

*Translated from the original Hebrew to English by Adalah*

**Case citation:** Civil Case 16715-05-19, *Israel Land Authority - Southern District v. Al-Hawashleh et. al*

Below are excerpts from the decision, delivered on 24 July 2023 by the Be'er Sheva Magistrates Court, regarding the eviction lawsuits against residents of the village of Ras Jrabah. The ruling spans over 38 pages; however, the translated sections below are only a few paragraphs, in which the court addresses the constitutional questions raised by the defendants (residents of Ras Jrabah). The original Hebrew judgment is available [here](#).

101. The only remaining claims are general claims of violating the duty of fairness, lack of good faith, and the justice defense doctrine.<sup>[1]</sup> These claims mostly relied on the matter of planning, which has already been discussed and dismissed above. Since these claims were substantially rejected, It is evident that no flaw occurred as the plaintiff did not consider them [the claims]. Another aspect that the defendants relied on regarding these flaws is the creation of segregation between Jews and Bedouins. Also in this regard, I believe that this matter surpasses the scope of the current eviction lawsuits, as it pertains to the government's policy concerning the regularization of Bedouin settlements in the Negev and various decisions made in this regard (refer to Judge Rubinstein's review and his remarks in sections 20 to 23, in the Abu Al-Qia'an judgment)<sup>[2]</sup>. Also, in this context, I can only reiterate that such claims should have been presented by the defendants within a direct challenge to the government's decisions, and not in the current proceedings.

102. As to the essence of this issue itself, the defendants reiterated their claim of segregation between Bedouins and Jews several times, without substantiating this claim with evidence. While it is undisputed that the settlement in question, which the plaintiff seeks to regulate, is a Bedouin-populated village, as the plaintiff [Israel Land Authority] stated regarding its authority to settle Bedouins in villages [designated] exclusively for Bedouins, the plaintiff also repeatedly emphasized that the defendants have the right to acquire real estate in the city of Dimona, including within the planned neighborhood of Rotem, just like any other individual.

Since the defendants did not present any evidence contradicting this, I can only assume that residence in Dimona is open to members of the Bedouin population, and anyway, the factual basis for the claim of segregation is not met at all, and thus, it should be rejected.

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<sup>1</sup> [The duty of fairness and the justice defense doctrine are common law doctrines that have been developed by Israeli Courts]

<sup>2</sup> [Case citation Motion for Perm. to Appeal 3094/11, *Ibrahim Farhood Abu al-Qi'an et al. v. The State of Israel*]

103. Apart from the arguments of segregation and the land planning [processes], I did not find in the defendants' statements any additional concrete references as to how the plaintiff violates the duty of fairness, acts in bad faith, or the need for [the doctrine of] justice defense , arising from the plaintiff's decision to evict the defendants. I also do not believe that there was any administrative flaw in this decision. It should be noted that in the Abu Al-Qia'an ruling, the court addressed similar claims when the relevant factual background to this matter (see section 5 of the judgment) was similar to the current case, and it determined that the plaintiff's conduct was not impaired by bad faith or unfairness.

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107. Regarding the right to equality, the court also discussed this in the judgment of Abu Al-Qia'an, particularly concerning the discrimination against the Bedouin sector and the establishment of settlements for the general population in place of the displaced residents. The court determined (paragraph 37 of the judgment) that even if the expected majority of the population is Jewish, it is sufficient that there is nothing preventing the Bedouin population from residing in the area in order to rule out a violation of the right to equality. In our present matter, the plaintiff claimed that the defendants may acquire plots in the new neighborhood of Dimona, once they are approved for sale, and the defendants did not present any evidence that rules this out. One way or the other, in the case at hand, there is also no violation of equality or discrimination towards other populations. The defendants also argued (clause 16 of their summaries) that the decision to evacuate them arises solely from their Bedouin identity. According to the defendants, it is a conclusion derived from the fact that "the plaintiff did not provide any serious justification for the eviction." It would have been better if this claim had not been put forth. The defendants hold public lands unlawfully, as determined above, and this alone is sufficient to justify their eviction, regardless of their identity. Even more so when there is a need for the land for the purpose of developing the city of Dimona.

108. As to the right to dignity and the right to housing, I believe the defendants exaggerated when they claimed that the eviction for the purpose of establishing a new neighborhood would degrade them. Nevertheless, even if a certain level of degradation exists in any eviction process, it is evident that it is not enough to sweepingly dismiss eviction proceedings, and not even in the current case. At the outset, in the face of these rights stands the right to property of the plaintiff, and in fact, [the right] of the general public, as mentioned above. In any case, this constitutes a violation for a legitimate purpose, as it is intended to protect the fundamental property rights of the plaintiff, i.e., those of the general public. Furthermore, it is a clearly proportionate violation since it not only affects those who have no rights to the land, as determined above, but also because the plaintiff allows the defendants to explore alternative arrangements for regularization, as evident from the summary of the meeting on July 15, 2020 (Appendix 2

to the affidavits of Matan [Authority witness] in the various cases), which the defendants do not contest. The defendants indeed had reservations regarding the Settlement Authority's [Authority for the Development and Settlement of the Bedouins in the Negev] proposals to regularize and claimed that they were not provided with a concrete solution that is immediately available (Sections 21-18 of the defendants' summaries), however, even if this is true, it does not amount to an infringement of their rights. At this stage, it appears that the defendants are impeding the advancement of an alternative arrangement, given their insistence on to remain in their current location, while the plaintiff explicitly stated that it is their right, as residents of the Bedouin *pzura*,<sup>3</sup> various proposals were presented to them, which were rejected, and the state is even open to continuing the negotiations and finding alternative solutions, including those that will be proposed by the defendants themselves, as evident from the meeting's summary.

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<sup>3</sup> [The term "Pzura" is used by the Israeli government to describe the unrecognized Bedouin villages in the Naqab region as "dispersed illegal settlements." The word "Pzura" itself in Hebrew means "dispersed."]