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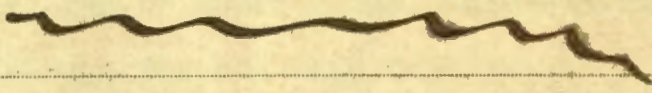
Department.

Case File No. 34 of 1901.

Subject

*Zyakkia Wotsjoanolinio Sebectso
versus*

Paul.



References:

duplicate only

CIVIL RECORD.
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Case No. 34.
- - - - -

In the Court of the Resident Magistrate for the District
of MAFKING.

Heard on Tuesday the 9th day of April , 1901 before J.B. Moffat,
Esq., Resident Magistrate for the said District.

Zyakkia Motsgoamolimo Sebaetse

PLAINTIFF.

Paul

DEFENDANT.

Claim for writ of ejection and rent £5 and damages £15
and costs of suit.

Plaintiff by Mr. Attorney Minchin - Defendant by Mr. Attorney
de Kock.

Mr. de Kock on behalf of Defendant pleads

1. That the case is one beyond the jurisdiction of the
Court on two grounds

(a) That summons is in conflict with Section 31
Proclamation No. 2 B.B. of 1885.

(b) That the right of occupation of the ground in
dispute is considerably over the value of £40 sterling.

Certified a true copy of
the original proceedings filed
of record in this office.



Chammanull

CLERK OF THE COURT.



IN THE COURT OF THE RESIDENT MAGISTRATE
FOR THE DISTRICT OF MAFEKING.

54-Stamp

To the

Messenger of the Court.

Summon Paul of the farm Tagesi in the district of Mafeking, (hereinafter called the defendant) that he appear before the Resident Magistrate of this Court, to be holden at Mafeking on Tuesday the 9th April, 1901, at 10 o'clock in the forenoon with his witnesses (if he have any), to answer : Zakkia Motsgoamolimo Sebaetse of the farm Tagesi in the district of Mafeking, (hereinafter called the plaintiff), in an action for damages and ejectment. And thereupon the said plaintiff complains and says,

- (1) That the said plaintiff is the owner of the said farm Tagesi.
- (2) That the said defendant was permitted to reside on the said farm until or about the 5th day of November, 1900, when he received notice from the plaintiff to quit the said farm with his family and goods and chattels.
- (3) That thereupon the defendant refused and neglected to quit the said farm, and the said plaintiff thereafter, on or about the 4th day of January, 1901, obtained from W.J. Vos, the Field-Cornet of plaintiff's ward, at Maritzani in the Mafeking district, a letter addressed to the said defendant giving him notice to quit the said farm within the term of 14 days after receipt of the said letter and to pay to the said plaintiff the sum of £5, in respect of the use of his farm from the 5th day of November, 1900.
- (4) That the said letter was duly delivered to the said defendant on the ~~said~~ 4th day of January, 1901, but the defendant has neglected and refused to comply with same and is still trespassing on the said farm.
- (5) That during the months of February and March, 1901, the said defendant has felled or caused to be felled on the said farm Tagesi certain trees the property of the said plaintiff which defendant has removed to the town of Mafeking, and sold as fire-wood, and has applied the proceeds to his own use, and has committed other damages to the said farm.

(Continued)

Wherefore the plaintiff prays that this Honourable Court will order the defendant (1) to remove with his family, goods and chattels from the ~~said~~ farm Tagesi, forthwith; (2) to pay £5 for the use of the said farm from the 5th day of November, 1900, and £15 for the damages to his trees and other damages aforesaid to his said farm; (3) to pay the costs of this action.

And serve on the said defendant a copy of this summons and return you on that day to the said Court what you have done on this summons.

Dated at Mafeking this 25th day of March, 1901.

John M. Garson.
Clerk of the Court.

Minchin & Sonnenberg.

Plaintiff's Attorneys.

Mafeking.

RETURN.

On this 29th day of March, 1901, I have duly served a copy of the within summons upon the defendant personally at the farm Tagesi, and explained the nature and exigency thereof.

W.J.E. Mahony.
Messenger.

1/- Stamp.

IN THE COURT OF THE RESIDENT MAGISTRATE
FOR MAFEKING.

Zakkia M. Sebaetse

versus
Paul.

I, Zakkia Motsgoamolimo Sebaetse do hereby ordain, nominate and appoint Messrs. Minchin & Sonnenberg to be my lawful Attorney and Agent, for me and in my name, to institute proceedings of claim and demand in the premises according to law, to proceed to the final end and determination thereof, by virtue of these Presents, with power of substitution, to approve of any legal steps which they may take in the premises on my behalf.

Given under my hand at Mafeking this 23rd day of March, 1901.

Zakkia M. Sebaetse.

Witnesses:-

O.M. Bergh.

C.C. Green.

IN THE COURT OF THE RESIDENT MAGISTRATE
OF MAFEKING.

1/- Stamp.

Zakkia Motsgoamolimo Sebaetse
versus
Paul M. Sebaetse.

I do hereby ordain, nominate, and appoint Messrs. de Kock & Bolus to be my lawful Attorneys and Agents for me and in my name to defend proceedings of claim and demand instituted against me by Zakkia Motsgoamolimo Sebaetse according to law, and to proceed to the final end and determination thereof, by virtue of these presents with power of substitution, promising to approve of any legal steps which he may take in the premises on my behalf.

Given under my hand at Mafeking this 9th day of April, 1901.

Paul M. Sebaetse,

As witnesses:-

N.G. de Kock.

H.I. Gower.

SUNPOENA FOR A WITNESS.

1/- Stamp.

Court of the Resident Magistrate
for the District of Mafeking.

Messenger of the Court or his lawful Deputy.

Summon

George Francis of Mafeking

and

Stephen of Mafeking.

that, laying aside all and singular business and excuses, they and each of them appear in person before this Court, at Mafeking on the 9th day of April at 10 o'clock in the forenoon, and also that they bring with them and produce at the time and place aforesaid certain Market Books and then and there to testify and declare all and singular those things which they, or any of them, know in a certain case now depending in the said Court, between Zakkia M. Sebaetse, Plaintiff, and Paul, Defendant, and that they, or either of them, by no means omit so to do, at their peril.

Serve on each of them, the said witnesses a copy of this summons, and return to the said Court what you have done thereupon.

Issued at Mafeking this 9th day of April, 1901.

John M. Carson.

Clerk of the said Court.

Minchin & Sonnenberg.

Attorneys & Notaries.

MAFEKING.

COURT OF THE RESIDENT MAGISTRATE
FOR MAFEKING.

1/- Stamp.

Messenger of the Court

Summon

- (1) William J. Vos, Field Cornet, residing at Maritzani
in the district of Mafeking.
- (2) Lukas, (a native) residing at Cashel in the district
of Mafeking.
- (3) Paul (a native) residing at Cashel in the district
of Mafeking.

that, laying aside all singular business and excuses, they and each of them appear in person before this Court, at Mafeking on the 9th day of April, 1901, at 10 o'clock in the forenoon, to testify and declare all and singular those things which they or any of them, know in a certain case now pending in the said Court between Zakkia Motsgoamolino Sebaetse, Plaintiff, and Paul, Defendant, and that they, or either of them, by no means omit to do so at their peril.

Serve on each of them the said witnesses a copy of this summons, and return to the said Court what you have done thereupon.

Mafeking this 25th day of March, 1901.

John M. Carson.

Clerk of the Court.

RETURN.

On this 29th day of March, 1901, I have duly served a copy of the within subpoena upon the within named witnesses, at their respective residences as stated, at the same time explaining the nature and exigency thereof.

W.J.E. Mahony.

Messenger.

In support of exceptions Mr. de Kock calls

PAUL SEBAETSE who being duly sworn states:-

I am the defendant in this case and am a son of the plaintiff. I live on the farm Tagesi which is in the district of Mafeking.- My father is the owner of the farm.- About the end of the year 1888 I came with my father from Banksdrift in the district of Taungs to the farm Tagesi.- We originally came from Thaba Nchu in the Orange Free State.- We were Thaba Nchu Barolongs.- In October last I claimed certain stock from my father.- The case with regard to the stock was settled by the Chief Wessels and his Headmen.- My father and I recognise the Chief Wessels as the Head of our tribe.- We follow all Barolong customs,-and since we have lived on the farm Tagesi my father and I have always followed these customs.- In 1889 my father allotted one portion of the farm Tagesi to my brother Stephen and one portion to me.- Our cattle ran on these portions of the farm till Rinderpest time, when we lost most of our stock.- The few surviving cattle were taken to where my father was living on the farm.- In ~~November~~^{November} last I went back to my portion with my cattle.- I have lived there since.- The portion allotted to me was about $\frac{1}{3}$ of the farm.- The quitrent for the whole farm is £21 - 9/-.- Since my father bought the farm the quitrent has been paid by my father with money earned by me.- When allotting portion of the farm to me the plaintiff said he did so as I had contributed to the purchase price of the farm.- I think my portion of the farm is worth about £300.- My mother and my brother Stephen were present when my father allotted the land to me.- No one else was present.- It was a family arrangement.-

From that time I always looked upon this piece of land as mine.-

Cross Exd. by Mr. Minchin:- We came from Thaba Nchu in 1881.-

I am 38 years of age now.- We belong to the Seleka branch of the Barolong tribe of which Moroko was Chief.- Montsioa is Chief of the Ratsile branch.- We are really all the same tribe.- We take all our disputes here to the Chief Wessels.- In the case last October my attorneys Messrs, de Kock & Bolus sent a letter of demand to my father.- That letter is now put in marked "A".- After I had been to the attorneys I was told I had made a mistake in doing so.- I

contradict

contradict my father if he says he does not recognise Wessels.-
My father took me before Wessels after the letter was written by
my attorneys .- The dispute with regard to occupation of the farm
and about the cattle has been before Wessels.- Wessels decided
that I was to get my stock and occupy the portion of the farm
allotted to me.- At the meeting before Wessels my father told the
Chief that he was satisfied with the decision.- He does not appear
to be satisfied now.- The ground allotted to me was not surveyed.-
I think there must be about 2000 morgen in the portion allotted.-
No beacons were put up but a piece of the farm was pointed out.-
It is called Mafikareng.- It is the eastern part of the farm.-
The whole farm belonged to my father who simply allotted this piece
to me as his son.- I practically paid the whole of the quitrent.-
I gave all my earnings to my father.- I used to make more than £50
a year.- I was riding transport with my own waggon and with waggons
belonging to my father and brother .- The lasttime I gave my father
anything was just before the war,- When I gave him some money and
7 bags of kaffir-corn.- I claim the land I occupy on the ground that
my father gave it to me and that I paid the quitrent.- After the
case was settled by the Chief Wessels my father gave me notice to
leave his part of the farm and to go to my part called Mafikareng.-
Soon after New Year I received notice to leave Mafikareng from
Field Cornet Vos.- I did not comply with it.- I put in the notice
I received marked "B".-

Re-exd.:- I contributed towards the purchase price of the farm.-

META SEBAETSE who being duly sworn states:-

I am wife of the plaintiff in this case.- The defendant
is my son.- I remember my husband buying the farm Tagersi.- It
was paid for with stock, belonging to my husband and his sons.-
Some of defendant's stock was given.- I do not know how much
defendant contributed.- my sons Paul and Stephen had portions of
the farm allotted to them.- I can't say how much of the farm each
one received.- When plaintiff allotted portions to Stephen and Paul
he said he did so because they contributed towards the purchase
price of the farm.- I know nothing of the value of land.- In

November

November last plaintiff told defendant to leave his (plaintiff's) portion of the farm and go to his own (defendant's) portion of the farm.-

Cross-exd. by Mr. Minchin:- Defendant was of age when the farm was bought.- I can't say how much stock he had then.- He had received stock from his father as a child.- He could not have sold the stock without the father's permission.- I am certain portion of the farm was given to defendant.- The gift could not according to native custom be revoked.- I can't say what size or value of the land given to each of my sons.-

STEPHEN SEBAETSE who being duly sworn states:-

I am brother of the defendant and son of plaintiff.- We all live on the farm Tagesi.- My father bought the farm some years ago with stock contributed by plaintiff, defendant and me.- My father divided the farm into three pieces,^{one} and he kept himself one he gave me, and one to defendant.- My father kept about half the farm and divided the other half between defendant and me.- I think Paul's portion is about a thousand morgen.- It is well wooded and worth I think about £500.- I would not take less than that for my piece.- Paul's is quite as good as mine.- From the purchase of the farm until rinderpest defendant looked after the stock and rode transport with our waggons.- He handed over the proceeds to plaintiff.-

Cross-exd. by Mr. Minchin:- The purchase price of the farm was £600.- I think I gave about ten head of cattle and defendant about a dozen towards purchase price.- They were worth from £6 to £8 each.- A definite portion of the farm was allotted to each of us and a name given to each.- The portions were defined by natural features.- I consider the allotment irrecoverable.-

Mr. Minchin calls:-

STEPHEN LEFENYA who being duly sworn states:-

I know plaintiff and his family.- I know they had a dispute before the Chief Wessels about stock.- It was not about land.- I can't say whether they are under Wessels' jurisdiction.- I only know that they brought this case before him.- Allotments by a father to his son can be revoked at will by the father.- I know nothing

nothing about the purchase of the farm Tagesi by plaintiff.-

Cross-exd. by Mr. de Kock:- When a Morolong revokes an allotment made to his son he need not necessarily give compensation, but he generally does do so.-

Exceptions upheld and case dismissed with costs.

J.B. Moffat.
RESIDENT MAGISTRATE.

Marked "A".

MAFEKING.

SOUTH AFRICA.

19th October, 1900.

Z. Mokgoamolimo

Tagesi.

Dear Sir,

We are instructed by your son Paul to demand from you the restoration of his property at present in your possession and consisting as follows:-

- 9 Trek oxen and 1 buck waggon.
- 3 cows
- 3 calves
- 1 heifer (2 years old)
- 21 goats
- 5 sheep & three lambs.

We trust there will be no difficulty in handing over to our client the property claimed by him, as in the event of his taking legal proceedings against you he has very strong evidence to prove his ownership to the above stock, and that the costs of the case will be rather heavy to you.

Your son will take this letter to you and failing your compliance with same, he will return here within a week reporting the result to us.

Yours faithfully,

de Kock & Bolus.

Marked "B".

MARITZANI

4/1/1901.

Distrikt Mafeking.

Waarde Heer Paulus Molema

Klagte is ingedien tegen u dat u aangezeg is op de 5de November, 1900, om voor u een andere plaats te zoek, en daar twee maanden versloot is geef ik u de tweede kennis op mijn plaats te ruim. Binnen 8 dagen en niet dan zal u volgens wet behandeld worden en voor de verloopte tijd van twee maanden eis ik £2-10/- per maand.

Uw dienstwillige dienaar,

W.J. Vos.

Veldkornet.

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Silas T MOLEMA and Solomon T PLAATJE Papers

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