

REPORTABLE (3)

Judgment No. CCZ 7/17  
Civil. Application No. 32/09

- (1) TOM BEATTIE FARMS (PRIVATE) LIMITED  
a.k.a. CHIGWELL ESTATE  
(2) THOMAS IRVING BEATTIE

v

- (1) IGNATIUS MUGOVA  
(2) ATTORNEY-GENERAL OF ZIMBABWE

CONSTITUTIONAL COURT OF ZIMBABWE  
CHIDYAUSIKU CJ, MALABA DCJ, CHEDA JA, ZIYAMBI JA & GARWE JA  
HARARE, MARCH 19 & 31, 2009  
JUDGMENT RELEASED ON MARCH 16, 2017

*L Uriri*, with him *T Mpofu*, for the applicants

*P Machaya*, for the respondents

CHIDYAUSIKU CJ: On 31 March 2009 this Court issued the following order in this matter:

"IT IS DECLARED THAT:

- (1) The refusal to refer the constitutional issue in the magistrate's court in the matter of *The State v Tom Beattie (Pvt) Ltd and Thomas Irving Beattie* to the Supreme Court for determination was wrongful and was consequently a breach of the applicants' right to protection of law under section 18(1) of the Constitution of Zimbabwe.
- (2) Section 277(3), as read with section 277(5), of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*] is consistent with section 18(1), as read with section 18(13)(b), of the Constitution of Zimbabwe.

- (3) Sections 3(2) and 3(3) of the Gazetted Lands (Consequential Provisions) Act [*Chapter 20:08*] are consistent with section 18(1) of the Constitution of Zimbabwe. Consequently the prosecution of the applicants under section 277(3), as read with section 277(5), of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*] and sections 3(2) and 3(3) of the Gazetted Lands (Consequential Provisions) Act [*Chapter 20:08*] is lawful.
- (4) The Workshop held at Chegutu on 6 February 2009 and its deliberations did not violate the applicants' rights protected in terms of section 18(2) of the Constitution of Zimbabwe.
- (5) There will be no order as to costs."

We indicated that the reasons for the order would follow.

On 26 November 2010 in the matter of *Commercial Farmers Union and Nine Ors v The Minister of Lands and Rural Resettlement and Six Ors* this Court issued judgment No. SC 31/10. In that judgment this Court dealt with issues that are identical to those that arise in the present case. The reasons for judgment in the *Commercial Farmers Union* case *supra* apply to the present case with equal force. There is no need to issue a separate judgment in this case.

MALABA DCJ: I agree

CHEDA JA: (Rtrd)

ZIYAMBI JA: I agree

GARWE JA: I agree

*Gollop & Blank*, applicants' legal practitioners

*Civil Division of the Attorney-General's Office*, respondents' legal practitioners