

Slow pace of land reform due to numerous ANC governance failures

By **Annette Steyn MP** – DA Shadow Minister of Agriculture, Land Reform and Rural Development

We all know how the apartheid state's policy of separate development gave effect to legislation that set aside 13% of the country's land for the use and occupation of the African majority. But for a few negligible exceptions, Africans were not permitted to occupy or own land outside the 13% land area reserved for them.

The Native Trust and Land Act empowered the apartheid government to place in trust the land reserved for use by Africans. The apartheid state passed the Bantu Homelands Citizenship Act in terms of which every African was stripped of South African citizenship. In its place, they were assigned citizenship of a homeland of the ethnic group to which they belonged, irrespective of whether there were any links between them and such homeland. In this way, many Africans became "foreigners" in the land of their birth.

This is our history, and the reason why we worked hard to negotiate one of the best constitutions in the world.

The founding provision of our Constitution states: *"The Republic of South Africa is one, sovereign, democratic state founded on the values of human dignity, the achievement of equality and the advancement of human rights and freedoms."*

Nice words and a great ideal to have, but unfortunately this is not the current reality of millions of black South Africans still living as second class citizens fighting to have tenure security and their dignity restored.

The apartheid period skewed ownership patterns is still in effect today. We only have to look at recent court judgements to see and understand how little things have changed under our new democratically elected government. How the ANC government treats the aspirations of black South Africans that want to become full owners of their land.

On 11 June 2021, the court found that the Ingonyama Trust acted unlawfully in issuing leases to people who are already the *"true and beneficial owners of the land"* in terms of Zulu customary law.

The judgment, authored by Deputy Judge President Isaac Madondo, went beyond that, to also say that the way leases were issued abrogated citizens' Constitutional rights to tenure security, such as the informal rights to land which are protected by the 1996 Interim Protection of Informal Land Rights Act, and the rights of people with old-order Permission to Occupy (PTO) certificates.

The court also found that Minister Didiza did not protect the rights of residents living on ITB land and gave her three months to rectify this situation.

This judgement is important as it have enormous ramifications for the tenure security of the 17 million South Africans living in all former homeland areas. Not only has no effort been made to change the 1996 Interim Protection law into more permanent legislation, no real effort has been made to survey and register the 7.7 million hectares of land in order to make it easy to record rights once a system is found to record permanent rights.

But it is not only people living on former homeland land that is affected by the unwillingness of the ANC to give permanent tenure security or title deeds to those that want to have that security.

In its judgment, in the case between Rkgase and the Minister of Land Reform, the Court stated that, *“Despite the contents of the various ‘programmes’ and ‘strategies’, the evidence in this case confirms the ineffectiveness of either these policies or their implementation”* and that *“land reform, despite it being Constitutional imperative, has been slow and frustratingly so”*. From the judgment it is clear that ample opportunity exists to develop well-reasoned policy and legislation to give effect to land redistribution, land development and the eradication of spatial inequality.

It is clear not only from these judgements, but also during interactions with farmers and community members on the ground, that the slow pace of land reform is due to numerous governance failures – a lack of capacity in government departments, effective monitoring and evaluation, and political will and leadership. According to a written answer by Minister Didiza, the Department is the custodian of 10.4 million ha of land of which only 112 000 ha was transferred and 1.29 million ha made available for leases in the past five years.

This Department spends 20.6% of its total budget on administration, which is the second largest allocation of its total appropriation for 2022/23. The ongoing chaotic management of land administration and constant under achievement of targets is a direct reflection on the poor strategic leadership of this Department.

The Democratic Alliance is clear in its position that that the failure of land reform is not the consequence of any constitutional deficiency, nor is it due to the government’s lack of funds to compensate owners for land purchased.

We need political will to bring about clear land transformation, we need to provide certainty that property rights will be protected, and that expropriated land will be compensated and follow due process.

We need to acknowledge that the transfer of land alone will not secure the economic success of an agricultural enterprise. Knowledge, skills, infrastructure, markets, equipment, and access to water for irrigation is required to successfully farm on commercial scale – all of which forms part of post-settlement support.

South Africa belongs to all who live in it and we will continue to fight for the protection and expansion of individual property rights for all. For reasons of justice, fairness and for the future prosperity of South Africa.

Thank you