



CONSTITUTIONAL COURT OF SOUTH AFRICA

The Occupiers of Portion 124 and 150 of the farm Zandfontein 317 JR v Brookway Property 30 (Pty) Ltd and Another

Case CCT 69/11

Date of Hearing: 30 August 2012

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.

On Thursday 30 August 2012, at 10h00, the Constitutional Court will hear an application for leave to appeal against the judgment of the North Gauteng High Court in Pretoria (High Court), handed down on 30 September 2010.

Brookway Property 30 (Pty) Ltd (Brookway) owns portions of the farm Zandfontein. In the High Court it applied successfully for an eviction order against approximately 800 unlawful occupiers under the Prevention of Illegal Eviction from Unlawful Occupation of Land Act. The occupiers asked the High Court to order the City of Tshwane (City) to provide them with alternative accommodation before they were evicted. The Court ordered the City to make alternative accommodation available to the occupiers before 31 January 2011 and allowed Brookway to evict any occupiers remaining on its property on or after 15 March 2011.

In this Court, the occupiers (as applicants) submit that the High Court wrongly rejected the City's submission that it needed two years to finalise the applicants' relocation. The occupiers seek an order requiring the City to provide alternative accommodation as a precondition to their eviction and to pay compensation to Brookway from 1 March 2010 until they are relocated.

Brookway submits that the City failed in its constitutional duty to provide alternative accommodation. This resulted in a deprivation of the use of its property without compensation.

The City did not seek leave to appeal against the decision of the High Court and does not oppose the application to this Court. It submits that it has been unable to comply with the High Court order as a result of failed negotiations with Brookway over the sale of its property. The City submits that it is unfair to require municipalities to carry the entire cost of providing alternative accommodation for unlawful occupiers without the assistance of provincial and national government.