

https://dspace.org/

A CASE STUDY OF LAND RESTITUTION POLICY IMPLEMENTATION IN THE COMMUNITY OF BANOGENG

Mthembu, Muzikayise John

2011-05-30
http://hdl.handle.net/10539/9961

Downloaded from a DSpace repository. https://dspace.org/

A CASE STUDY OF LAND RESTITUTION POLICY IMPLEMENTATION IN THE COMMUNITY OF BANOGENG

Muzikayise John Mthembu

A research report submitted to the Faculty of Management, University of the Witwatersrand, in partial fulfilment of the requirements for the degree of Master of Management (in the field of Public and Development Management)

SUPERVISOR: PROF S. BOOYSEN

JUNE 2009

CONTENTS

Page

Abstract iv

Declaration vi

Dedication vii

Acknowledgements viii

List of Abbreviations ix

List of Tables and Figures x

CHAPTER ONE: INTRODUCTION, BACKGROUND AND PROBLEM STATEMENT

1.1 Introduction…….. 1
1.2 Background..…….. 3
1.3 Problem Statement…… 7
1.4 Purpose Statement…… 9
1.5 Research Questions……...10
1.5.1 Primary Research Question..... 10
1.5.2 Secondary Research Questions……..…10
1.6 Conceptual framework……....11
1.7 Legal framework……..... 12
1.8 Legalised dispossession of Banogeng…….. 13
1.9. Legalised restitution for land beneficiaries……..14
1.10 Importance of the Study…… 15
1.11 Limitations of the Study…….....16
1.12 Structure of the Report……..…18
1.13 Conclusion……19

CHAPTER TWO: LITERATURE REVIEW ON LAND REFORM AND RESTITUTION IN SOUTH AFRICA

2.1 Introduction…….. 20
2.2 Legalisation of land dispossessions in rural communities.……..…21
2.3 Restitution as a vehicle for attaining reconciliation…….. 24
2.4 Development-based policies to fast-track restitution.....28
2.5 Towards a sustainable resettlement framework……29
2.6 Conclusion…… 34

CHAPTER THREE: RESEARCH METHODS

3.1 Introduction……..…35
3.2 The choice of research methods for the Banogeng case study…….... 36
3.3 The choice of the case study approach to the Banogeng investigation…….37
3.3.1 Motivation for the use of the case study approach…….. 38

3.4 The choice and application of interviews, observation and documentary analysis…… 40
3.4.1 Interviews…… 40
3.4.1.1 Selection of informants…… 40
3.4.1.2 Operationalisation of the research interviews…….. 42
3.4.1.3 Questionnaire (interview schedule) design, question themes and conduct of the interviews…….... 43
3.4.2 Direct observation…….. 45
3.4.3 Documentary analysis…….....47
3.5 Integration of data gathering methods into data analysis……48
3.6 Qualitative data analysis…….. 48
3.7 Approach to data analysis for the Banogeng case study…… 49
3.8 Content analysis…… 50
3.9 Conclusion……52

CHAPTER FOUR: RESEARCH FINDINGS ON LAND RESTITUTION IN THE CASE OF THE BANOGENG COMMUNITY

4.1 Introduction…….. 53
4.2 Perception of the Banogeng community on the restitution award and the extent to which it has benefited them.....……... 54
4.3 Factors within DLA/RLCC that affect the effective implementation of a sustainable re-settlement framework for Banogeng……58
4.4 The role and contribution of other stakeholders for the Banogeng post-settlement……..... 59
4.5 Developmental post-settlement implementation…….... 60
4.5.1 Institutional factors that affect the delivery of sustainable post-restitution settlement in respect of Banogeng……..... 61
4.5.2 Measures to ensure sustainability of the Banogeng project……63
4.5.3 Interventions to mitigate the attendant challenges of returning a high number of restitution beneficiaries relative to the size of the land..... 63
4.6 Conclusion……64

CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS AND RECOMMENDATIONS……..66

REFERENCES……..……..71
APPENDICES
Appendix A: Locality map of the farm Rietfontein 54 IP, Lichtenburg, North West……..... 79
Appendix B: Letter requesting permission to conduct research – Example..80
Appendix C: Schedule of interviewees……..……..81
Appendix D: Schedule for qualitative interviews…….... 83

ABSTRACT

For its role in discharging its responsibilities of ensuring an equitable distribution of land to the previously discriminated-against population groups in South Africa, the African National Congress (ANC) pressed for a land reform programme. To that end, the restitution programme was conceived once the ANC was in government, with the aim of ensuring equitable access to land by all South Africans. Restitution is a rights-based programme. Individuals and communities who qualify for restitution – in accordance with set criteria as stated in section 2(1) of the Restitution of Land Rights Act 22 of 1994 – have a right to have their land restored to them or be compensated for the past transgressions they suffered as a result of racially motivated legislation (Hall, 2003). It is a right that is given impetus and is established by section 25(7) of the Constitution of the Republic of South Africa, 1996.

This research report focuses attention on the implementation of the restitution policy programme as it pertains to the Banogeng community of the farm originally known as “Rietfontein No. 7”, which is situated near the town of Lichtenburg in the North West province of South Africa. The argument maintains that a holistic approach that encompasses infrastructure development and an appropriate legal framework is needed in order to effect a meaningful policy intervention and improvement in the quality of life of those earmarked to benefit from the programme.

A case study approach is used to investigate the implementation of restitution policy. Using a combination of interviews, documentary research and direct observation the study assess the extent to which implementation of policy has benefited the community or not, highlighting the complexities of land reform in an emergent democracy.

The findings of the study reveals that although progressive legislative measures exists to ensure that land is returned to those who were previously dispossessed as a result of racially discriminatory laws, empirical evidence suggests that measures currently being implemented to facilitate development imperatives are inadequate to address the post-settlement complexities which are essential for socio-economic development needs of

the beneficiaries of land restitution and thereby creating conditions to foster reconciliation and social cohesion.

DECLARATION

I declare that this report is my own, unaided work. It is submitted in partial fulfilment of the requirements of the degree of Master of Management (in the field of Public and Development Management) in the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other university.

_____

Muzikayise John Mthembu

02 June 2009

DEDICATION

This research report is dedicated to the memory of my father, Henry Ncede Mthembu, and my sister, Anna Ntobizodwa Mthembu.

ACKNOWLEDGEMENTS

I am grateful to my supervisor, Professor Susan Booysen, for her persistent guidance throughout the research process. Without her support and instructive guidance this work would not have seen the light of day. The Department of Land Affairs and in particular the personnel of the Regional Land Claims Commissioner: Gauteng and North West are thanked for making available the data records of the Banogeng land claim. I also particularly appreciate the help of Kotsedi Mothibe, Bradley Makipi, Mpho Mahura, Mphasa Mokhine and Motsumi Mathebe for background information related to the Banogeng land project. To Banogeng, I am grateful for allowing me entry into their lives by sharing their restitution experiences with me for this study. Without their assistance, this research would not have been possible. To my sister Ntongolozi, Mum Grace Ndlovu, a friend, loving and caring mother I thank you both for your unflinching support and encouragement. To my two daughters, Munki and Zizi, I am deeply indebted to you for your understanding while I was away from you for longer periods while working on this unique project. To everyone who has made it their business to ensure that land restitution contributes to poverty alleviation, reconciliation and livelihoods for sustainable development, thank you all for making this project come to life in the manner that it has.

LIST OF ABBREVIATIONS

ANC	African National Congress
CASP	Comprehensive Agricultural Support Programme
CPA	Communal Property Association
CPLAR	Community Perspectives on Land and Agrarian Reform in South Africa
CRLR	Commission on Restitution of Land Rights
DACLT	Department of Agricultural Credit and Land Tenure
DLA	Department of Land Affairs
DRDLR	Department of Rural Development and Land Reform
ESTA	Extension of Security of Tenure Act (No. 62 of 1997)
IDP	Integrated Development Plan
LCC	Land Claims Court
LRAD	Land Reform for Agricultural Development
MAFISA	Micro-Agricultural Finance Initiative of South Africa
NWDACE	North West Department of Agriculture, Conservation and Environment
NWK	Noordwes Korporasie
PLAAS	Institute for Poverty, Land and Agrarian Studies
PSS	Post-Settlement Support
RDGs	Restitution Discretionary Grants
RDP	Reconstruction and Development Plan
RLCC	Regional Land Claims Commission(er)
RSGs	Restitution Settlement Grants
SIS	Settlement and Implementation Support Strategy
SLAG	Settlement Land Acquisition Grant
SPGs	Settlement Planning Grants
TRAC	Transvaal Rural Action Committee

LIST OF TABLES AND FIGURES

Table 1: Restitution process…… 23

Table 2: Components in the case study research process……..37

Figure 1: Qualitative data analysis……..……...50