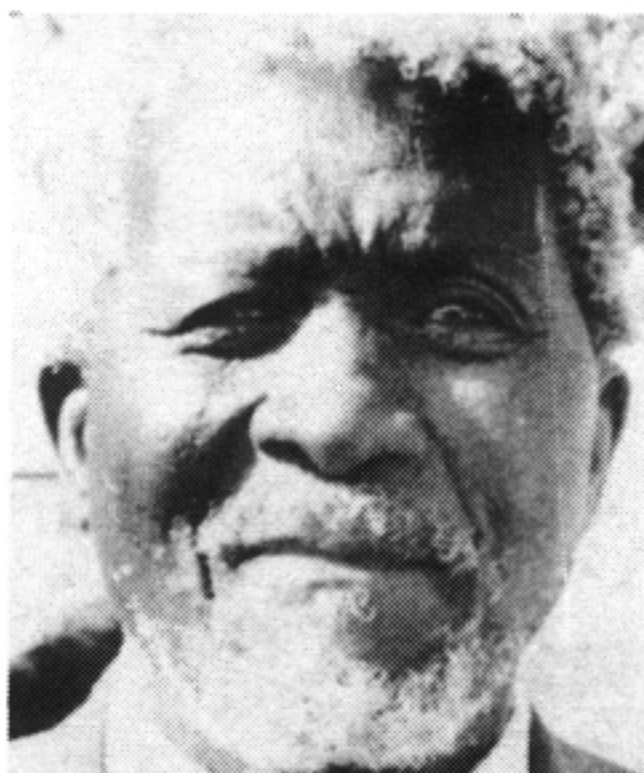


Court says no to Crimen land claim

A PIETERMARITZBURG Supreme Court judge dismissed, with costs, 84 year old Mr Andries Radebe's application to have his land returned. Mr Radebe brought the court application in August 1993, almost 16 years after his forced removal from Crimen.

In a reserved judgement handed down on February 10 1994, Mr Justice Booysen said Mr Radebe could have brought court proceedings years ago, since he had consulted a lawyer soon after his removal, although Mr Radebe said he was dissatisfied with the lawyer's advice that the expropriation was valid. Mr Radebe's statement that he had always maintained the land was stolen from him and that he was determined to get it back, showed that he believed from the outset that the removal was unlawful. His failure to find out the correct legal position was failure on his part to exercise reasonable care, the judge said. Mr Justice Booysen also said there were improbabilities in Mr Radebe's statement. Mr Radebe had accepted the compensation paid and had also claimed to be entitled to more and had received legal advice that the expropriation was valid.

"We felt very upset because in the first place it took such a long time to get judgement and now having waited so long it very bad to hear that the judge did not decide in Mr Radebe's favour," said



Mr Andries Radebe, former landowner of Crimen, intends taking his case further.

Mr Absolome Shabalala of the Crimen Committee. "Although Mr Radebe did plan to take the case on appeal if the judge decided against his claim, it was a great shock to him when he heard the outcome," he said

Lawyers who have been acting for Mr Radebe have started appeal proceedings to the Bloemfontein Appellate Division of the Supreme Court. Getting a court date could take as long as two years, and Mr Radebe is also considering the option of taking his land claim to a future land claims court. The ANC Land Desk's Derek Hanekom said recently that legislation to set up such a court was likely to be passed this year.

About Mr Radebe's removal

In 1977 Mr Andries Radebe and 99 other title holders of Crimen were forcibly removed to Ezakheni, a KwaZulu township near Ladysmith in Natal. In his application to the court, Mr Radebe said that the correct procedures were not followed in his expropriation and that the government therefore never got title to his land.

In papers to the court, Mr Radebe explained why it had taken him almost 16 years to bring the case. Although he never accepted his removal as valid, a lawyer whom he consulted soon after the removal advised him that the expropriation was legal. Mr Radebe did not have money for a second legal opinion, after losing his land. The declarations of successive states of emergency soon after the Crimen forced removal made Mr Radebe fearful of continuing to organise community resistance to the removal.

The expropriation of Crimen landowners was part of the government's policy of "black spot" removal. Almost 3 000 people were removed from Crimen between 1977 and 1978 and relocated at Ezakheni. The expropriated land was left to lie unused for 11 years after the community's expropriation. It was then sold to a Mr Derek Dreyer, who has since died.