



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

Case number: 304/06

In the matter between

DAVID SINCLAIR BARNETT
PATRICIA STEPHANIE CANHAM NO
STEPHEN HUGH CHURCH
PETER CLOWES
JAMES KEVIN DOVETON
PETER GOSS
HILTON LLEWELLYN LANE
ASHTON HENRY MARTIN
RICHARD JEREMY REEN
JACOB JOHN ROTHMAN
WILLIAM TURTON
EDWARD LAWRENCE BARRY
MICHAEL BERESFORD
BRUCE DORNLEO
R JOHN PICKERING
NEVILLE DANSON TAYLOR

and

THE MINISTER OF LAND AFFAIRS
THE MINISTER OF WATER AFFAIRS AND
FORESTRY
THE MINISTER OF ENVIRONMENTAL AFFAIRS
AND TOURISM
THE MEMBER OF THE EXECUTIVE COUNCIL
RESPONSIBLE FOR ECONOMIC AFFAIRS,
ENVIRONMENT AND TOURISM,
EASTERN CAPE PROVINCE

FIRST APPELLANT
SECOND APPELLANT
THIRD APPELLANT
FOURTH APPELLANT
FIFTH APPELLANT
SIXTH APPELLANT
SEVENTH APPELLANT
EIGHTH APPELLANT
NINTH APPELLANT
TENTH APPELLANT
ELEVENTH APPELLANT
TWELFTH APPELLANT
THIRTEENTH APPELLANT
FOURTEENTH APPELLANT
FIFTEENTH APPELLANT
SIXTEENTH APPELLANT

FIRST RESPONDENT

SECOND RESPONDENT

THIRD RESPONDENT

FOURTH RESPONDENT

From: The Registrar, Supreme Court of Appeal
Date: 2007-09-06
Status: Immediate

On 6 September 2007 the SCA dismissed the appeal of Barnett and 15 others (Appellants) against the Minister of Land Affairs and 3 others (the

Government).

The matter arose from the occupation by the appellants of sites and cottages on the Transkei Wild Coast, 13 kilometres north of Port St Johns. The Government sought and obtained an order for their eviction in the Mthatha High Court on the dual basis that the sites occupied by them were situated in a nature conservation area and that it formed part of State land. The order directed the defendants to remove all structures built on the sites within four months of the order, failing which the Government was authorised to have the structures demolished and removed at the appellants' expense.

Though various defences were raised by the appellants, they concentrated on two of these on appeal. Firstly, they relied on the approval of their occupation by the Chief of the local tribe and the tribal authority having jurisdiction in the area. Secondly, they contended that the Government had failed to establish that their eviction would be just and equitable as envisaged by the provisions of the Prevention of Illegal Eviction from the Unlawful Occupation of Land Act 19 of 1998 (better known in legal parlance as PIE). As to the first defence, the SCA essentially found that, on a proper construction of the legislative enactments in operation in the Transkei at the time, neither the local chief, nor the tribal authority could validly approve the occupation and the building of cottages in the area where the sites are situated. As to the defence based on PIE, the SCA found that PIE only applies to the eviction of persons from their homes and that, since the cottages on the sites were put up and used by the appellants for holiday purposes, they did not qualify as 'homes', with the result that PIE found no application at all.