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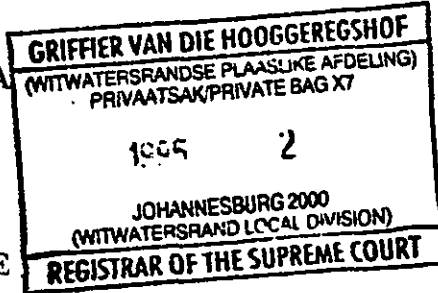
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IN THE SUPREME COURT OF SOUTH AFRICA
(WITWATERSRAND LOCAL DIVISION)

CASE NO: 94/29002

In the matter between :

MOHLOMI, LEACH MOKELA



Plaintiff

and

THE MINISTER OF DEFENCE

Defendant

PLAINTIFF'S REPLICATION

Plaintiff replicates to Defendant's Plea and Special Plea as follows:

1 Ad Paragraphs 1 and 2 of Special Plea

Plaintiff admits the contents of these paragraphs.

2 Ad Paragraph 3 of Special Plea

Plaintiff denies that his action was instituted on 03 November 1994. Plaintiff's action was instituted on 01 November 1994 when summons was issued.

3 Ad Paragraph 4 of Special Plea

Plaintiff admits that he failed to give Defendant timeous notice of the cause of action.

4 Ad Paragraph 5 of Special Plea

4.1 Plaintiff denies that the claim has become prescribed by virtue of the provisions of section 113 of the Defence Act, Act No 44 of 1957 ("the Act").

4.2 Section 113 of the Act violates Plaintiff's rights guaranteed by Chapter Three of the Constitution of the Republic of South Africa, Act 200 of 1993 ("the Constitution"), including:

4.2.1 The right to equality, guaranteed by section 8;

4.2.2 The right of access to Court, guaranteed by section 22;


4.2.3 The right to property, guaranteed by section 28.

4.3 In the premises section 113 of the Act falls to be struck down as unconstitutional.

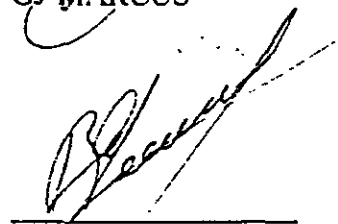
5 Save as aforesaid, Plaintiff joins issue with Defendant in respect of the other allegations contained in the Plea and Special Plea

WHEREFORE Plaintiff prays that Defendant's Special Plea be dismissed with costs.

SIGNED AT JOHANNESBURG THIS 20th DAY OF JANUARY 1995.



GJ MARCUS



BE LEECH
Counsel for Plaintiff

David

PHILIPPA KRUGER, ANN
BERTELSMANN, SHIRLEY WELSH,
MARLEEN POTGIETER, PETER
JORDI, PATRICK O'DONOVAN,
SHEREEN MILLS, STEPHEN TUSON.
Attorneys for Plaintiff
Campus Law Clinic
University of the Witwatersrand, West
Campus
Johannesburg
Tel: 716-5590
Ref: Mrs Harris

TO:
THE REGISTRAR OF THE ABOVE
HONOURABLE COURT

AND TO:
STATE ATTORNEY
Defendant's Attorney
10th Floor, North State Building
Market Street, Johannesburg
Private Bag X9
Johannesburg
Tel:336-2961
Ref: Mr L Hacker

Received copy hereof on 24/1/95

MD

FOR: Defendant's Attorney

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