



CONSTITUTIONAL COURT OF SOUTH AFRICA

**Pontsho Doreen Motswagae and Others v Rustenburg Local Municipality and
Another**

**CCT 42/12
[2013] ZACC 1**

**Date of hearing: 27 November 2012
Judgment date: 7 February 2013**

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 7 February 2013 the Constitutional Court gave judgment in a case which concerns the constraints placed upon municipalities when entering land on which people's homes are situated.

The applicants' homes are situated on land owned by the Rustenburg Local Municipality (Municipality). These homes were dilapidated. The Municipality employed a contractor to carry out work on the land as part of a housing development project. The contractor entered the property and excavated the outer wall of the home of one of the applicants with a bulldozer, exposing its foundations.

The applicants applied to the North West High Court, Mafikeng (High Court) for an interdict restraining the Municipality and the contractor from performing this construction work. The High Court refused the application because the applicants were not being ejected from their homes and their privacy was not disturbed.

The applicants challenged the High Court judgment and order.

In a unanimous judgment, written by Yacoob J, the Constitutional Court held that the applicants' constitutional right not to be evicted from their homes without a court order guarantees their peaceful and undisturbed occupation of their homes. Having found that the work of the Municipality interfered substantially with the applicants' peaceful and

undisturbed occupation of their homes, the Court concluded that the Municipality could not undertake the work without a court order. Finally, the Court concluded that the Municipality should have secured the eviction of the applicants before-hand.

The Constitutional Court therefore ordered that any construction work on the land on which the applicants' homes are situated should not be executed without the consent of the applicants or a court order.