



MACRAD: Women & land in Zimbabwe: A look into the case of Mazarura versus Kativhu HH 287-14

Every Zimbabwean, including women has the right to own agricultural land. Gone are the days when women could not be landowners. The coming into force of the 2013 Constitution¹ was a benchmark in so far as the protection of women's rights to land is concerned.

The Constitution provides that all persons are equal before the law and have the right to equal protection and benefit of the law.² It also states that women and men have the right to equal treatment, including the right to equal opportunities.³ It follows that in any issue concerning land ownership; women must be protected by the law.

The case of Francis Mazarura versus Rhodah Kativhu⁴ is one living example of a case in which the law protected a woman in so far as the right to own land is concerned. In this paper MACRAD⁵ gives a brief outline of the far-reaching judgement by the High Court.

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The Mazarura case involved a woman (Rhodah Kativhu) who was hauled to court by her stepson (Francis Makandirasa Mazarura) over the ownership of a plot in Mutoko.⁶ Enerst Chakanetsa Mazarura (Makandirasa's father) was allocated the land in question by the lands ministry under the land resettlement program before her marriage to Rhodah. Chakanetsa later passed on and an ownership wrangle ensued between Rhodah and Makandirasa.

Makandirasa filed an application to evict Rhodah, her stepmother, from the plot arguing that he was now the lawful owner of the plot. His argument was that his father had ceded the plot to him and there were witnesses who testified that Chakanetsa always wished the plot to be in Makandirasa's name. Makandirasa also argued that Rhodah had been divorced and was given a divorce token "gupuro" in the form of a 2 Rand South African coin plus some affidavits.⁷ The magistrate sitting at Mutoko Magistrates Court dismissed the application for eviction.

Makandirasa did some gymnastics together with a one Nevison Jemwa Nyamhute, a lands officer with the lands ministry.⁸ Through the shenanigans, the plot's name was changed from deceased's name into Makandirasa's name. Years later Makandirasa then took the eviction case up to the High Court. Unfortunately for him and fortunately for Rhodah, the application for eviction was again dismissed. In dismissing the case, Justice Mwayera had this to say;

¹ Constitution of Zimbabwe Amendment (No.20) Act 2013

² Section 56(1) of the Constitution.

³ See Section 56(2) of the Constitution.

⁴ Francis Makandirasa Mazarura v Rhodah Kativhu HH 287/14

⁵ Masvingo Centre for Research Advocacy and Development.

⁶ Mutoko is a district in Mashonaland East Province about 143 km from Harare.

⁷ It is a Shona custom that a woman is given anything as a divorce token.

⁸ The High court later described the lands officer as someone with a care free attitude in the manner he carries a bout his duties.



"It is important at this stage for the court to make it clear that out our Constitution of Zimbabwe Amendment (No 20) Act 2013 is very clear on equality between man and women when it comes to land issues. This is for the obvious reason that land is a basic necessity and that no one should be discriminated upon on land resettlement or distribution on grounds of sex, gender and custom, section 56 of the constitution on equality and non discrimination is opposite"⁹

The importance of the Mazarura judgement in the jurisprudence of Zimbabwe and on the protection of women's rights to land cannot be overstated. The judgement is in all fours with the dictates of the supreme law of Zimbabwe; the Constitution.

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Section 80(3) of the Constitution provides that "All laws, customs, traditions and cultural practices that infringe the rights of women conferred by this Constitution are void to the extent of the infringement." It therefore goes without saying that customary practices that deprive women of their right to land are null and void. The customary practice by which marauding relatives would displace widows and minor children from their homes is now a thing of the past.

MACRAD urges all persons, including private and government institutions and agencies of the government at every level to respect, protect, promote and fulfil the rights of women set out in the transformative Constitution of Zimbabwe. Land is a basic necessity for human beings including women and it is on land that food and water are derived and shelter is constructed.

About MACRAD

Masvingo Centre for Research Advocacy and Development (MACRAD) Trust is an independent Zimbabwean Community Based Civil Society institution committed to the development of socio-economic rights and agrarian systems that enhance equitable land rights and sustainable land uses throughout Zimbabwe. MACRAD interacts with various organizations and communities to assist them in developing capacity for policy formulation and research. It also facilitates policy dialogue among communities, governments, academics, civil society and others on land and agrarian development, especially the land rights of marginalized social groups. Masvingo Center for Research Advocacy and Community Development (MACRAD) is driven by a desire to contribute towards improved rural livelihoods that should lead to greater capacities for the rural poor to determine their own destinies and contribute towards national development. MACRAD has worked with citizens in resettlements areas around Masvingo Province on civic and voter education to ensure their voices are heard. We support victims and survivors of diverse forms of conflict, violence, displacement and disenfranchisement. MACRAD's approach entails encouraging continuous policy debates and refinement of policy. This is achieved through generation and provision of research based information, platforms for dialogue, creating and nurturing a policy community in Zimbabwe. The ambition of Masvingo Center for Research Advocacy and Community Development (MACRAD) is to provide leadership in socio-economic justice and land-agrarian policy processes, to become a Centre of Excellence and remain an independent and credible center for knowledge on social and economic justice. We support victims and survivors of diverse forms of conflict, violence, displacement and disenfranchisement.



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