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COURT HALTS LAND TAX – FOR NOW 1

Court halts land tax – for now

THE owners of commercial farmland in Namibia do not have to pay land tax on their farms until a legal challenge against the proceedings of the Valuation Court that considered farmers' objections against the valuation of their land in 2016 has been decided, High Court deputy judge president Hosea Angula ruled yesterday.

In a ruling handed down in the Windhoek High Court, judge Angula ordered that the commissioner of inland revenue may not issue any assessment for land tax payable in terms of the farm valuation roll dated 1 April 2012, and may also not require farm owners to pay land tax in terms of any assessment based on the April 2012 valuation roll.

The deputy judge president further ordered that the ministers of land reform and finance and the commissioner of inland revenue may not implement the rulings and orders issued by the Valuation Court when it considered farm owners' objections to the valuation of their farms during its sessions from September to November 2016.

The orders given by judge Angula will be in force until a pending High Court case in which two farm owners want the court to review and set aside the proceedings and rulings of the Valuation Court from September to November 2016 has been heard and decided.

The close corporation Traupe Farming, which is the registered owner of three farms comprising an area of more than 17 000 hectares in the Omaruru district, and the company Mapan Boerdery, which owns a farm in the Gobabis district, sued the members of the Valuation Court, the ministers of land reform, finance, and agriculture, the commissioner of inland revenue, and the valuer appointed to compile the 2012 farm valuation roll in both the still-pending case and in the case in which judge Angula gave his ruling yesterday.

Traupe Farming CC and Mapan Boerdery are alleging that the Valuation Court proceedings in 2016 were flawed, and the certified valuation roll in which farm values are recorded for the purpose of assessing land tax is completely defective and a nullity in law.

The two farm owners are claiming that as a result of the alleged flaws in the Valuation Court's proceedings, there is no valid farm valuation roll on which assessments for land tax can be based.

The provisional farm valuation roll that the Valuation Court had to consider in 2016 contained blatant mistakes that rendered the land tax to be levied on farm owners unaffordable, farmer Christian Traupe, who is a member of Traupe Farming CC, alleged in an affidavit filed at the court. He said it was suspected that the valuer who compiled the valuation roll and his staff largely ignored the crucial factor of the carrying capacity of the farms whose taxation value they had to determine.

The Valuation Court did not comply with a regulation requiring it to give reasons for its decisions, did not at all times consist of four members as required by another of the Land Valuation and Taxation Regulations issued under the Agricultural (Commercial) Land Reform Act, and failed to appreciate the nature of its legal duties and to apply its mind properly, Traupe Farming and Mapan Boerdery are also claiming.

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In the reasons for his ruling, deputy judge president Angula indicated that the two applicants would likely have success in their pending case if the allegations made by them in that matter were to be proved and believed at the hearing of the case.

He stated that in his view, the two farm owners had a right to demand that the valuation roll on which the land tax to be paid by them would be calculated should be free of defects.

According to Traupe Farming CC and Mapan Boerdery, they are also acting as spokespersons for more than 1 100 fellow land – owners in the case that is still pending in the High Court.

Senior counsel Andrew Corbett, assisted by Beatrix de Jager, represented the two applicants on instructions from Mark Kutzner and Charles Bodenstein when judge Angula heard oral arguments in the matter at the start of last week. The minister of land reform was represented by Kaijata Kanguuehi.

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