



Publication: Business Day - Main
Title: Mpumalanga officials must pay arrear rental, court rules
Publish date: 13 Jul 2023
Page: 3

Reach: 14530
AVE: R 21323.45
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PROVINCIAL GOVERNMENT

Mpumalanga officials must pay arrear rental, court rules

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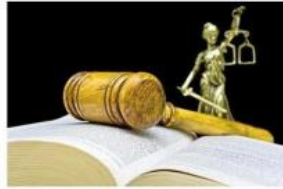
After officials for the Mpumalanga provincial government, namely the MEC for public works and director-general of public infrastructure, fell into arrear rental, the owner of the property successfully sued them for more than R3m.

The regional magistrate's court ordered the provincial government officials to pay with interest. The government officials appealed but, on Monday, the Mpumalanga High Court dismissed the officials' appeal.

In 2017, the Mpumalanga government officials concluded

an agreement with a company called Blue Sky Investments. Blue Sky provided a large space of office accommodation to start in 2019. The MEC, director-general and their staff occupied the majority of the office space, but not the total. The government officials paid only for the space they occupied and Blue Sky confirmed it sought payment only for the remaining unoccupied space.

The regional court found that because the government officials conceded they paid only for the occupied space, Blue Sky had justified its claim to the arrear rental for the unused



Unoccupied space:

Officials were ordered to pay arrear rental for office space they did not occupy. /123RF/Evgeniy Lastochkin

space. The government officials agreed to pay for the entire space, not only what they occupied, the regional magistrate ruled.

On appeal to the Mpumalan-

ga High Court, the government officials relied on a phrasing-in clause that allowed them to pay only for that space its workers actually used. This was due to moving and construction, the

department claimed. Further, they claimed that the magistrate's court was wrong because Blue Sky had not provided sufficient evidence to support its original claims.

However, high court judges Anna Kgole and Brian Mashile were not persuaded, saying on Monday the arguments the government officials advanced "flounders for several reasons".

The court noted the department shifted the blame to their lawyers.

"They belatedly want to blame the preparation by their legal representatives," the court said. The government officials

said court papers were prepared "hastily".

The court criticised the director-general and MEC for being "in a state of amnesia" because they had told the magistrate's court they were prepared to go to trial. The provincial government officials in litigation were "clearly the masters of their own demise". In other words, if Blue Sky's papers were defective, they would not have indicated it was ready to go to trial.

The court also dismissed their claim that Blue Sky had not shown enough evidence to justify its claim. The court noted "on every interpretation and

properly construed" Blue Sky had included all the relevant documents to make its case.

The court criticised the officials because they "missed so many opportunities" including this one to properly prepare and present their case" and are trying "to resuscitate it in an appeal". The court said the officials' case "keeps on mutating in different forms as they continue to litigate. They cannot, unfortunately, be allowed to do that at the moment".

The high court dismissed the appeal with costs.

The officials must now pay the outstanding R3m.