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Victory for Plastic View residents

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By Kennedy Mudzuli

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Pretoria - Tuesday's auction of the City of Tshwane's land parcels may proceed as planned, but without Woodlane Village, the so-called Plastic View informal settlement.

Lawyers for Human Rights, on behalf of residents, successfully obtained an urgent High Court order against the Tshwane municipality on Monday afternoon.

Judge Legodi Phatudi found that auctioning off the property without a plan to relocate nearly 3 000 people living there would cause them irreparable harm.

Judge Phatudi agreed with the applicants it would not be feasible to negotiate a relocation plan once the land had been sold. A developer would want to take occupation to proceed with the development, which would interfere with the occupancy by residents, he said.

The judge agreed with the applicant that there existed no other remedy except the interdict, saying the municipality failed to convince him otherwise. "The sale of the property before relocation would be an infringement on the rights of the occupants," he said.

The two properties, 106 hectares to be sold separately or as a lot with 110ha, are part of the Farm Garsfontein and located near the intersection of De Villebois Mareuil Drive and Garsfontein Road in Moreleta Park. They are part of nearly 80 properties that go under the hammer at Summer Place in Hyde Park, starting off with 20 on Tuesday.

Advocate Rudolph Jansen SC, representing the community, told the court Tshwane stood to save a huge amount of resources by halting the auction and concluding resettlement negotiations first.

He said if the sale went ahead, the constitutional right to housing for homeless people and those living in informal settlements would suffer irreparable harm. Jansen submitted that the city placed all sorts of conditions because it was seeking a quick way to raise money, but was not really ready for the sale.

He said all legal uncertainties would be dealt with better if done before the sale of the land. Transacting with legal uncertainties would mean the property could not fetch the right price, he said.

However, Myron Dewrance SC, for the City of Tshwane, said the municipality had a deficit of about R966 million on revenue and must find money from somewhere.

It was a carefully thought-out option taken with the finances of the city in mind, he said.

If the auction did not go through, the city may have to consider increasing rates, taxes and services' tariffs. There was a massive housing backlog to take into consideration, Dewrance said.

Through the sale the city hoped to raise R500m, which had already been committed in the 2014/15 budget. "Therefore, the effect of an order sought will have a significant and negative impact on the city's financial position. The money is intended to further economic development, regeneration, townships and provisions of infrastructure and services," he argued.



Auctioning of the land that includes the Plastic View informal settlement has been stopped.

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The city submitted that what the applicant sought would interfere with a policy decision taken by the city on how best to use land at its disposal.

Dewrance said special conditions would apply to the sale of Plastic View, and the purchaser would be made aware of its occupation and that a township would be developed for the intended relocation.

“If the township is not finalised within 54 months from the date of the sale, the property shall be sold back to the city at the current price,” he explained. The applicant’s right of access to housing would not be infringed on.

Louise du Plessis of Lawyers for Human Rights said they were delighted with the judgment. It was important that Tshwane conducted a comprehensive consultative pro-cess with affected communities before selling the land, she said.

“We are pleased the occupiers’ tenure is secure for now and we are given an opportunity to challenge Tshwane’s decision to get rid of such an important asset,” he said.

Mayoral spokesman Blessing Manale said the city was extremely disappointed and considered the judgment unfair.

He said the court took the decision that the city could not be trusted to finalise relocation after the land had been sold, and that such a sale would cause irreparable harm. Manale said the city would appeal. “We were hoping to earn at least R350m from the sale of the first 20 land parcels, but this judgment means we will only get about R250m,” he added.

kennedy.mudzuli@inl.co.za

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