm worker and his family and whether eviction notices were properly served on him while his labour dispute was still pending in the CCMA.

The first appellant, Mr Abraham Snyers (Snyers), worked as a farm labourer on farm Houtkaprug, Citrusdal in the Western Cape (the farm) which produces citrus fruits and tea. He had resided there since February 1982 as part of his employment contract. He lived on the farm with the second appellant, Mrs Snyers and their two children.

On 2 November 2010, the farm had new owners, Mgro Properties (Pty) Ltd and Mouton Citrus (Pty) Ltd, the first and second respondents respectively. The new owners entered into a new employment contract with Snyers on 9 November 2010 in similar terms to those which he had concluded with his previous employer: namely, that his residence on the farm was linked to his continued employment, and that in event of the termination of his employment contract, he and his family would be required to vacate the farm on two months' notice being given them by the respondents.

On 17 December 2010, Snyers resigned indicating that he would work until 17 January 2011. Four weeks later, on 13 January 2011, Snyers stopped working on the farm and on that same day, he referred a constructive dismissal dispute to the CCMA. Snyers' case at the CCMA was that he was forced to resign under the pretext that he would receive his pension money. On 7 March 2013, while Snyers' case was still pending at the CCMA, the respondents gave him written notice which gave him a period of two months within which to vacate the farm. Snyers refused to vacate the farm saying that he was awaiting the outcome of the dispute he had referred to the CCMA.

Land Claims Court (Meer J) (LCC) held that because the dispute referred to the CCMA by Snyers had been late on 18 January 2011, that technically no dispute had been pending when the notice to vacate the farm was given to him on 7 March. The LCC held therefore that the notice given to Snyers was, in fact, valid.

The SCA found that when the respondents had served the notice to vacate on Snyers, his labour dispute in the CCMA had not yet been determined and that that contravened the provisions of s 8(3)

of ESTA. Those provisions require that where there is a labour dispute relating to the termination of the occupier's right of residence, the termination only takes effect when such dispute is determined in accordance with the LRA.

The SCA held that the determination of the disputed labour matter is clearly a pre-condition for terminating a labour tenant's right of residence under ESTA.

The SCA further held that given the objects of ESTA, where an occupier's tenancy is subsidiary to his or her employment on a farm, that where a dismissal must be finally determined before the subsidiary tenancy can be terminated. The SCA accordingly found that the notices given by the respondents to Snyers were invalid and consequently vitiated the entire eviction proceedings against him.

The SCA held in relation to Mrs Snyers that although she had been given proper notice to vacate the farm, based on the undesirability to separate families and the right to family life protected in terms of s 6(2)(d) of ESTA due to the irregular eviction proceedings that were brought against Snyers, if an application for eviction were allowed against her, while it is refused against her husband: the result would be to divide their family.

Accordingly, the SCA upheld the appeal and substituted the order of the LCC with an order dismissing the applications.

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