

RESEARCH REPORT.

ROOIDRAAI 85 IQ, WITKOPPIES 87 IQ, AND RYSMIERBULT 88 IQ, ALL IN
VENTERSDORP DISTRICT IN THE NORTH WEST PROVINCE.

Ref: V0020, V0110, AA025



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1. INTRODUCTION.

The Regional Land Claims Commission received a land claims for the farms **Witkoppies 382 IQ, Rooldraai 85 IQ (previously known as Kgapamadi), and Rysmierbult 88 IQ** on the 26th October 1998. In terms of the Restitution of Land Rights Act 22 of 1994 as amended (herein thereafter called the 'Act'), the Commission has a duty to investigate all the land claims lodged.

The claims were prioritized and ultimately investigated in terms of the rules of the Commission as contained in the Act. The main thrust of the investigation was to gather sufficient information to assist the Commission to speedily process the claim. The investigation included Archival Research and consultations with the claimants.

2. PARTICULARS OF THE CLAIMANTS.

- 2.1. The claimant is Mr. L.J. Motingoe, (Annexure A)
- 2.2. The claimant submitted a claim on behalf of the Rysmierbult Community, the original owners as well as direct descendants of the dispossessed. (Annexure B)

3. PROPERTY DESCRIPTION AND LOCALITY RESEARCH.

- 3.1. The properties, are situated 40km from Ventersdorp, in the Ventersdorp District of the North West Province.
- 3.2. The claimed properties, claimed as a whole, are Rooidraai 85 IQ, previously known to the claimants as Kgapamadi (3480.0646 ha), Witkoppies 87. IQ (59.8134) and Rysmierbult 88 IQ (1951.1389), all measuring 5493.2035 hectares. (Annexure C)

4. HISTORY OF ACQUISITION AND DESPOSSESSION OF THE PROPERTY

4.1 ACQUISITION.

- 4.1.1 The properties were originally owned by the claimants' forefathers since 1866, who did not have formal rights at that time, before White people came to the area. A site visit on the farms revealed graveyards and peach trees all over the farms, which served as evidence that these people were not just owning portions of the farms, but the entire farms. (Annexure D)

4.2 DISPOSSESSION

4.2.1 When White people came into the area, the area was proclaimed an alluvial digging area. Section 23 (1) and 24 (1) of the **Native Trust and Land Act No. 18 of 1936** states that no person should reside and/or prospect in a digging area without written permission (Digger's Certificate). (**Annexure E**). Black people were found in contravention of the **Native Trust and Land Act** as this was now a reserved area, and they (black) people could not obtain digger's certificate, but could only remain in the area through **Certificates of Character** as set out by section 60 of the **Precious Stones Act 44 of 1927** which served as permits for those black people were seen as 'desirable', 'fit' and 'proper' therefore could remain in the area. (**Annexure F**)

4.2.2 White people did not like the fact of having black people staying with them, which is why in 1963 and 1964 they (White people) applied to the Native Chief Commissioner, complaining that the Certificate of Character is against the Native Trust and Land Act, and therefore, a deproclamation of these properties from being alluvial digging areas would make it possible to negate the Certificates of Character since deproclaiming the area, would destroy the Act on Precious stones and thus making the Certificate of Character void. In getting rid of Certificates of Character, they would only be left with the Native Trust and Land Act which they used to chase black people away as they please with nothing protecting them (black people), the way the Certificate of Character did. (**Annexure G**)

4.2.3 The Commissioner then responded that White people should not worry, the matter was being taken care of and that by December 1965 no house owned by a black person would be standing. In 1965 the property, was therefore, acquired by the Department of Native Affairs (**Annexure H**)

4.2.4 People's houses were therefore bulldozed and people removed from the area by guns as the White people were opening fire to anyone on sight. These black people had to therefore, run for their lives and live everything they owned behind.

4.2.5 The properties are currently privately owned by white farmers.

5. PARTICULARS ON LEGISLATION USED TO DISPOSSESS CLAIMANTS

Native Trust and Land Act 18 of 1936. (**See Annexure E**)

6. STATE DEPARTMENT RESPONSIBLE FOR REMOVAL.

The Department of Native Affairs is the department that was responsible for the removal but the land was never registered in its name. (See Annexure B)

7. DATE AND CIRCUMSTANCES OF REMOVAL.

7.1. Date of removal

The claimants were removed in 1965. (See Annexure B).

7.2. Circumstances of removal.

The claimant's properties was acquired in 1965 by white farmers. (See Annexure B)

8. COMPENSATION RECEIVED.

8.1. Compensatory land

The claimants did not receive any alternative land as compensation. (See Annexure B)

8.2. Monetary compensation

The community did not receive any money as compensation. (See Annexure B)

9. HARDSHIPS SUFFERED BY CLAIMANTS

According to the claimants they lost their land rights in the property, as they used the land for residential as well as agricultural purposes. Their houses were bulldozed by the department with the assistance of the white farmers. No transport was provided when they were removed. They are now living in shacks as no compensation was given to start afresh somewhere else and they lost all their belongings when they were thrown out of the area. (See Annexure D). Another painful issue to the claimants is to work on the property that was forcefully taken from them as they had to ask for jobs from the same people who removed them.

10. LAND USE PRIOR TO AND AT THE TIME OF DISPOSSESSION.

The land was used for both residential and agricultural purposes. (See Annexure D)

11. LAND USE AND CURRENT OWNER.

The farmers use the land mainly for mining, crop and cattle farming. The properties are all privately owned. (See Annexure C)

12. MINERAL RIGHTS, SERVITUDES AND BONDS.

There are mineral rights, servitudes and bonds on the claimed properties. (See Annexure C)

13. PARTIES HAVING A STAKE IN THE RESOLUTION OF THE CLAIM

- 13.1. The Director
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- 13.2. RLCC Gauteng & North West Provinces
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14. RECOMMENDATIONS

The claim qualifies in terms of provisions for a section 2(1), of the Restitution Act for the following reasons :

The removed community had indigenous rights in land.
The claim was lodged within the stipulated time frame in 26th October 1998
The people were not compensated at all,
The removal was in terms of **The Native Trust and Land Act No. 18 of 1936**
and,
The claimants completed and submitted a land claim form.

15. Bibliography

15.1. National Archives of South Africa : Pretoria

15.2. Legislation

Restitution of Land Rights Act of 1994 (No. 22 as amended).

15.3. Registrar of Deeds: Pretoria

15.4. Office of the Surveyor General: Pretoria

