

IN THE HIGH COURT OF SWAZILAND

a/Betty Magagula

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Betty Magagula

vs

Mr. Gama (Mbuluzi Veterinary Officer)

Civ. Case No. 1022/1997

Coram S.W. Sapire, ACJ

Judgment

(4/7/97)

The applicant has approached the Court under a certificate of urgency claiming on Notice of motion, an order on the respondent, directing and authorising him to effect the transfer of cattle from the kraal of the respondent in so far as such a transfer complies with all normal procedures and also interdicting and restraining the respondent from transferring any cattle from the kraal of the applicant unless it has the applicant's full backing and/or consent.

The application is defective in a number of respects. If the respondent is a Government employee then the Attorney General should have been cited as a respondent. The applicant has not even mentioned the Act under which the respondent was appointed and what his duties are. Because of this the application is fatally defective.

It appears that the applicant is in possession of some cattle which belong to a third party and she wishes to hand over this cattle to the rightful owner. When she approached the respondent who is a Veterinary Officer he informed the applicant that there was a letter from another attorney instructing him not to effect any transfer of any cattle from the applicant's kraal.

It is not clear what the respondent's duties are and I can see no reason why he should get involved in any dispute regarding the ownership of any cattle. But as no case has been made out which demonstrate what the Respondent's duties are, it is not possible for me to come

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to the applicant's assistance and to direct the respondent to do anything in regard to cattle on her farm.

For these reasons I make no order on the application.

As far as costs are concerned there will similarly be no order for it seems to me that the intervening parties have made an improper call on the veterinary officer in attempting to obtain relief, which should properly be sought in a court of law. If it were to assist the parties I observe that there seems to be no reason why the respondent should not act in accordance with whatever power he may have

derived from the statutes in terms of which he was appointed . He need not heed the directions of third parties who have no established and uncontested rights to the cattle.

S.W. SAPIRE

ACTING CHIEF JUSTICE