

Supreme Court of Appeal of South Africa

MEDIA SUMMARY– JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

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Minister of Agriculture v Bluelilliesbush Dairy Farming (270/07) [2008] ZASCA 60 (29 May 2008)

In a judgment delivered today, the Supreme Court of Appeal has held that when compensation is paid to a dairy farmer under the Animal Diseases Act 35 of 1984 (read with the 1986 regulations) for dairy cattle slaughtered because of bovine tuberculosis (TB), the full productive value of the cattle, and not only their slaughter value, must be paid.

The claim was brought by the Grasslands group of companies, which runs the largest dairy farming operation in the Eastern Cape, and one of the largest in the country. In a bovine TB outbreak in May 2004, the farming group lost more than 7 000 cows, heifers, heifer calves, bull calves and bulls which had to be slaughtered to contain the outbreak.

The director of animal health in the department of agriculture, whom the statute requires to determine ‘a fair amount of compensation’, decided that only the slaughter value of the animals would be paid, because they were infected with TB and could never be used productively in dairy farming again.

The farming group objected to this method of calculation, because it gave only one-fifth of the productive value of dairy cattle. The farming group relied on the wording of the Act and regulations, and the fact that the statutory scheme sought to create incentives for farmers to join bovine TB control schemes – which compensating on the basis of slaughter value would not do.

The High Court in Port Elizabeth (Jansen J) upheld the farming group's challenge to the director's method of compensation, and the SCA has confirmed the judgment of the High Court.

The Minister was ordered to pay the farming group R10 853 777 in compensation, plus costs.