

IN THE HIGH COURT OF LESOTHO

In the matter between:

ATTORNEY GENERAL

Applicant

and

JEANNETH 'MALIEKETSENG MAKARA

Respondent

J U D G M E N T

Delivered by the Honourable Chief Justice Mr Justice
J.L. Kheola on the 6th day of January, 1995

This is an application for an order in the following terms:

- (a) Ejecting the Respondent forthwith from a certain site No.276 Europa which she is unlawfully occupying.
- (b) The rules of court regarding form and service shall not be dispensed with on the grounds of urgency.
- (c) The Respondent shall not be ordered to pay costs of this application in the event of opposing same.

The applicant alleges that in or about 1979 the Government of Lesotho desired to acquire land comprised in site 276 Europa for the purpose of erection of a Government building. The respondent was the allottee of plot No.276 Europa registered in her favour per Title Deed No.10626 dated the 18th April, 1972.

The applicant further alleges that the Government negotiated with the respondent in consideration of surrendering by her of site No. 276 Europa, the Government gave an alternative site No.294 at Maseru Central and compensation for the improvements to the amount of M62,650-00.

On the other hand the respondent alleges that the sum of M62,650-00 was not for the improvements on the site but for the land only.

I do not intend to go into the merits of the case because the respondent has raised a point of law that the Court has no jurisdiction or that the applicant has not complied with the provisions of section 6 of the High Court Act No.5 of 1978 which reads as follows:

"No civil cause or action within the jurisdiction of a subordinate court (which expression includes a local or central court) shall be instituted in or removed into the

It is clear that in all actions of ejection the subordinate courts i.e. the magistrates' courts have jurisdiction irrespective of the value of the property involved. Mr Molapo, counsel for the applicant, submitted that the value of the property involved in the present case was above the jurisdiction of a magistrate's court. That submission must fail because in all actions for ejection the value of the property is not taken into account for purposes of jurisdiction.

In the result the application is dismissed with costs on the ground that there was no compliance with the provisions of section 6 of the High Court Act No.5 of 1978.

J.L. KHEOLA
CHIEF JUSTICE

6th January, 1995.

For Applicant - Mr. Molapo
For Respondent - Mr. Mafantiri