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More Power for Lands Tribunal

Wednesday, 11th of July 2007

- The Act might either be expanded, or even replaced, to give the Lands Tribunal exclusive jurisdiction over land matters

By Mbatjiua Ngavirue

Government is in the process of amending the Commercial (Agricultural) Land Reform Act of 1995, to give the Lands Tribunal the power to adjudicate on all matters related to agricultural land throughout the country.

Minister of Lands and Resettlement, Jerry Ekandjo, announced proposed changes to the law when officially inaugurating the Fourth Lands Tribunal yesterday.

This would include possibly amalgamating the Commercial (Agricultural) Land Reform Act with the Communal Land Reform Act to create one single Act governing all land.

Dirk Conradie, appointed by Ekandjo to serve as chairperson of the tribunal for a third term, gave additional information on plans to strengthen the tribunal.

Conradie said that all land rights would eventually be determined by the tribunal to the exclusion of all other courts.

He indicated the Act might either be expanded, or even replaced, to give the Lands Tribunal exclusive jurisdiction over land matters.

One of the main tasks of the Lands Tribunal is to determine the purchase price of farms, in cases where there is a dispute between the seller of commercial farmland and the Namibian government.

The government has preferential rights to purchase all commercial farmland, and owners can only sell to a third party after government waives its claim.

Amendments to the Act introduced in 2002, also gave the tribunal the power to resolve disputes between the Minister of Lands and beneficiaries of the land resettlement programme.

Almost 11 years after its creation, the Lands Tribunal has so far not heard a single case.

Nine cases were filed with the tribunal, of which the parties settled six out of court while the other three are still pending.

Conradie blamed the low number of cases brought before the tribunal on the lack of exclusivity, encouraging litigants to go "forum shopping" to find a forum they felt would best serve their interests.



He however emphasised the tribunal already had wide-ranging powers.

"The Lands Tribunal is a creature of the Land Reform Act and should be seen within the objectives of that Act.

"Those objectives are to acquire land in order to make it available to the previously disadvantaged, dispossessed by colonial oppression," Conradie said.

The Act gave the tribunal the same status as a High Court, allowing it to decide on all matters brought before it in terms of the Act, and matters under any other Act.

"People therefore need to give the Lands Tribunal the requisite attention and respect," he said.

A Rules Board headed by the Judge President of the High Court has drafted procedural rules governing the Lands Tribunal – almost identical to the rules governing the High and Supreme courts.

He further disclosed that the High Court would make a chamber available for the tribunal's use.

Minister Ekandjo also announced the appointment of Emma Kantema as Registrar of the Lands Tribunal.

She previously served as a Development Planner in the Ministry of Lands and Resettlement.

The Lands Tribunal members serve three-year terms, with the first tribunal appointed in 1996.

The five members of the Fourth Lands Tribunal of Namibia are as follows:

- Dirk Hendrik Conradie (Chairperson) – Legal Practitioner;
 - Alwina Swartbooi – Full-time teacher at A. Shipena Secondary School and a newsreader on one of the NBC's indigenous news services;
 - Titus Ipumbu – Legal Practitioner, specialising in economic law, human rights and international humanitarian law;
 - Nelago Kasuto – Academic and broad practical experience in accounting and finance; and,
 - Jan Frederick Engelbrecht – Agricultural expert
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