

GENERAL INFORMATION ABOUT THE CASE	
Case URL	http://www.saflii.org/za/cases/ZACC/2011/33.html
Name of Case:	<i>City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another.</i>
Court name:	Constitutional Court
Type of court:	<input checked="" type="checkbox"/> Constitutional Court <input type="checkbox"/> Supreme Court of Appeal <input type="checkbox"/> High Court <input type="checkbox"/> Other
Issue:	Section 26: Housing
Justice(s)/Judge(s)	Van Der Westhuizen J Moseneke DCJ, Cameron J, Froneman J, Jafta J, Khampepe J, Mogoeng J, Nkabinde J, Skweyiya J and Yacoob J.
Reference No:	[2011] ZACC 33
Filing No:	CCT 37/11
DESCRIPTION	
Facts:	<p>The applicant in this case was the City of Johannesburg Metropolitan Municipality. The first respondent was Blue Moonlight Properties, the owner of the property in question. The second respondents, were a group of 86 poor individuals collectively called, the 'Occupiers of Saratoga Avenue' who have been unlawfully occupying the building owned by the first respondent.</p> <p>The first respondent approached the High Court for an eviction order against the second respondent after it bought the building with the intention of developing it. They argued that section 25 of the Constitution provides that no one may be deprived of their property.</p>

	<p>However, the second respondents relied on Section 26 of the Constitution which states that everyone has the right to have access to adequate housing and that no one may be evicted from their home without a court order.</p> <p>The High Court granted the eviction order which meant that the second respondents would be rendered homeless. However, the high court also ordered the City to provide the Occupiers with temporary accommodation.</p> <p>The Applicant sought an appeal at the Supreme Court of Appeal. The Supreme Court of Appeal upheld the order of eviction as well as the provision of emergency temporary accommodation. The Applicant made an appeal yet again in the Constitutional Court challenging the role of the three spheres of government in housing and evictions.</p>
<p>DECISION/JUDGMENT</p>	
<p>Decision/Judgment:</p>	<p>The Constitutional Court addressed the question of whether the occupiers must be evicted and if the eviction prompts the requirement for the Applicants, the City of Johannesburg to provide them with alternative accommodation. The applicants' position was that they lacked resources to provide such accommodation.</p> <p>The Court found Blue Moonlight was entitled to an eviction order. However, this must take into account what is just and equitable. The city is obliged to provide temporary accommodation. The Court ruled in favour of the Supreme Court's judgment and upheld the eviction order. This means that the first respondent could evict unlawful occupiers from its property if this was just and equitable.</p> <p>However, it was held that the second respondent would have to wait as the applicant made provision for temporary emergency accommodation or the second respondents.</p> <p>The Court found that it was primarily the responsibility of local government to provide temporary housing in emergency situations. The eviction order was upheld and the applicant was ordered to see to the provision of temporary emergency accommodation for the second respondents to ensure that they would not be homeless.</p>



REFERENCES	
Reference(s) to other court decision:	<i>Government of the Republic of South Africa and Others v Grootboom and Others</i> 2001 (1) SA 46.