



CONSTITUTIONAL COURT OF SOUTH AFRICA

Michael Hattingh and Others v Laurence Juta

Case CCT 50/12

Date of Hearing: 6 November 2012

Date of Judgment: 14 March 2013

MEDIA SUMMARY

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.

This morning the Constitutional Court handed down a judgment dismissing an appeal against a decision of the Supreme Court of Appeal.

Mr Laurence Juta, the respondent, brought an application in the Stellenbosch Magistrate's Court (Magistrate's Court) to evict some members of the family of Mrs Hattingh from his farm. Mrs Hattingh resides on the farm in terms of an arrangement made with Mr Juta. In terms of that arrangement Mr Juta allowed Mrs Hattingh to live in two adjacent units of a labourer's cottage on Mr Juta's farm.

Mrs Hattingh's two adult sons and her daughter-in-law (the applicants) reside with her in the cottage. Mrs Hattingh's youngest son Ricardo also moved in with his mother. Mrs Hattingh is elderly and in poor health and wishes to continue living with the applicants in the cottage. However, Mr Juta wants the applicants evicted from the cottage because he requires part of the cottage to accommodate his farm manager, who has to cycle a long distance to and from work.

Mrs Hattingh is an occupier according to the Extension of Security of Tenure Act (ESTA), in terms of which an occupier has a right to reside on land which belongs to another person. In terms of ESTA, an occupier has "a right to family life in accordance with the culture of that family". The applicants resisted the eviction proceedings on the ground that their mother has a right to family life in terms of ESTA and that this entitled them to live with her on Mr Juta's farm.

The Magistrate's Court held that the applicants were entitled to live with Mrs Hattingh on the farm in terms of ESTA. Mr Juta appealed to the Land Claims Court, which overturned the judgment of the Magistrate's Court and granted an eviction order. The Supreme Court of Appeal upheld the decision.

In the Constitutional Court the question turned on the interpretation of ESTA. In a unanimous judgment, Zondo J held that there is no need to define the term "family" since families come in different shapes and sizes and cannot be limited to the nuclear family and that it was unnecessary for the purposes of deciding this matter to determine the meaning of the term "in accordance with the culture of that family". He concluded that section 6(2) of ESTA requires that the right to family life of an occupier be balanced with the rights of the landowner. Therefore, the right to family life allows an occupier to enjoy as much of a family life as possible when this will not be unjust and inequitable to the landowner. This will depend on the facts of each case. In balancing the two rights, Zondo J found that it would be just and equitable that the applicants be evicted. In the result, he concluded that, although leave to appeal should be granted, the appeal should be dismissed with no order as to costs.