

**IN THE LAND CLAIMS COURT OF SOUTH AFRICA
(HELD AT CAPE TOWN)**

CASE NO: 21R/2014

DATE: 24 JUNE 2016

In the matter between

ISAK BARON

DAVID BAILEY

ERIC CUPIDO

JONATHAN STOFFELS

RICHARD FIGLAND

ANTHONY MERRINGTON

**ANY OTHER PERSONS WHO ARE CURRENTLY
RESIDING AT CLAYTILE JOOSTENBERG BRICK,
HERCULES PILAAR ROAD, MULDERSVLEI WITH OR
THROUGH THE ABOVE RESPONDENTS WHOSE
NAME AND IDENTITIES ARE UNKNOWN TO
THE APPLICANT**

and

CLAYTILE (PTY) LIMITED

CITY OF CAPE TOWN METROPOLITAN MUNICIPALITY



1ST APPLICANT

2ND APPLICANT

3RD APPLICANT

4TH APPLICANT

5TH APPLICANT

6TH APPLICANT

7TH RESPONDENT

1ST RESPONDENT

2ND RESPONDENT

JUDGMENT

MEER, J

1. The Applicants apply for leave to appeal to the Supreme Court of Appeal against the whole of our judgment of 23 March 2016. The grounds of appeal are several, not all of which deal with findings made by this Court. In heads of argument the Applicant resuscitated a point *in limine* which questioned the jurisdiction of the Court *a quo*. This aspect was initially raised in the founding affidavit but was taken no further by

the Applicants in the Court *a quo*.

2. At the hearing of this application today, the parties confirmed that the jurisdiction point had been abandoned in the Court *a quo* and that the Applicants had in fact conceded in that the Bellville Magistrates Court had the requisite jurisdiction. In the circumstances, it ill behoved the Applicants to raise the point *in limine* as one of their grounds of appeal. Time and trouble was taken at the hearing of this application to clarify this aspect. I note my displeasure also that several grounds for leave to appeal were cited by the Applicants pertaining to findings that this Court simply did not make.
3. Now to turn to the nub of this application. It would seem to me that the remaining grounds of appeal pertain to matters in respect of which reasoned findings have been made in the judgment. It would therefore serve little purpose to traverse these here. I have carefully considered the submissions of both counsel on the very vexed question of alternative accommodation and the responsibility of the State versus that of private land owners to provide housing. I have also considered our judgment dispassionately as I must do. I am of the view that another Court would not come to a decision different to ours. There is in my view accordingly no reasonable prospect of success on appeal.

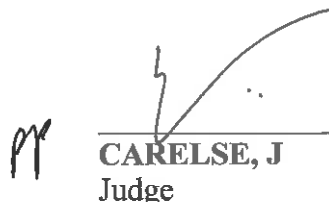
The following order is therefore granted:

1. Leave to appeal is dismissed.



MEER, J
Acting Judge President

I agree.



CARELSE, J
Judge