

# **Saai vs News24**

**Complaint 32141**

**Ruling by the Press Ombud**

**Date of article:** 06 February 2025

**Headline of publication:** “No, Akkerland Boerdery wasn’t expropriated without compensation – owners sold it privately for R80m”

**Author:** Andrew Thompson

1. Misinformation and disinformation have become some of the biggest public interest threats – not only for the integrity of information in the public domain, but also for the integrity and public perception of news media.
2. News24, like many news organizations worldwide, recognised these threats and has invested in the establishment of a full-time “disinformation desk”. The salutary purpose of this desk is to “bring facts to the fore”, to “reinforce (News24’s) commitment to fact-checked journalism” and to “fight against disinformation”.
3. What is at stake in this complaint is that News24’s disinformation desk allegedly became part of misinformation through one of their fact-checking articles through the distortion of certain facts.
4. The ruling is based on written submissions by both parties, supplemented submissions on the Ombud’s request, and an informal hearing. After all these steps were concluded, News24 requested my recusal from the matter. This request is denied for reasons provided below.

## **Background**

5. The case of Akkerland Boerdery, an erstwhile luxury game reserve, has been in the news since 2018. According to the parties in the complaint, the Akkerland matter is often mentioned as part of debates about expropriation (with, without, and with partial compensation).
6. Saaï is an organisation representing the interests of farmers, and it is partaking in the debate about expropriation policies and legislation.

### **The article**

7. On 6 February 2025, News24's misinformation desk published the article in question headlined, "No, Akkerland Boerdery wasn't expropriated without compensation – owners sold it privately for R80m".
8. The key points of the article are highlighted in sub-headings:
  - "The case of Akkerland Boerdery is often cited as one of South Africa's first white-owned farm seizures.
  - It earned global press coverage, caused widespread controversy, and quietly disappeared.
  - This is likely because, despite being a complex and convoluted land claims saga, the owners sold the property in 2018 to a mining company – for R80.5m."
9. The report says "some" people cite the case of Akkerland "as the first example of a white-owned farm seized arbitrarily by the South African". "However, deeds documents obtained by News24 shows that this is untrue, and that the farm was sold privately to a mining company in 2018 – for R80.5 million".
10. The report provides links to two international news websites, *Daily Mail* and the *New Zealand Herald*, noting that global media outlets reported "the commencement of Zimbabwe-style land grabs".

11. According to the News24 report, the “failed intention to expropriate the farm was not arbitrary”. It rather resulted from extended or stalled negotiations between the government and the owners.
12. The report concludes by saying the South African government “did not confiscate Akkerland Boerdery, nor were its owners forced to sell to the state for what it said at the time was 10% of its value. Instead, deeds office documents show it sold to a mining company for four times what the government was offering, making claims of this being a case of successful government expropriation ultimately unfounded”.

### **Saai’s complaint**

13. Saai’s erstwhile attorneys, Hurter Spies, submitted a complaint. The gist of the complaint is:
  - 13.1. The article constituted a “gross misrepresentation of the facts”.
  - 13.2. The farm was sold by private treaty in 2019 by Akkerland Boerdery. However, this does not detract from the fact that Akkerland was indeed expropriated in 2018 (the complaint erroneously referred to 2019) and that the “title deed was transferred from the owners”. The “title deed” was only restored to the owner after a court ordered this.
  - 13.3. “The article...creates the false impression that the expropriation never happened, denying the suffering, financial losses and trauma of the victims of the arbitrary expropriation of 2018 to serve a party-political agenda of those who claim that no farm has been expropriated with less than market related value as a test of the discount clauses in section 25(3) of the Constitution of the Republic of South Africa.”
14. Saai provided a copy of an order made by the Land Claims Court on 12 September 2018 under case no. LCC 55/2018.

15. Saai also intimated that it is “ironic” that News24 omitted the legal saga as News24 itself reported on the court case in 2018. (News24 pointed out that while the article appears on its website, it originated from Rapport, whose sister publication, City Press, translated and published the article, which was in turn republished on News24.)

### **News24's response**

16. The publication says Deeds Office records show that the property was never transferred to the State. They provided a copy of the Deeds Office file confirming this.

17. News24 took exception to the complaint about “serving a party-political agenda”. No basis has been laid for this. “The complaint does, however, indicate malice towards News24, an independent media organisation”.

18. It is “clearly false” that there was an “arbitrary expropriation”. “The State told the directors of Akkerland Boerdery in writing to their attorney...in August 2017 that they intended to present the case to the Minister for possible expropriation after the third offer for purchase was declined by Akkerland. This context is completely ignored by the complainant.”

19. The purpose of the article was to “correct false impressions, driven in large part by Saai and its directors, that Akkerland Boerdery is an example of expropriation, or an example of expropriation at less than market related compensation, in the context of the national debate being about expropriation without compensation”.

20. News24's response included further allegations of what Saai allegedly states in public and “their narrative”. None of those are relevant as Saai is not even mentioned in the article under complaint and the palpable animosity between Saai and News24, as it played out in the papers, is irrelevant.

21. “Saai has repeatedly published a two-page court order by the Land Claims Court, which is not a judgment but an order ratifying a settlement between the parties to

support its narrative that it intended to lead the public to believe Akkerland was expropriated. What Saai seems to misunderstand, or is purposefully misdirected in, is that this court order is proof that the expropriation did not occur,” News24 said.

22. According to News24, the court order “proves only that government attempted, but failed, to expropriate the farms”. “It is therefore misleading to refer to Akkerland as anything other than an example of a failed expropriation.”

23. News24 denied a transgression of any clause of the Press Code, insisting that the fact-checking article was rather done in the spirit of clauses 1.1. and 1.2. of the Press Code requiring true, accurate, balanced, and contextualised reporting.

### **The reply**

24. Peter Wassenaar, of Kriek Wassenaar & Venter Attorneys, came on board representing Saai and authored the reply.

25. He pointed out that the court order of 12 September pertinently provided that ownership of the farms must revert to Akkerland Boerdery. This, he says, was “indicative of the fact that 1) the land was expropriated, 2) the notice of expropriation was reviewable, and 3) the attempted expropriation by the state was unsuccessful because of the litigation of the land owners.”

26. The focus on Deeds Office records is misplaced. He said both the 1975 Expropriation Act and recently adopted Expropriation Act provide that ownership transfers to the state upon delivery of the expropriation notice “notwithstanding that the registration of actual transfer may – and logically does – only occur at a later stage”.

### **How the complaint progressed**

27. In light of News24's application for my recusal and the nature of the disputes in this matter, it is necessary to detail the adjudication process followed.

28. After News24 responded to the complaint, but before a reply was delivered, News24 apparently published two further articles Saai is aggrieved about. I say "apparently" as I have not been furnished with those articles and complaints, don't know what those complaints are about, and those complaints are not before me. I was informed that the Public Advocate declined to accept the two further complaints. Instead, Saai delivered replying submissions to the current complaint.

29. These documents – being the complaint, News24's answer and Saai's reply – were presented to me for adjudication.

30. Clause 3.2. of the Complaints Procedure states:

"The Ombud may, if it is reasonable not to hear the parties, decide the matter on the papers."

31. In practice, the majority of complaints are handled in this fashion as the complaint is fully ventilated on the papers.

32. Clause 3.3. of the Complaints Procedure reads:

"If the Ombud finds that the matter cannot be decided on the papers, but some aspects of a complaint need to be clarified and sees no need for a formal hearing, the Ombud may convene an informal hearing with the two parties."

33. Moreover, clause 6.1.3. of the Complaints Procedure empowers the Ombud to "call on the parties to a dispute to furnish such further information as he or she may consider necessary".

34. After careful consideration of the papers in the matter, I formed the view that some aspects of the complaint require further engagement with the parties. In my view, it appeared as if the parties were simply not on the same page about the legal nature of and procedures applicable to expropriations in general and the Akkerland matter in particular.
35. Wassenaar made what I viewed to be sound legal arguments. But this was done in the complainant's reply. News24 would not have an opportunity to respond thereto.
36. I was further mindful of the fact that the central dispute turned out to be one of legal interpretation and understanding of the process. I was further mindful that News24's journalists and editors are not lawyers. Whilst it appeared to me, as a lawyer, that Wassenaar stated the legal position correctly, it also appeared from News24's response that the publication did not have a firm grasp of the technical subject-matter. The response expressed strong views of a legal nature which appeared, at face value, to be incorrect. For example, News24's statement that Saai "misunderstands, or is purposefully misdirected in" their interpretation of the Land Claims Court order did not appear substantiated.
37. Further complicating the matter was that there appeared to be differences of opinion about the core, or dare I say objective, facts in this matter – each party accusing the other of proffering a "narrative".
38. I therefore directed that an informal hearing be held to clarify aspects of the complaint. In preparation for such informal meeting, and accordance with clause 6.1.3. of the Complaints Procedure, I circulated a table of factual statements relating to the matter. Both parties were to indicate with a "yes" or "no" whether they agree or not that the factual statement is correct. If they disagreed, they were requested to motivate the disagreement. I indicated in the request that the purpose of this was to crystalise the issues between the parties and to ascertain what the objective facts were.

39. Both parties completed this table. It turned out that the parties did, in fact, agree on most of the core facts of the matter.

40. Of importance was the following statement I invited a response on:

“The date of 4 April 2018 (being the effective date of expropriation) arrived. Section 8 of the Expropriation Act (of 1975) reads: ‘The ownership of property expropriated in terms of the provisions of this act shall...on date of expropriation, vest in the State...’ On that date, the farm became the property of the state by operation of law – regardless of what was still reflected at the Deeds Office.”

41. This therefore reflected what Wassenaar set out in Saai’s reply, which seemed prima facie correct to me. I added that, “should any party differ from my prima facie view, they are to please provide legal authority to that effect”.

42. News24’s response to this line was “Yes”, meaning it is agreed. I was informed at the informal hearing that this agreement was after News24 obtained its own legal advice.

43. The requested meeting was held virtually. Saai was represented by Wassenaar and its Chief Executive Officer, Francois Rossouw. News24’s representatives were Kyle Cowen, acting investigations editor, Andrew Thompson, the author of the article, George Claassen, public editor, and Willem de Klerk, the publication’s legal representative.

44. Having perused and considered all the papers and the different responses from the parties, together with the latest concession that – in law – there was an expropriation, I enquired from Cowen whether the existence of the interdict against the state during April 2018 to prohibit the eviction of Akkerland Boerdery, and the subsequent court order on 12 September 2018 revesting ownership in Akkerland Boerdery were not material facts that had to be mentioned.



45. Cowen responded by saying these aspects were indeed addressed in a follow-up article. The follow-up article he referred to was the subject of one of the further complaints from Saai which was not accepted by the Public Advocate. Given the expressed desire to deal with the follow-up article as well, I enquired from both parties whether they preferred dealing with the series of articles as one complaint. Mr Wassenaar agreed and the News24 delegation requested time to consult and revert with an answer, which was agreed to.

46. I indicated that there is no obligation on News24 to agree to a widening of the complaint. If they did not, I would deliver a ruling in the current complaint as ventilated.

47. On the date agreed upon for an answer to the question whether News24 would agree to consolidate the complaints, I received an application for my recusal instead.

## **Analysis**

48. In the so-called “post-truth era”, objective facts matter more than ever before. The news media cannot afford to pander to the idea of “alternative facts”.

49. The facts that both parties formally agreed to in this matter, are the following:

49.1. Akkerland was in a dispute on two fronts over several years preceding 2018: There was a pending land claim and Coal of Africa (or a subsidiary) held prospecting rights over mineral resources on the farms. Coal of Africa and Akkerland were involved in litigation about access to the farms to exercise the mine’s prospecting rights.

49.2. The department of rural development and land reform negotiated with Akkerland for the sale of the farms to settle a land claim – i.e. to buy it from Akkerland in order to provide the farms to land claimants. The government initially offered R17m and finally R20.7m to purchase the

farm. Akkerland was of the view that its farms were worth R200m and did not agree to the sale.

- 49.3. When no agreement could be reached, the Minister of Rural Development and Land Reform invoked section 42E of the Restitution of Land Rights Act 22 of 1994 to expropriate the farms. In terms of that section, the provisions of the 1975 Expropriation Act (now repealed) would be applicable to the expropriation process.
- 49.4. An expropriation notice was delivered to Akkerland, setting the date of 4 April 2018 as the date of expropriation and to hand over keys to the state.
- 49.5. From that date, 4 April 2018, the ownership of the farms vested in the State.
- 49.6. In terms of the 1975 Expropriation Act, the onus was on the ex-landowner to challenge either the expropriation or the compensation amount. This implies the need for great financial resources to litigate against the state.
- 49.7. Akkerland Boerdery rushed off to the Land Claims Court. They sought an urgent interdict against the government not to be evicted. The urgent interdict was granted and would remain in place until finalisation of a review application which was instituted simultaneously but would only be considered by the court at a later stage.
- 49.8. The review application became settled between the parties a few months later. The Land Claims Court made the settlement an order of court on 12 September 2018, which recorded:

*“a. The (Minister) withdraws the Notice of Expropriation dated 19 March 2018 with immediate effect.*

*b. It is declared that ownership of the Farm Lukin 643 MS and the Farm Salaita 188 MT reverts to (Akkerland) with immediate effect.*

*...”*
- 49.9. On 14 November 2018, Akkerland sold the farms for R80.5m to a subsidiary of Coal for Africa in a private sale.
- 49.10. The property was transferred to the Coal of Africa subsidiary in 2019 and the mining company is now the owner of the land and the right-holder to minerals beneath.

50. It is important to note that the majority of the contents of the News24 article was not complained about. Lest this ruling be misinterpreted for subscribing to a certain “narrative”, it is perhaps necessary to state the obvious:

50.1. Insofar as “some” people, or global media outlets, may have claimed that there was ever a physical “land grab” at Akkerland (and I make no finding that anybody in fact did), it is a lie. Nobody other than Akkerland took physical possession of the farms in 2018, Akkerland’s possession being secured by an interim interdict issued by the Land Claims Court.

50.2. Insofar as “some” people, or global media outlets, may have claimed that Akkerland was expropriated for no compensation (without making any finding that anybody did), it is clearly incorrect.

50.3. Insofar as “some” people, or global media outlets, may or may not have claimed that the expropriation of Akkerland was motivated by the company being a “white-owned” farm, there is no evidence to this effect.

51. It is necessary and desirable to expose and rectify such untruths if and whenever they arise.

52. At the same time, the very nature of misinformation and disinformation is deception and blurring of lines between the truth and a lie. It is often said that the most effective lie is one that is closest to the truth.

53. Misinformation or disinformation is not always patently devoid of truth. Even a reading of the Daily Mail and New Zealand Herald articles singled out in the News24 fact-checking article shows that the alleged misinformation is far more nuanced than what their headlines suggest.

54. The clauses of the Press Council applicable to this complaint are 1.1. and 1.2., requiring the media to report truthfully, accurately, and fairly, and to present news in context and in a balanced manner, without any intentional or negligent departure

from the facts whether by distortion, exaggeration or misrepresentation, material omissions, or summarisation.

55. This office employs the test of the “ordinary reader” test, being a reasonable person of ordinary intelligence.

56. A headline itself stands to be judged for its contents against the provisions of the Press Code and not merely whether it reflects the content of the article. **(Appeal Panel: News24 vs Gayton McKenzie, complaint 32077)**

57. In my view, an ordinary reader would understand from the headline of this article that the farms of Akkerland Boerdery were not expropriated without compensation. Rather, it was sold in the private market for a sum of R80m.

58. Had the sentence stopped at “No, Akkerland Boerdery was not expropriated without compensation”, it would have been accurate. But it goes further.

59. It is misleading to include the consequent private sale into the same sentence without the necessary context. An ordinary reader would simply understand that it was not X (expropriation), but Y (private sale) whereas it was both X (expropriation, albeit with compensation), followed by a court case reversing X, and subsequently Y.

60. While it is true that Akkerland Boerdery was not expropriated without compensation – insofar as anybody actually claimed this – it was most certainly expropriated.

61. Furthermore, the body of the article does not merely claim that the myth is that “Akkerland was expropriated without compensation”. It claims that there was no expropriation of any sort, which News24 also initially maintained in their submissions.

62. During the informal meeting, News24 representatives said they did not have the court documents when writing the article and only obtained legal advice about the effect of the Expropriation Act now. It was advanced on behalf of News24 that it

may be too “technical” to say the land was expropriated, even though it was eventually accepted by News24 that ownership vested with the state on the date of expropriation. I disagree that it is only a “technical” approach.

63. News24 emphasises that the state never took physical control over the property.

That is correct. But it does not change the fact that the farms were indeed expropriated, belonged to the state for a period after 4 April 2018, and that Akkerland could stay on pending a legal challenge to the expropriation only because they approached the Land Claims Court on an urgent basis. Moreover, the loss of ownership by operation of law is not a technicality. The real consequence of expropriation is that the ex-owner has no right in that property anymore. If they do not litigate to reverse the position, it is the end of the matter. It is not unlike the better known and understood position with tax: “pay now, dispute later”.

64. While the subject-matter is technical, it is also fundamental for readers to understand these technical issues if they are to make sense of the equally technical topical debates about expropriation. Much was said in the papers about the distinction between expropriation, expropriation without compensation, and expropriation at an amount less than market value.

65. All of these technical arguments are extremely relevant for an informed debate.

But how is the public to make sense of these arguments if they are bombarded with oversimplifications or explanations that are, at best, not technically correct, or at worst, misinformation?

66. In **Pastor Alph Lukau & Others v City Press (2022)**, I remarked:

*“One of the privileges and curses of being a journalist, is having to be or to become an expert in any number of fields within weeks or even days. It is the work of a journalist to make sense for her or his readers of the subject matter.*

*To do this, the journalist must master the subject matter him- or herself before attempting to interpret it for readers.*

*“It is a daunting task. In the current matter, mastering the subject matter would require some understanding of the Insolvency Act and insolvency procedures, court procedure, and the Companies Act. I have sympathy with journalists who do not have a legal background and find themselves in the minefield of reporting on litigation and legal matters. However, that remains the duty of journalists. They have access to experts, senior colleagues, and their sources to guide them through complex subject matter.”*

67. The same holds true in this matter. In fact, perhaps even more so within the context that this is a “debunking” or fact-checking article purporting to set the record straight with all the relevant facts. News24’s lack of access to court papers or legal advice at the time of writing the article is an explanation but no excuse. The article does not quote any legal expert or stakeholder in the matter. It simply purports to interpret legal issues for its readers and makes pronouncements that a) there was no expropriation, b) the process was not arbitrary, and c) what the absence of a recorded transfer at the Deeds Office means.

68. In its bid to counter an alleged “narrative” of “some” people who are not identified in the article, it leaves out all the aspects that may be considered controversial about the Akkerland matter. As remarked above, effective misinformation utilises elements of truth. It is in my view impossible to debunk such misinformation by simply ignoring the elements of truth in misinformation.

69. News24 served its readers by debunking some myths and failed its readers at the same time by creating a distortion of the full picture and even leaned towards innuendo.

70. The article suggested in the sub-heading that the initial widespread coverage “quietly disappeared”, “likely because...the owners sold the property in 2018 to a mining company – for R80.5m.”

71. Saai pointed out that it did not disappear quietly. What happened is in their archive, whether it was authored by journalists employed by News24 or not.
72. An ordinary reader will understand from the heading and sub-heading that there was no expropriation after all. And that the big controversy “quietly disappeared” because the owners, in fact, clinched a private deal (with emphasis on the R80.5m).
73. This is stripped of the relevant context, as set out above, and of the common cause fact that the expropriation occurred because of a difference in opinion between the owners – who valued their property at R200m – and the government taking the stance that its worth was only a tenth of that. The different “narratives” about whether this was an arbitrary or “forced” expropriation does not change the relevance of these facts for a reader to decide herself.
74. The inclusion of the above facts would not have detracted from the points News24 seeks to drive home in the article. It would have enhanced their readers’ understanding of what occurred, why the case is even mentioned within the context of debates over the 2024 Expropriation Act, and why it is possible for misinformation around this topic to flourish.
75. During the informal meeting, when I canvassed with Cowen whether the above-mentioned common cause facts were not material and relevant, he indicated that News24 has no objection to including a clarification in this respect. This is exactly what I would expect from a publication with integrity whose primary interest is to serve its readers. It is commendable.
76. It is clear from the submissions in this matter both parties hold strong views about the other party and the subject matter.
77. In principle, there is nothing objectionable in having different interpretations of the facts. What is required by the Press Code is fairness and balance, not clinical

“objectivity” insofar as it exists. (**Siyaya TV vs amaBhungane, 2023**). Fairness and balance require context of material facts.

78. It would, however, be regrettable if anyone is not open-minded to seriously consider criticism or the provision of facts on the basis that one strongly disagrees with the other person’s views or arguments.

79. In summary, I find:

79.1. News24 breached clause 1.1. of the Press Code by reporting that Akkerland Boerdery’s property was not expropriated in 2018.

79.2. News24 breached clause 1.2. of the Press Code by omitting material facts, being Akkerland’s urgent court action to remain on the property and the subsequent court order revesting ownership in Akkerland Boerdery before a private sale was concluded.

### **Application for recusal**

80. As set out above, News24 applied for my recusal after the informal hearing.

81. In **Adriano Mazzotti v News24 (2024)**, a unanimous adjudication panel used common law principles of recusal as guidance for considering applications of this nature. The same will be done in this matter.

82. Adriaan Basson, editor-in-chief, set out the grounds for the recusal application as follows:

82.1. News24 has been made aware of certain facts after the informal hearing. The information is that I was employed as news editor of Rapport newspaper during August 2018 when that newspaper reported on Akkerland. The complainant cited one of these articles written by journalist Johan Eybers in the complaint



- 82.2. Rapport published various articles on “land issues, expropriation and the resultant devaluation of agricultural land”, as well as an opinion piece of Theo de Jager from Saai at the time.
- 82.3. Said Basson: “As news editor of Rapport at the time, you were a key member of a team that produced a series or reportage concerning some of the very issues that you are now called upon to adjudicate.”
- 82.4. He proceeded: “...Rapport adopted – as it is entitled to – a particular narrative around forced expropriation and the Akkerland debacle. This narrative aligns in many respects with SAAI’s complaint about News24’s reportage. Your involvement in the development of Rapport’s narrative means, in our view, that you are conflicted in adjudicating SAAI’s complaint against News24”.
- 82.5. News24 is concerned about comments I made during the informal hearing: “It appeared to us that you have independent knowledge of the Akkerland matter which are brought to bear on your views regarding News24’s reportage.”

83. In summary, News24 submitted that it has a reasonable apprehension of bias, “given how close you were to media reportage on some of the...issues”.

84. The publication referred to a judgment by the Supreme Court of Appeal<sup>1</sup>, which held:

*““The rule against bias is foundational to the fundamental principle of the Constitution that courts, as well as tribunals and forums, must not only be independent and impartial, but must be seen to be so. The constitutional imperative of a fair public hearing is negated by the presence of bias, or a reasonable apprehension of bias, on the part of a judicial or presiding officer.”*

85. Subsequent to News24’s application, Saai was invited to make submissions on the application for my recusal. I am indebted to both parties for thorough submissions.

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<sup>1</sup> Basson v Hugo 2018 (3) SA 46 (SCA)

86. Wassenaar highlighted that News24 only sought my recusal after the informal hearing. He says Basson and others at News24 were always fully aware of my former employment history as we worked for the same company, Media24, at the same time. This is correct. Basson, Cowen, and Claassen have been known to me professionally for several years as former colleagues. Also, the professional background/history of all the Ombuds were published at the time of appointment.

87. As remarked in **Mazzotti**:

*“Most, if not all, of the members of the adjudication panel and Ombuds panel, have extensive professional and personal bonds with working journalists. It is inevitable. It is a prerequisite for appointment to the Ombuds panel to have “extensive press experience”. Press representatives on the adjudication panel must be “former or current senior journalists” while many public representatives have established ties with the media role-players. They are all bound to have worked for or with one or more media publisher in the past and having made friends during their careers.”*

88. Wassenaar added: “...(T)he complainant submits that this sequence of events demonstrates that (News24’s) application was not motivated by any genuine or reasonable apprehension of bias known to it prior to the hearing. Rather, it appears to have been driven by dissatisfaction with the preliminary views expressed by the Press Ombud at the informal hearing.”

89. Saai submitted that the test for recusal is objective. The aggrieved party must show that there is a reasonable apprehension of bias. It quoted from the Supreme Court of Appeal decision in **AfriForum v Economic Freedom Fighters & Others**<sup>2</sup>:

*“The question is whether a reasonable, objective and informed person would, on the correct facts, reasonably apprehend that the judge has not, or will not*

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<sup>2</sup> [2023] ZASCA 82 para 22

*bring, an impartial mind to bear on the adjudication of the case, that is a mind open to persuasion by the evidence and the submissions of counsel. A double reasonableness requirement is involved in the application of the test: the apprehension must be that of a reasonable person in the position of the litigant, and it must be based on reasonable grounds.”*

90. Wassenaar referred to more authorities that suggest the mere fact that a presiding officer forms a provisional view about the disputes and then debates such views with the parties does not imply that a reasonable and clear bias against one party has been formed. “The mere fact that a decision-maker has formed an opinion on a matter after reviewing the relevant documents and considering the issues does not, by itself, demonstrate a reasonable apprehension of bias.”
91. Basson complains that Rapport published a range of articles and an opinion piece from Saai’s head some seven years ago. I confess that I cannot recall what that publication published at the time, apart from the one article that was referenced by both parties in this complaint in the papers, thereby refreshing my memory.
92. None of the articles listed by Basson were written by me. Even if I did report on the subject matter in my previous capacity as journalist many years ago (which I did not), this could never lead to a reasonable apprehension of bias in itself.
93. The argument about “a particular narrative” said to have been adopted by Rapport and my supposed “involvement in the development” of such narrative is meritless. Facts are not determined or influenced by narratives.
94. As a reasonable “litigant”, News24 is aware of the role of a news editor and editor. A news editor is not involved in the editing of opinion pages and does not prescribe angles, and most definitely not facts, of news report.
95. A publication does not necessary subscribe to the opinions expressed by others in its pages. Neither do members of editorial teams all hold the same views. It would be akin to accusing News24 of bias in a news report by journalist X because the

publication's editor-in-chief (Y) expressed strong views on the subject matter in a different piece. No reasonable complainant would.

96. Moreover, it is not the subject matter of expropriation in general that is at stake in this complaint. Neither is the 2018 Rapport report under complaint. The complaint is that a particular article published by News24 in 2025 contains factual inaccuracies about the Akkerland case and omitted material facts that distorted the facts of the Akkerland case to a material degree.

97. The 2018 Rapport report was cited by the complainant only insofar as the complainant alleged that News24 was wilful in ignoring key facts. Saai said it was "ironic" that News24 only had to look in its own archives to be reminded of what happened in 2018. There is no suggestion that the 2018 Rapport report contained any factual inaccuracy.

98. The complaint about unspecified "independent knowledge" I am said to have had, has no basis. The only "independent knowledge" a reasonable person may assume me to have, is legal knowledge by virtue of my profession. In this case, it would mean that I could form a view on the correctness of the legal arguments advanced by News24. That is not bias. It is an advantage for fair adjudication of the complaint.

99. All of the disputes were explicitly raised by the complainant and News24 in their papers, including the legal interpretation of the Expropriation Act which News24 later conceded.

100. With regards to the complaint about comments I made during the informal hearing, the details about the progression of the complaint set out above ought to be instructive for any reasonable person considering the allegation of bias:

100.1. I have read all the submissions of the parties. The very purpose of reading the papers is to form a view – either provisional or final.

100.2. Illustrative to any reasonable party that I was open to persuasion, I was not prepared to take a final view and sought clarity on the facts of the matter before reaching a final decision.

- 100.3. News24 made crucial concessions in the additional information sought prior to the informal hearing. It made the core facts undisputed.
- 100.4. Still, at the informal hearing, I debated with News24's representatives about the implications of the undisputed facts. This led News24's representatives to offer to update the article, which I found to show integrity and professionalism.
101. No reasonable person could apprehend on reasonable grounds that I was not open to persuasion by facts and arguments. The fact that it became clear after thorough consideration of the papers, additional information, concessions and further oral debate on the matter that I was not persuaded by News24, does not translate to an apprehension of bias, let alone a reasonable one. At one stage or another, a presiding officer is expected to prefer one version over another and make a call.
102. There is no reasonable apprehension of bias and the request for my recusal is refused.
103. Lastly, Basson complained that News24 found themselves "in the position of expecting an adverse ruling without a further opportunity to make submissions". I am satisfied that all the disputes in this complaint have been ventilated in full. The matter needs to come to finality.

## **Sanction**

104. Saai sought a public apology and "follow-up article".
105. The breaches found constitute Tier 2 (serious) breaches in terms of the Complaints Procedure. Available sanctions include reprimands, cautions, corrections, retractions, and apologies.
106. An apology to Saai would not be appropriate as the article in question did not reference that organisation in the article.

107. However, an apology by News24 to its readers is in my view appropriate.

108. The publication is directed to:

108.1. Update the current article to correct the statement that Akkerland Boerdery was never expropriated and to include the context of the Land Claims Court orders of April and September 2018.

108.2. Publish an apology to its readers for omitting material context and for any confusion this may have caused its readers.

108.3. The update/apology is to reference this complaint, contain the logo of the Press Council, and link to the full ruling.

109. The apology may appear at the top of the article in question and the updates may be affected within the article (either in-text or through addition), in the discretion of News24's editors and in accordance with technical or practical limitations of the publication. The update and apology shall, however, be approved by the Press Ombud before being affected.

110. News24 is to alert its readers to the update/apology by either reposting the updated article or a separate article on its home page on a Thursday (being the original day of publication) for 24 hours. The word "apology" need not appear in the headline.

*Herman Scholtz*

*Press Ombud*

*31 July 2025*

## **Appeal**

*The Complaints Procedure lays down that within seven working days of receipt of this decision, either party may apply for leave to appeal to the Chairperson of the SA Press*

*Appeals Panel, Judge Bernard Ngoepe, fully setting out the grounds of appeal. He can be contacted at [Khanyim@ombudsman.org.za](mailto:Khanyim@ombudsman.org.za).*