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ZIMBABWEAN FARMERS' COURT CASE IN SOUTH AFRICA: SUPREME COURT OF APPEAL, BLOEMFONTEIN



Advocate Willie Spies (AfriForum), Ben Freeth (MCF) and Wynand Hart (AfriForum): South Africa's Supreme Court of Appeal in Bloemfontein

***For those of you who didn't have a chance to read our mailing on Wednesday evening, here's a summary of this crucial case and a brief overview:**

THE ZIMBABWEAN FARMERS' COURT CASE IN SOUTH AFRICA

Summary: This is a very crucial court case that is to decide the consequences of South Africa's former president Jacob Zuma's actions in being party to closing down the regional SADC Tribunal human rights court, denying the 300 million people of southern Africa access to justice when the justice systems in their own countries have failed them.

If the Supreme Court of Appeal finds that there is a damages claim that can be processed against the South African government, it will add huge impetus to the campaign to reopen the SADC Tribunal. The South African government would obviously be far happier that we went to the SADC Tribunal to seek justice.



South Africa's Supreme Court of Appeal in Bloemfontein

BACKGROUND

With the assistance of South African civil rights group AfriForum, twenty-five former Zimbabwean farmers (11 farmers and 14 companies owned by those farmers) who lost their farms during the land invasions initially asked the Gauteng High Court, Pretoria in April 2019 to give them the go-ahead to claim damages/compensation against the South African government.

The farmers have cumulatively claimed close to R2 billion after SA's then-president Jacob Zuma signed a Southern African Development Community (SADC) resolution in 2014 that removed its tribunal's powers over SADC's then 14 member states. This came in the wake of Zimbabwe's land dispute, and after farmers had turned to the SADC Tribunal to be compensated for losing their farms through the landmark Campbell case. The Law Society of South Africa earlier challenged the role that Mr Zuma and the government played in the closure.

Since then, 24 additional farmers have joined the case and their papers have been submitted. The preliminary hearing took place "virtually" via Zoom on 5 November 2020. The farmers' legal team asked the Gauteng High Court in Pretoria to give them the go-ahead to claim compensation against the South African government. Judgment was reserved.

The Supreme Court of Appeal hearing in Bloemfontein took place on 5 May 2022.

The logical option for the South African government is to ensure that the SADC Tribunal is reinstated so that the case can be lodged with the Tribunal, with the Zimbabwe government being liable for the compensation.

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