



## CONSTITUTIONAL COURT OF SOUTH AFRICA

**Residents of Joe Slovo Community, Western Cape v Thubelisha Homes and Others**

**Case No: CCT 22/08**

**[2011] ZACC 8**

**Decided on: 31 March 2011**

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### MEDIA SUMMARY

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*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 31 March 2011 the Constitutional Court will give judgment on whether it should discharge an eviction order coupled with a supervisory order that it made in June 2009 relating to approximately 20 000 people who were residents at the Joe Slovo informal settlement in Cape Town.

The government had claimed that the development of the informal settlement was impossible while the residents continued to reside there. It became clear shortly after the order was granted, however, that the government no longer intended to carry out the eviction in terms of the order, because it had come to the conclusion that it was better to develop the property while the residents remained on site.

The Court held that it did have the power to discharge an order made by it evicting people from their home when there are exceptional circumstances and where considerations of justice and equity require it. The Court found that the following exceptional circumstances existed:

- (a) The order had not been executed and had been left in abeyance.
- (b) There is no intention to proceed with the eviction.

- (c) The order cannot be executed unless there is agreement between the parties or unless the order is amended.
- (d) The order relates to thousands of people.
- (e) The circumstances that motivated the Court to grant the order have ceased to exist.
- (f) There is no reason why the threat of eviction should continue to disturb the applicants.

The Court held that the order for costs in favour of the applicants should not be discharged. It therefore effectively discharged the whole of the order, except for that part relating to costs.