

RIO ENTERPRISES P/L  
versus  
MINISTER OF SPECIAL AFFAIRS IN THE PRESIDENT'S  
OFFICE IN CHARGE OF LAND REFORM  
AND RESETTLEMENT  
and  
4 OTHERS

BECONTEE INVESTMENTS P/L  
versus  
MINISTER OF SPECIAL AFFAIRS IN THE PRESIDENT'S  
OFFICE IN CHARGE OF LANDS REFORM AND  
RESETTLEMENT  
and  
3 OTHERS

HIGH COURT OF ZIMBABWE  
BHUNU J  
HARARE, 21<sup>st</sup> July , 5<sup>th</sup> August and 6<sup>th</sup> October 2004

### **Urgent Application**

*Mr Arnott*, for the applicants  
*Ms Gatsi and Ms Makurira*, for the respondents

BHUNU J: Both matters came before me as urgent applications on the 20<sup>th</sup> and 23<sup>rd</sup> August, 2004 respectively. It is convenient that both matters be treated as one at this juncture.

At both hearings counsel for the contesting parties requested that both matters be postponed sine die pending the determination of my brother JUSTICE KAMOCHA who is presiding over similar unrelated matters to the applications before me.

At both hearings I expressed reservations and questioned the wisdom of waiting for my brother Judge's ruling when I was capable of reaching my

own determination independently without relying on my brother's determination.

Both counsel countered that it was important to wait for the ruling of KAMOCHA J in the matters before him because depending on the outcome they would reconsider their respective positions in the applications before me.

In response I queried whether this was not going to cause unnecessary delays and defeat the whole purpose and object of an urgent application. I was then assured by both counsels that JUSTICE KAMOCHA was just about to hand down his determination.

It is now more than a month since that assurance was made but none of the parties have come back to me. It is clear that all the parties concerned are prepared to wait for as long as it takes to obtain judgment from JUSTICE KAMOCHA before they can take the courage of asserting their respective competing rights and interests before me.

I am satisfied that all the parties in the cases before me are on a fishing expedition. They are all doubtful of their respective legal positions and hence the need to lean onto MR JUSTICE KAMOCHA's pending judgment the result of which are not certain or known to all the parties concerned.

An urgent matter has been described as a matter that cannot wait. In these two applications it is self evident that all the parties concerned are happy to await the outcome of proceedings in unrelated matters for as long as it takes the learned Judge to prepare judgment in those matters.

That conduct on the part of the applicants is wholly inconsistent with the conduct of a litigant whose rights and interests are at stake and is seeking urgent relief from the court. That being the case I am constrained to rule that the applicants in both matters placed before me have failed to demonstrate that the matters are urgent.

I accordingly rule that both matters are not urgent. They are to be treated as ordinary applications.

*Coghlan, Welsh & Guest*, the applicant's legal practitioners

*Civil Division of the Attorney General's Office*, the respondent's legal practitioners