IN THE HIGH COURT OF SWAZILAND

ROYAL SWAZILAND SUGAR CORPORATION

Vs

SIMON NHLEKO & 9 OTHERS

CASE NOS. 2785/98; 2786/98; 2787/98; 2788/98; 2789/98; 2790/98; 2791/98; 2792/98; 2793/98; 2794/98

Coram S.W. SAPIRE, CJ

FOR APPLICANT MR. NTIWANE

FOR DEFENDANT MR. MASUKU

JUDGMENT

(25/01/99)

The Royal Swaziland Sugar Corporation is the applicant in a series of applications brought against a number of its former employees. The cases are numbered consecutively in the registry from 2785/98 to 2794/98. In the first case Celani Tsabedze is the respondent. In each of the applications the applicant seeks ejectment of the respective respondent from a house on the applicant's property.

The houses were allocated to each of the respondents to afford them accommodation while the respondent was an employee of the applicant. It is a

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common factor in all the applications that the applicants were, each of them,

dismissed from their employment, following on a disciplinary enquiry. Such

dismissals terminated their contracts of employment, in terms of which the accommodation was provided..

Following upon the termination of the contracts of employment the respondents were called upon to vacate the accommodation. Each of them has steadfastly refused to comply with the request to vacate and it has become necessary for the applicant to seek an order for ejectment against each of them.

As the facts essential to the cause of action and defence are identical in each case the matters were all argued together and may conveniently be dealt with in one judgment.

The essence of the applicant's cause of action is that it is the owner of the property in question. Prima facie the applicant is entitled to occupation of the property adversely to anyone else. Graham v Ridley 1931 TPD 476. In order to meet the application for ejectment respondents are bound to allege facts which entitle them to occupation of the premises in question.

Although the respondents argue that their dismissal was unfair and that the case of their unfair dismissal is pending in the Industrial Court, it is in itself is not the defence to the applicant's claim. The respondents, even if successful in their actions in the Industrial Court, are not entitled to reinstatement of their contract but are confined to damages or an equivalent thereof for the unfair or unlawful dismissal. It is for the industrial Court to make an appropriate award in the circumstances. In making an award the Industrial Court will take into account the benefit of accommodation which the respondents enjoyed in terms of their respective contracts.

Whatever the outcome of the proceedings in the Industrial Court may be, the respondents are not at

all entitled to remain in occupation of the premises pending that hearing. This is so because the contract is at an end and there is no basis for their continued occupation of the premises.

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The applications were brought as a matter of urgency. The urgency was disputed . The question is now largely academic. It does seem to me that there was every justification for the applicants to bring the applications for relief.

The respondents also raised the point that there were facts of fact to be anticipated which made the motion proceedings inappropriate. There are no points of factual dispute on the essential issues. There is no reason why the issues between the parties should not have been decided on application.

In the premises the applications will succeed and in each case the respondent is to be ejected from the premises occupied by him or her as the case may be. I accordingly order in each case that:

The respondent is ejected from the premises described in (2) of the notice of motion and

1. that the respondent pay the cost of the application.

S.W. SAPIRE

CHIEF JUSTICE