

Wife an occupier in her own right – ruling

The Constitutional Court held yesterday that a woman who stayed on a farm where her husband worked was an occupier in her own right under the Extension of Security of Tenure Act (ESTA), notes a [BDlive](#) report. In this case, Elsie Klaase was evicted with her husband, Jan Klaase, after the employer terminated his employment. Klaase had been employed at the Noordhoek farm since 1972, and stayed there with his wife, their three children and three grandchildren in a cottage. He was evicted in 2014 following a charge laid against him by the farmer for absconding and absence from work. His employers told him his right to occupy the premises was terminated as it was dependent on his continued employment. The majority of the Constitutional Court, in a judgment by acting Justice Elias Matojane, said **Mrs Klaase had established that she was an occupier and her right of residence was not lawfully terminated.** ‘An eviction order against her may be granted against her only if certain conditions are met. The first is that her right of residence must have terminated on lawful grounds, provided that the termination is just and equitable, having regard to certain listed factors,’ Matojane said. In a minority judgment, Justice Raymond Zondo said on proper interpretation of ‘occupier’ in the Extension of Security of Tenure Act, Mrs Klaase was not an occupier to the extent that she may have been given consent by the owner of the farm to reside on the farm. Zondo said such consent was for her to reside on the farm through her husband and not independently of his right to reside on the farm.