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**Author:** RAVI PILLAY

# Getting it right on land invasions



RAVI PILLAY

LAST Friday the Durban High Court granted an order to eThekweni Municipality against Abahlali baseMjondolo and a large number of land invaders. They were effectively asked to vacate land they have unlawfully occupied or alternatively come to court to explain why the order should not be made final. This marks a seminal shift in what has become a jurisprudential battle to shape the law applying to land invasions.

Let us be clear that it is almost sacrosanct that an informal home or structure that has been occupied cannot be touched without a court order. It is accepted that a structure that is in partial construction can be removed without a court order. However, there have also been court judgments that in this case, too, a court order must be obtained before action is taken. This has severely impacted on the ability of enforcement instruments like the Land Invasion Unit to uphold the law.

What this application and judge are effectively saying is that the municipality and other state organs must develop capacity to act swiftly to get the kind of order granted. We are pleased that the initial reaction on the ground is that the majority who attempted invasion are responding positively to the court order and vacating the land occupied. We need to make a greater effort to educate and indeed popularise the legal framework that is applicable.

Our understanding is that any owner facing invasion is entitled to lay a charge of trespass and police must act to remove the trespassers prior to any structure being erected fully or partially. Police are obliged to assist in the execution of court orders obtained.

They should be acting in terms of a directive from SAPS head office that equates to a standard operating procedure. It is clear, however, that having regard to the nature of the challenge and the wide geographic space and time periods over which land invasions take place, parties will very often have to go to court to get an order granting the relief they seek.

The provincial government via the departments of Community Safety and Liaison, Co-operative Governance and Traditional Affairs, Human Settlements and Public Works will give coordinated support to eThekweni Municipality in resisting attempts to subvert the law and our determination to have an equitable land distribution process.

We are dealing with a symptom of a fundamental problem that comes from a long history of land dispossession. Land hunger is real, especially for urban land, and must be addressed. Our cities and towns were planned for 20% of the people

but now have to cater for 100%.

The global phenomenon of urbanisation compounds the problem. Our National Development Plan (NDP) highlights a series of scenarios about migration into our cities. By 2030 there will be another million people in eThekweni alone. That is barely 11 years away. Land that is closest to places of employment opportunities will be the focus. We are under no illusions that there are opportunistic elements, both political and mercenary, who are drivers of the recent spate of invasions.

We are pleased that a Mr Zondi, who was an office bearer of Abahlali baseMjondolo, was arrested and convicted last year for selling land unlawfully and sentenced to three-years' imprisonment. We hope that this will be a deterrent to other individuals and organised groupings who seek personal financial benefit while we confront land challenges.

Informal settlement is recognised nationally as an area that requires specific and dedicated focus. We are already seeing significant budgetary shifts to address the land and housing needs in urban areas.

At least six key instruments are in various stages of rollout. The first are catalytic projects such as Cornubia. We will have eight such projects in the province. Cornubia will provide 25 000 housing units over the life span of the project. Secondly, government is investing in more social housing strictly for rental purposes.

Where possible, we will have in situ upgrades of informal settlements. Fourthly, there is an aggressive interim services programme in existing informal settlements. Where we cannot build houses immediately, we need to ensure that basic standards in respect of electricity, water, sanitation, public footpaths and lighting are met so that our people can have a measure of dignity.

On the fifth point, we are moving on a comprehensive serviced sites programme throughout the province to assist people who qualify, to build their own homes. Finally, government has developed a master spatial plan for the province and is on an aggressive land acquisition programme.

The days of ridiculously exploitative land prices are over and where the law allows for it, land for housing purposes will be expropriated without compensation. These programmes will change our human settlements landscape.

In KwaZulu-Natal we have a powerful service delivery track record in building on average 25 000 houses a year. That equates to 100 houses every working day. Together with a small private sector component, over 200 000 houses have been built since 2011.

We understand however that the backlogs are huge and we need to spread the impact of the resources available as widely and as creatively as possible.

● Pillay is the MEC for human settlements and public works in KwaZulu-Natal.