



## THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY: JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

**FROM:** The Registrar, Supreme Court of Appeal

**DATE:** 8 April 2024

**STATUS:** Immediate

***The following summary is for the benefit of the media in the reporting of this case; it does not form part of the judgment of the Supreme Court of Appeal.***

*National Department of Public Works v Fani and 77 Others [Collectively referred to as "Residents of Farm Greydel (Airport Park)"] and Another (090/2021) [2024] ZASCA 43 (8 April 2024).*

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Today the Supreme Court of Appeal (SCA) dismissed an application for condonation for the late filing of the appeal record and heads of argument. The appellant is the custodian of the Remainder of Portion 1 of the Farm Greydel 871, East London (the property). The appellant experienced problems with persons attempting to invade the property; therefore, on 14 March 2017, it sought and obtained an order from Stretch J. In terms of that order, 'persons whose identities are...unknown and who have attempted, are threatening or may even try to occupy' the property were 'interdicted and restrained from demarcating any sites for whatever purpose and/or commencing or continuing to erect and/or occupy and/or permit to be occupied on their behalf any structure on the property.' In terms of this order, the sheriff, with the assistance of the South African Police Service (SAPS), was authorised to take any steps to dismantle or demolish any structure erected on the property in contravention of the order.

On 27 July 2020, the appellant, assisted by the sheriff and SAPS, demolished the respondents' homes pursuant to the order issued by Stretch J. On 29 October 2020, Hartle J declared the appellant's demolition of the respondents' homes unlawful and directed the appellant to restore the homes. The appellant seeks to appeal that order; the appeal, however, has lapsed due to the appellant's failure to file the record and heads of argument timeously. The appellant seeks condonation for this failure and reinstatement of the appeal. The appellant has failed to explain the whole period of delay and in any case, the explanation proffered was unreasonable.

The state attorney, seized with the matter, made no attempt to engage with her correspondent to establish precisely what needed to be done to complete the record. She simply handed it to the transcribers to attend to the deficiencies and allowed months to go by without ensuring that it had been filed. Her explanation that her attention had been diverted from this case and that she took vacation leave in December 2021, attending therefore to this case only on 10 February 2022, is unacceptable.

The effects of the delay in filing the record on the administration of justice and the respondents is self-evident. Their homes were demolished during the national lockdown imposed in response to the COVID-19 pandemic. The respondents say that most of them are in desperate need of reconstruction of their homes.

The delay is inordinate and improperly explained. The opposition to the application for condonation is justified. It is prejudicial to the administration of justice to condone the appellant's inexplicable dilatory conduct, while the respondents have been rendered homeless since the demolition of their structures in July 2020. In the circumstances, it is not in the interests of justice to grant condonation.

\*\*\*ENDS\*\*\*