

Relocation of farm workers

In practice, we often deal with farmers who want to know what their rights are in respect of retired farmworkers who still reside on their farms. They usually want to know whether they can relocate them to a different house on the farm.

A similar question was answered in the case of *ORANJE AND OTHERS v ROUXLANDIA INVESTMENTS (PTY) LTD 2019 (3) SA 108 (SCA)*.

The facts of the matter were shortly as follows:

The first appellant, Mr. Jan Johannes Oranje, a 51-year old farmworker, resided with his wife and two children in a manager's house on the respondent's farm. The first appellant's right to reside in the home was dependent on his employment as a manager, and when he ceased to be one, the respondent requested him to relocate to other accommodation on the farm.

The first appellant, however, refused to relocate, and the respondent obtained an order from the Land Claims Court compelling him to relocate.

The first appellant appealed against the above mentioned order to the Supreme Court of Appeal (SCA). The leave to appeal to the SCA was granted and the court had to decide whether such relocation is permissible and whether it was suitable.

The SCA held that Mr. Oranje was an occupier in terms of ESTA and as such, they were not allowed to evict him from the land. The court also held that an eviction in terms of ESTA is confined to an eviction from the land and not from one dwelling to another. As such, a relocation could not amount to an eviction in terms of ESTA.

The court qualified the answer by stating that relocation should still be to an inhabitable dwelling which would not impair Mr. Oranje's basic human dignity. Should the relocation be to an inhabitable dwelling, it can be successfully resisted by invoking ss 5(a) and 6(2)(a) of ESTA.

In this matter, however, the appellant did not object to the alternative accommodation on the basis that it was unsuitable. His complaint was that it does not befit the status of a manager. He wanted a 'bigger and better' house.

The court found that the proposed accommodation that was offered to Mr. Oranje was not such that it would impair his dignity, and accordingly the appeal was dismissed.

Farmers should still obtain legal advice before attempting any relocation or eviction.

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