

SAMUEL K. CAWOOD

and

JOCO RANCH (PVT) LTD

versus

KANYISO MBEDZI

and

O. G. DUBE

IN THE HIGH COURT OF ZIMBABWE
CHEDA J
BULAWAYO 23 AUGUST 2001 AND 9 MAY 2002

G.R. Wernbeg for applicants
M.P. Mwarewangepo for the respondent

CHEDA J: The applicants seek an order against the two respondents who are the District Administrator of Beitbridge and his deputy. The order sought is to

interdict them from:-

- (a) causing
 - (b) facilitating
 - (c) participating; or
 - (d) giving sanction to
the entry upon or continued occupation of first and second applicants' properties,
- (2) Respondents shall secure the immediate effective and final removal of all persons who are occupying the properties without applicants' consent together with their families from the said properties.
- (3) Respondents shall pay the costs of this application on an attorney and client scale and to this and they shall be jointly and severally liable the one paying the other to be absolved.

Because of the similarity of this case with that of B.K. Cawood (Pvt) Limited

and Mr Mbedzi, case number 1858/01, this case was not argued separately, but was treated together with number 1858/01, as what was involved was closely related.

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In writing the judgment I decided to make a separate one in order to be able to

deal with the different aspects of this case. In this case, different dates of the arrivals

of the occupiers are given. These are from 20 March 2000. The applicant gives details of what was happening on the property from this date up to July 2001.

As stated in case number 1858/01, those who arrived before March 2001 are protected by the Act. They cannot be removed as the applicant prays in his draft

order.

Applicant says more people arrived in large numbers about April 2001. The difference between this case and the first is that in the first case the prayer was for

respondent to be held in contempt, while in this one, the prayer is that the respondents

be restrained from doing certain acts and to remove the occupiers.

Annexure C however, is to the effect that the farm has been acquired for resettlement. Accordingly, the amendment of section 8 on Statutory Instrument 338/2001 would be applicable. The amendment authorises the acquiring authority to

exercise any rights of ownership, including the right to survey, demarcate and allocate

the land concerned. There can, therefore be no order made as prayed for by the applicants. The amendment also provides that the amendment be deemed to have come into operation on 23 May 2000.

For the above reasons the application cannot succeed and it is dismissed. Because the amendments that defeats the applicants' case were made after the case was

filed, again as in the first case, I prefer not to make any order as to costs.

Cheda J