

Land reform guidelines questioned in SCA ruling

The Supreme Court of Appeal has overturned a Land Claims Court judgment that effectively found that market value was not the most important consideration when determining compensation for properties identified for land expropriation, says a **Business Day** report. In the case between a landowner, who was seeking compensation for land claimed by Msindo Msiza, a labour tenant, the SCA, in a ruling that questioned state land reform guidelines, decided the residential development potential of the land was not a factor and should not determine compensation. The Land Claims Court had found that the compensation to be paid to the landowner was less than the market value and ascribed it at R1.5m. The SCA overturned this amount, stating there were 'no facts justifying the deduction of the amount of R300 000. The Land Claims Court arbitrarily decided on this amount.' The figure of R1.8m was provided by the state's expert. The SCA found this valuation to be significant because it takes 'cognisance of the historic and current use, the characteristics of the subject property, the lawful use, and the judgment of the subject property in terms of Chapter III of the Land Reform (Labour Tenants) Act **Simply put, the valuation of R1.8m took account of the Msiza claim in the valuation of the property**'. The Legal Resources Centre said the court only partially grappled with the issue of whether deductions from the market value, and the extent of these, could be justified in order to seek 'just and equitable compensation' for land reform. The court instead placed its faith in the valuation of the state expert and this might lead to future cases in which the implementation of constitutional principles were determined by valuers and not by courts of law, the centre said.