

Expropriation, Eviction, and the Rule of Law: *City of Tshwane v Summer Season Trading*

The Supreme Court of Appeal's judgment in *City of Tshwane Metropolitan Municipality and Another v Summer Season Trading 63 (Pty) Ltd*¹ is a landmark decision clarifying the limits of municipal expropriation powers, the sanctity of court orders, and the balance between property rights and social responsibilities.

Background and Facts

A farm, called Kameellzynkraal in the Bronkhorstspuit area, was illegally occupied in 2003. The illegal occupation happened despite court order prohibiting the occupation. The municipality facilitated settlement by installing water tanks and ablution facilities.

In 2006, a company called Summer Season Trading purchased the property and sought to relocate the occupiers. The municipality resisted eviction and attempted to expropriate in 2007, but this expropriation order was later set aside. Summer Season Trading started eviction proceedings in the High Court in 2011, and the court found the occupiers' presence unlawful and granted eviction in 2013, requiring the City to provide alternative accommodation. Appeals to the Constitutional Court were unsuccessful, making the eviction order final.

The City of Tshwane issued further expropriation notices, first in 2015 and then in 2018, both notices were however procedurally and substantively flawed. Summer Season Trading challenged these notices, leading to the present appeal.

Judgement

The Supreme Court of Appeal examined Section 25 of the Constitution as well as the Expropriation Act 63 of 1975 and the Housing Act 107 of 1997 (s 9(3)). The Housing Act explicitly empowers municipalities to expropriate land for housing development, subject to MEC approval and strict procedural conditions.

The Court found that the City's withdrawal occurred outside the three-month limit in s 23(1) of the Expropriation Act and without the owner's consent. The withdrawal was therefore null and void, and the City could not rely on it as a lawful basis for any other decision it took. The Court further ruled that reliance on s 79(24)(a)(i) of the Ordinance and s 5 of the Expropriation Act was misplaced. The proper authority lay in s 9(3) of the Housing Act, which the City ignored. The Court also stated clearly that expropriation cannot be used to circumvent binding court orders. The Constitution does not

¹ ([2026] ZASCA 81)

permit suspension of valid court orders. The rule of law requires compliance. The City was therefore ordered to complete relocation within one year, reinforcing its constitutional duty to obey court orders.

Implications for property rights

The judgment strongly affirms the protection of property rights:

- Landowners cannot be deprived of property arbitrarily. Expropriation must follow lawful authority and procedure.
- Withdrawal of expropriation notices requires strict compliance with statutory timelines and owner consent.
- Expropriation cannot be used to undermine judicial orders or serve political expediency.
- Any expropriation must be accompanied by just and equitable compensation, agreed upon or determined by a court.

Conclusion

The SCA's ruling underscores that expropriation is a constitutionally regulated power, not a discretionary tool for municipalities to resolve political or social pressures. Landowners' rights remain central, and municipalities must act within the strict confines of the Housing Act when seeking to expropriate land for housing purposes. Most importantly, the judgment reaffirms the rule of law: court orders must be respected, and government cannot sidestep them through unlawful expropriation.

Annelize Crosby