

ANNEXURE TO EED REPORT FOR THE PERIOD MAY 2013 TO OCTOBER 2013

Pictures of redistribution or land production initiatives

Case studies

Newspaper cutting on Popela Land Claim



Picture 1: Mavungeni Poultry project which is able to supply Rainbow chicken with +/- 40 000 chickens per 5 weeks cycle.



Picture 2 : A Ximange CPA member inspecting ripening butternuts



Picture 3: Macademia nuts platantion at Mavungeni



Picture 4: Mavungeni Cabbage production- snapshot.



Picture 5: Training in session for Mavungeni, Mundzhedzi ans Ximange CPAs

CASES STUDIES LINKED TO MAKING LAND | REFORM WOK: MAY TO OCTOBER 2013

1. Masupatsela Case

The Mopani District Municipality in Limpopo has demolished more than 80 brick houses belonging to farm dwellers residing in farm Boerdestroomdrift (otherwise known as Masupatsela) in the outskirts of Tzaneen. Of the 80 houses demolished, 17 were demolished without a court order. The rest were demolished on the strength of a court order that was obtained using a piece of legislation that was not applicable to the affected. The court order was obtained using PIE (Prevention of Illegal Eviction Act 19 of 1998). This piece of legislation was intended to deal with squatters, not occupiers. A person who has resided on a farm for over a year with the approval of the landowner is an occupier in terms of ESTA (Extension of Security of Tenure Act 62 of 1994).

The people whose houses were demolished in Masupatsela are occupiers as defined in ESTA and any proceeding to evict them should have been conducted in terms of ESTA, not PIE. Furthermore, the names of the affected were obtained on false pretence. The municipal officials obtained the names of households owners on the pretence that they were compiling a list of people who will be employed on a project that the municipality intended starting on the farm. The farm dwellers were represented by a very junior attorney from the Legal Aid Board in Tzaneen who was clueless about land issues in general and legislation dealing with the rights of farm dwellers in particular. The extent of the ignorance was such that use of PIE instead of ESTA was not even challenged throughout the proceedings. For lack of funds and extremely low levels of literacy, the farm dwellers were in no position to challenge this injustice.

As for the issue of the 16 houses demolished without a court order, that was purely criminal matter. The requirement that no one should have their homes demolished without a court order is constitutionally entrenched and in line with this constitutional requirement, section 23 of ESTA criminalises eviction without an order of a competent court. The sanction for such an offence is a fine and/or imprisonment.

To date, we at Nkuzi have still to see a landowner being prosecuted for contravention of this particular section. Each time that we have tried to push for prosecution of offenders, the SAPS failed to act decisively. To our dismay, and that of hundreds of farm dwellers, we discovered that the SAPS has up to this day not listed "Evicting without a court order" as an offence. That is despite a memo having been sent to all police stations soon after the passing of this act in 1997 (We have a copy of the memo)

As Nkuzi we picked up this case soon after the demolition was effected. We negotiated with the District municipality to rebuilt the houses as demolition was both unjust and illegal. Promises were made to effect restoration, but never fulfilled.

We assisted the farm dwellers to lay charges of evicting without a court order with Tzaneen SAPS. Initially they refused to entertain our story and instead argued that the landowner has demolition rights, with or without a court order. It took us almost ten hours to convince the

station commissioner to at least investigate the case. Almost a year down the line they are still investigating.

2. Rights of women under siege in the Tshifhefhe CPA

Mr Nongovhela Takalani died recently. He was the chairperson of Tshifhefhe CPA, which by extension means that he and his immediate family were beneficiary of Tshifhefhe CPA. The CPA in question was registered in 2007 following the successful transfer of portion 13 of farm Welgevonden 4 LT in the Makhado municipal area. The Tshifhefhe community lodged a claim for this property in terms of the Commission on Restitution of Land Rights Act 22 of 1994.

Following the death of Mr Nongovhela, early in 2013, the surviving members of his family who are women, were removed as beneficiaries from the project. There was no valid reason advanced for their expulsion. A letter signed by the deputy secretary of the CPA only stated that ***“through investigations the executive have found that you...are not a beneficiary of the Tshifhefhe Communal Property Association”***.

The affected family members were not even granted a chance to make representations before the body that is supposed to have conducted investigations, that is if any investigations were ever conducted. The affected members were not even aware that there was any investigation to determine the bona fide beneficiaries of the project.

It is not clear what the scope of reference for the investigations were and furthermore the investigation report was not made available to the affected members. This is the injustice that vulnerable women are being subjected to in Tshifhefhe. In fact, it is a mirror of the kind of abuses and oppressions that women are being subjected to in the society.

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Claimants demand land

POPELA community members, supported by the Nkuzi Development Association protested outside Westfalia Fruit Estate's offices last Wednesday demanding that their land be returned to them.

This follows the ruling by the Constitutional Court in 2007 that the Boomplaats Farm (Goedgelegen Tropical Fruits) which is owned by Westfalia in Nooketst be restored to nine claimants from the Popela community.

The community also demands that Westfalia allows the Regional Land Claims Commission to implement the judgement by the Constitutional Court and not delay the process.

One of the claimants, Jan Maake, said it's been six years since the judgement was passed but they still don't have their land back.

"It is our land but Westfalia is failing to acknowledge that. They want to rob us, they are offering us half of the land and we want the whole land," said Maake.

According to Maake the Popela community lived on land as far back as the mid 1800s.

During the march, the Nkuzi Development Association handed over a memorandum of demands and gave Westfalia 14 days to respond.

Vasco Mabunda of the Association said they will take further action against Westfalia if they fail to respond.

The memorandum was accepted by Westfalia manager, Louis Vorster.

Zach Bard, the managing director of Westfalia Ltd said in a statement that Westfalia supports land reform in South Africa and does not oppose the restitution of land in South Africa.

He said that during the ruling of the Constitutional Court the nine claimants were not awarded the entire Boomplaats Farm but an area of 800m² per household and grazing rights for their livestock.

The ruling was subsequently rejected by the claimants.

Bard said that as a result, the process was further delayed.

"Westfalia has indicated that it is willing to sell and transfer a portion of the land to the State for restoration to the nine claimants, and it is therefore awaiting a final decision from the Commissioner on the demarcation of land in order to implement the judgement," Bard said.



MEMORANDUM: Vasco Mabunda of Nkuzi Development Association handing over a memorandum to Westfalia manager, Louis Vorster.



MARCH: Popela community members marching outside Westfalia Fruit Estate offices last Wednesday demanding that their land be returned to them. Photo right.