



Leaders in Environmental Management

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Cottage residents appeal court's ruling

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Illegal cottages, described as part of the cancer inflicting the environment of Transkei's world-famous Wild Coast, should have been demolished by now.

But cottage owners have filed for leave to appeal the demolition order, extending a legal battle that has been raging for more than 10 years.

In December, Transkei High Court judge Selwyn Miller ruled that 16 white-owned cottages in the Black Sands, Manteku and Dagaan areas of the Wild Coast were illegal and had to be removed and the land rehabilitated.

They are among an estimated 250 to 300 illegal buildings on this coast.

Judge Miller rejected arguments by the cottage owners' lawyer, Kemp J Kemp SC - currently appearing for Jacob Zuma in his rape trial - that his clients were "in a sense, victims of apartheid" and their eviction would amount to "ethnic cleansing".

He ordered the cottages demolished by the owners themselves by early April, failing which the Eastern Cape administration could do it and recover expenses.

But conservation official "Div" de Villiers, who heads the administration's illegal cottages task team, confirmed last week the owners had now filed for leave to appeal the order and the cottages were still standing.

In a briefing to decision-makers and journalists being hosted on a Wild Coast fact-finding tour by the Wilderness Foundation and WWF's Green Trust, De Villiers explained that a one-kilometre-wide coastal conservation area had been declared in terms of a 1992 environmental decree by the then military government in Transkei, along the entire coast.

Within that area, no one was allowed to undertake any building activity or clear any vegetation without a permit from the conservation department. But because the government did not enforce this during the 1990s, scores of illegal cottages, "some of them big mansions", were built along the coastline.

Finally, the Wildlife and Environment Society of SA went to the High Court to force the government to act.

In 1995, the Heath Investigation Unit started civil prosecutions against some of the owners, but during a challenge was found not to be legally competent to do so.

"And so, for a number of years, the building of cottages continued, mushrooming and spiralling along the Wild Coast."

In 1999 De Villiers saw the destruction first-hand while walking the Wild Coast to research the fauna and flora of the coastal forests for his Master's degree.

"So I went to the then MEC of our department, Enoch Godongwana, and organised a helicopter flight for him."

The MEC was so shocked by what he saw that he initiated a multi-party task team that joined operations in 2000. The task team had four objectives, De Villiers said:

- A "heavy-handed" approach to immediately halt any further construction and/or destruction;
- To take cases to court and win them;
- To demolish illegally built structures and ensure rehabilitation; and

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- Create an environment for sustainable development.

Of the civil cases initiated by Heath, the first judgment was only in last December.

"It took 10 years; that's how long these people dragged it out. And because of the application for leave to appeal, we're probably looking at at least another year before we have judgment again."

Because of the delays, building had simply continued.

"So we started charging people criminally under that decree, putting them in jail. And nobody likes to spend a night or two in a Transkeian jail, I can tell you.

"And coupled with the tremendous media exposure, the number of illegal cottages dwindled dramatically. People suddenly woke up and took notice."

There is a database of the illegal cottages at the University of the Western Cape.

"It's quite encouraging to see that already we've demolished, or people have demolished their own, a total of 40 cottages along the coast."

Halting the building of new cottages had been largely achieved, but "it's taken a long time for these court cases, although we've had a couple of victories, and it's been a massively expensive exercise", he said.

"And getting the legal development side has been very, very slow. That's been quite a big failure to date. We've got to make sure there are nodes where legal, proper development can take place with all the necessary EIAs (environmental impact assessments) and so on."

Other major concerns were continuous destruction of the region's indigenous forests and, particularly, the proliferation of illegal roads.

Some were up to seven metres wide and had been driven through pristine forests and even estuaries.