

The Responsibilities of Restitution Research: The Case of Ridgeview Quarry (Cato Manor).

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There is no social order without trust and no trust without truth or, at least, without truth-finding procedures.¹

To destroy the illusion is to ruin the whole play, for it's really the illusion and make-up which holds the audience's eye.²

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Introduction

This paper is about restitution in Cato Manor (KwaZulu Natal), the construction and production of a particular socio-legal history, and the power of the “past” in the present.

It may be tempting, but my purpose in this paper is not to write a history of restitution per se, or the institutional politics of a state department, or theorise the nature of land rights, or even an analysis of relations between the state and claimants, among other topics. While alluded to here, they are possible future themes for a larger study of restitution in South Africa. My focus is on the responsibilities of restitution research - the material effect of producing a research report, the purpose of which is to facilitate the political ideals of reconciliation, reconstruction and development by “redressing the past”. In structuring that democratic urge, restitution has allowed for the writing of post-apartheid histories of the South African landscape and society of South Africa.

While the theme of the politics of memory and identity have been touched on in recent literature on Cato Manor,³ I provide a further layer to what can be seen as the most over researched area in the urban history of Durban. Edwards work captures the lives and politics of the African underclasses, Maharaj focuses on the Indian Community and the role of Durban City Council in proclaiming group areas, and Freund has written on Indian working class society.⁴ Gendered histories of Cato Manor have focussed on the struggles of women or

¹ Felipe Fernández-Armesto, *Truth: A History and Guide for the Perplexed*, (London: Black Swan, 1998), 3.

² Erasmus, *Praise of Folly*, trans. Betty Radice, (Middlesex: Penguin, 1971), 104.

³ Iain Edwards, “Cato Manor; Cruel past, Pivotal Future”, *Review of African Political Economy*, 61 (1994) and Jeff Popke, “(Post)Colonial Spirits: Deconstructing Apartheid Space and Identity in Cato Manor”, Paper presented at the History and African Studies Seminar Series, 1997.

⁴ Iain Edwards, “Mkhumbane Our Home: African Shantytown Society in Cato Manor Farm, 1946-1960”, (PhD Thesis, University of Natal, Durban, 1989), Brij Maharaj, “The ‘spatial impress’ of the central and local states: the Group Areas Act in Durban” in D.M. Smith, ed. *The Apartheid City and beyond: Urbanisation and Social Change in South Africa*, (Johannesburg: Witwatersrand University Press, 1992), and Bill Freund, *Insiders and Outsiders: The Indian Working Class in Durban, 1900-1990*, (Portsmouth, Pietermaritzburg and London: Heinemann, University of Natal press, and James Currey, 1995).

gay Africans in forging identities that resist conventional economic or sexual politics.⁵ Yet, each of these identities was, and is, tied to the land, the materiality and memory of place.⁶

The theme of the effects of Group Areas legislation on Cato Manor's racial topography has already been introduced in Horrell, Meer, and the Surplus People Project.⁷ My aim is to expand on their historiographic contribution by narrating some mirco-histories of the racial dispossession of land rights in a part of Cato Manor, in an area known today as Ridgeview Quarry. Informing those histories is my second purpose: to contextualise and reflect on the urban restitution research methodology I employed while holding the post of a Cato Manor Researcher in the office of the Regional Land Claims Commissioner: KwaZulu Natal during 1998 and 1999.⁸

Contextualising Restitution in South Africa

Helena Dolny and Heinz Klug have correctly argued that “the introduction of land reform generally reflects a change in the balance of power.”⁹ This is true for South African land reform policy. In redressing the racially-based and inequitable distribution of land ownership in post-apartheid South Africa, the political objectives of the Department of Land Affairs are: land restitution, land redistribution and land tenure reform.¹⁰ While the latter focus on transforming agrarian land usage, the restitution of land rights promotes justice and equity within both the rural and urban contexts. The implementation of restitution has therefore begun a process of de-racialising the social geography of South Africa.

The history of “restitution” in South Africa, while still unfolding, can be periodised as follows: the struggle over land policy (1990 to 1994),¹¹ the crisis in restitution (1995 to 1998), and implementing an administrative process (1999 to present). Each are briefly addressed below by way of providing a political and institutional context for my discussion of restitution research.

⁵ See, for example, Iain Edwards, “Cato Manor, June 1959: Men, Women, Crowds, Violence, Politics and History” in Paul Maylam and Iain Edwards, eds. *The People's City: African Life in Twentieth-Century Durban*, (Pietermaritzburg and Portsmouth: University of Natal Press and Heinemann, 1996) and Roland Louw, “Homosexual Identities in Durban's Mkhumbane Township in the 1950s”, (unpublished paper from the *Masculinities in Southern Africa* Colloquium, University of Natal, Durban, 1997).

⁶ The ownership of land in Cato Manor has been and still is held mainly by men. Bound by law, tradition or religion, men have determined the patterns of land use, and, to some extent, befitted from the dispossession more than women.

⁷ M. Horrell, *The Group Areas Act: Its effect on human beings*, (Johannesburg: South African Institute of Race Relations, 1956), Fatima Meer, *The Ghetto People: A study of the uprooting of the Indian people of South Africa*, (London: Africa Publications Trust, 1975), and Surplus People Project, *Forced Removals in South Africa: The SPP Reports: Volume 4; Natal*, (Cape Town: Surplus People Project, 1983).

⁸ The views expressed here are my own, and should not be attributed to the Commission on Restitution of Land Rights.

⁹ See their “Land Reform: Legal Support and Economic Regulation” in Glenn Moss and Ingrid Obrey (eds), *South African Review: From 'Red Friday' to CODESA*, (Johannesburg: Ravan, 1992). Land issues in South Africa have a longer history than cadastral plans, documents, and memories reveal, and clearly also extend back before the passing of the Natives Land Act in 1913.

¹⁰ Department of Land Affairs, *Our Land: Green Paper on South African Land Policy*, (Pretoria: Department of Land Affairs, 1996).

¹¹ Drawn from Andries du Toit and Rick De Satgè, “Land Restitution: Policy and Implementation”, Handbook for the Department of Land Affairs and Commission on Restitution of Land Rights Regional Training Course, Howick, 16-20 March 1998, 22.

The struggle over land policy

Restitution was introduced into political discourse and debate during the early 1990s, the years of negotiated settlement and democratic transition in South Africa. That political process culminating in a liberal democratic Constitution, in which land reform, and restitution specifically, rested uneasily between radical politics and the economic status quo.¹² As Cheryl Walker has pointed out, “while the South African Constitution provides a strong rights base to the land reform programme, it also underpins a market-driven programme, based on the notion of a willing buyer/willing seller, which means that the rights come at a definite price.”¹³ The resultant legal starting point for the acceptance of land claims in South Africa, the Natives Land Act of 1913, is illustrative of this tension.

The legislative history of restitution has its beginnings in the Racially Based Land Measures Act (Act 108 of 1991), later amended by the Abolition of Racially Based Land Measures Act (Act 11 of 1993). Both pieces of legislation identified state land acquired as a result of racial laws as well as enabled the state to make recommendations on how to restore land rights.¹⁴ The equality clause of section 8(3)(b) of the Interim Constitution (Act 200 of 1993), read along with sections 121, 122 and 123, entrenched the principles of restitution in the democratic framework of a new South Africa.¹⁵ However, it was the passing of the Restitution of Land Rights Act (Act 22 of 1994) which instituted the rights based programme of restitution in South Africa.¹⁶ In terms of this Act, the Commission (to facilitate the claims process from lodgment to negotiations), the Department of Land Affairs (responsible for the negotiation of claim settlements and state fiscal policy) and the Land Claims Court (adjudicate and/or lend legal weight to claim settlements) were provided with a judicial process of claims settlement.

The crisis in restitution

In the claims lodgment phase, from the inception of the Commission on Restitution of Land Rights (hereafter, “the Commission”) in April 1995 to December 1998, the Commission was hamstrung by ongoing institutional difficulties between the Commission and the Department of Land Affairs, the structural inability to meshing the developmental goals of land reform policy with the Commission’s claim’s settlement systems, and a crisis of leadership within the Commission itself. The Review Task Team identified the crisis within restitution as: slow delivery; management was unable to plan strategically due to an inadequate database of

¹² Restitution in South Africa is quite unlike the models developed in other countries such as Canada, Estonia, Germany and New Zealand. For Canada, Estonia and Germany see Cecilia de Bruyn, Mashile Mokono, Monty Roodt with Kristyna Bishop, “Report on International Precedents for the Restitution of Land Rights in South Africa”, (Pretoria: Department of Land Affairs, August 1999). Garth Cant has addressed restitution in New Zealand, see his “Reclaiming land, reclaiming guardianship: The role of the Treaty of Waitangi Tribunal in Aotearoa, New Zealand”, *Aboriginal History*, 19 (1995) and “Memory Recovered and a Basket of Remedies Negotiated: A Pākehā Perspective on the Settlement of the Ngāi Tahu Land Claim”, *New Zealand Journal of Geography*, 8 (April 1998).

¹³ Cheryl Walker, “Land Reform and Gender in Post-Apartheid South Africa”, (Discussion Paper 98: United Nations Research Institute for Social Development: Gender, Poverty and Well-being, October 1998), 7.

¹⁴ The effects of this legislation in Port Elizabeth is mentioned in Roy du Prè, “The return of the dispossessed: claims to property expropriated under the Group Areas Act in the 1960s and 1970s”, Paper for the 16th Biennial Conference of the South African Historical Society: Land, violence and social problems in the history of southern Africa, Pretoria, 6-9 July 1998, 20.

¹⁵ Restitution was entrenched in the property clause, section 25(6), of the Constitution of the Republic of South Africa (Act 108 of 1996).

¹⁶ Amended by the Restitution of Land Rights Amendment Act (Act 84 of 1995), Land Restitution and Reform Laws Amendment Act (Act 78 of 1996), Land Restitution and Reform Laws Amendment Act (Act 63 of 1997), Land Affairs General Amendment Act (Act 61 of 1998), and Land Restitution and Reform Laws Amendment Act (Act 18 of 1999).

claims and incomplete claimant submissions; “low levels of trust between implementers”; and as a result “high levels of frustration” within the Commission.¹⁷

On 5 November 1998 the recommendations of the Review Task Team were adopted by Minister Derek Hanekom; that is, the expansion of Commission functions integrated in the Department of Land Affairs, and a move away from the settlement of claims within a judicial process in favour of an administrative claims settlement process, allowing for the mass processing of claims (the “restitution silo model”). These recommendations however were initially over-shadowed by the dismissal of Joe Seremane as Chief Land Claims Commissioner.¹⁸ Nevertheless, despite the institutional crisis surrounding restitution, the five regional offices, and the office of Chief Land Claims Commissioner, had begun responding to the demands of settling the 63 455 claims received nationally by 31 December 1998.¹⁹

Implementing an administrative process

As of early 1999, the Commission and the Department of Land Affairs began re-engineering the business of restitution to enable an administrative claims process. It was a frustrating time for Commission offices in which the pressure to deliver settled claims did not match the rate of institutional change or the adoption of revised claims process systems. And in the throes of this process, the newly appointed Minister of Agriculture and Land Affairs, Thoko Didiza began re-evaluating the merits of the restitution programme in terms of transforming rural society.²⁰

Notwithstanding the challenges of re-inventing the institution of restitution faced by an adept leadership, the moral terrain and political ideals of restitution have been, and are, practically undermined by a dogged bureaucracy, insufficient staffing capacity, budgetary constraints, and the unproductive transparency (meetings of meetings) of democratic governance. What was clearly revealed during this time of organisational inertia were the limitations, and non-existence, of essential policy frameworks (for example, historical valuations and tenancy were still under discussion in September 1999).²¹ The institutional instability of the Commission as a branch of the Department of Land Affairs had the effect of not providing restitution research with clear policy directives to enable the delivery of restitution to claimants. But even in that environment, 41 restitution cases were been finalised by the end of March 1999. This figure represented the restoration of 264 615 hectares of land and R50 631 681.00 in financial compensation for 82 021 persons.²²

Restitution in KwaZulu Natal

In the KwaZulu Natal regional office, out of the 14 235 claims received by 31 December 1998, 318 individual and community claims had been settled by 1 September 1999.²³ A further 19 cases were before the Land Claims Court, and nearly a 100 more claims were in the

¹⁷ Andries du Toit, Peter Makhari, Heather Garner and Alan Roberts, “Restitution Review: Findings and Options” (draft report), 27 October 1998, 3. This report was a result of the review of the Commission called for by the National Land Committee and Minister for Agriculture and Land Affairs in July 1998.

¹⁸ The *Mail and Guardian* carried the Seremane-Hanekom confrontation. See the issues dated 9-15 October 1998, 16-22 October 1998, and 23-29 October 1998, 30 October – 5 November 1998, and 6-12 November 1998.

¹⁹ Wallace Mgoqi, “Chief Land Claims Commissioner’s Overview” in the Commission on Restitution of Land Rights, *Annual Report, April 1998-March 1999*, 9. Figures are as at 31st March 1999.

²⁰ See Carol Paton, “New minister cans Hanekom’s land policies”, *Sunday Times*, 25 July 1999 and “Restitution programme and stability – to be accelerated, says Didiza”, *The Farmer*, August 1999.

²¹ Perceptions based on my observations during that process.

²² Mgoqi, “Chief Land Claims Commissioner’s Overview”, 9. These figures include settlements from previous years.

²³ This does not include the settlement of the Mbangweni claim on the eastern shores of Lake St Lucia.

process of being settled administratively.²⁴ However, while it should be noted that to date no claims has been settled claims in Cato Manor, these figures do engender a more optimistic vision of restitution in South Africa.²⁵

As a result of the business re-engineering process within the Commission, the nature and functions of the KwaZulu Natal office claims process units have undergone some change; namely, from a reactive claimant engagement model to a progressive project management claims settlement model. Nevertheless, while the team base model developed in this region has been expanded to include a further two project units (a further rural team and a settlement support unit), the core conceptualisation of claimant categorisation remains: rural, urban (city and small town), and Cato Manor. Each of these teams, along with the administration, communications, and legal components, report directly to the Cheryl Walker, the Regional Land Claims Commissioner: KwaZulu Natal.

In September 1999 the Cato Manor team consisted of a project manager (Mayu Sosibo), three researchers (re-conceptualised as project leaders), a fieldworker, and an administrative arm providing project support. The scope of the Cato Manor team's activities was broadly based on the settlement of some 5 000 claims; namely, the management of the Cato Manor Agreement and liaising with role-players within the Cato Manor Development Association, Durban Metropolitan Council, and State departments; the mediation of claims for restoration of land; assisting in the facilitation of the social process, the provision of sites celebrating the history and heritages of Cato Manor past and present residents, to encourage cultural tourism; the processing and negotiating the settlement of claims, or the referral of disputed claims to the Land Claims Court. Restitution research is the core activity within the Cato Manor claims process, effectively engaging each part of the whole as the engine room for the delivery of restitution within the Restitution Silo. Therefore, if there are any bottlenecks in the claims process, the pace of claim settlement will be impaired.

Framing Restitution Research

Restitution is about the past in the present and hence a political metaphor for change toward the determination of an "equitable" and "just" future. Restitution research is an attempt to re-represent the past, or, put differently, write up not only the histories of how the social order of land ownership changed but also to envisage a new democratic order of society in which the lodgement of land claims has productive and material effects for claimants, the successful settlement of a claim. Restitution research is the production of social texts for legal and political ends, which will ultimately be archived. Therefore, if restitution in South Africa is theoretically utopian, then the research methods developed for the urban areas are the nihilist impulses of millennial sects predicting the end of time.

In the following section, I describe the sources used, the format of research reports, and how restitution research is conducted. The methodological issues raised here will be given content later in the paper as I address the history of landownership and dispossession in Ridgeview Quarry.

²⁴ KwaZulu Natal Land Claims: Statistical Profile, 1 September 1999. For further information, see the synopsis of KwaZulu Natal claims in progress which can be found on the Department of Land Affairs website, <http://dla.gov.za/restitution/KZN.RES.htm>.

²⁵ A significant number of Cato Manor land claims are near to settlement, pending the outcome of the acceptance by the Minister of the Cato Manor mandate to negotiate the monetary value of landowner and tenancy claims. Examples of those claims are: A.M. Cebekhulu, L. Moodley, B.D. Ncgobo, B.R. Nkosi, and the N.Shah claims.

On methods, or Of string and nail

Methods do not stand alone as a category shaping the writing of history. They are infused with theoretical and political meanings; that is, methods are strategic and inform how the content of a history is given form. Current historical practice, informed by thinking in the “post” tense, has given weight to introductory descriptions on methods.²⁶ The result is the positionality of an author is not lost in a maze of information, rather her or his method maps how the traces of the past become historical knowledge. Writing history in this way does add value to the narration of the past but, as Foucault noted in own elusive manner, the rules of doing history selected by an historian “are not intended as methodological imperatives; at most they are cautionary prescriptions.”²⁷ Foucault’s comment does not only apply to historians.

Restitution research is an applied practice. It is interdisciplinary in nature; the methods described in this paper have an historical as well as legal interpretative bias. The results of which are the political responsibilities, to re-write the history of land dispossession in South Africa and provide justice to dispossessed persons, or their descendants today. Therefore, possibly a way of approaching and reflecting on an applied research perspective necessitates an illustration drawn from fiction to consider restitution research methods; namely, Ivan Vladislavic’s *The Folly* (1993).

As a literary text *The Folly* is an ironic description of the possibilities of imagining the restructuring of the social space of post-apartheid South Africa and a deconstructionist play on the limits of language. No matter the reading, Vladislavic representation of the vacant plot (land), the imagining of the planned structure (development), and a sense of community across boundaries (nation), is shattered by Nieuwenhuizen’s uprooting of the secret nail (the past). The novel is pessimistic and casts doubt on utopian visions of change, or at least on the possibilities of discourse augmenting change without some form of dialogic social structure and identity, especially when the past loses any sense of meaning in the present. Vladislavic’s vision is rather one of historical contingency and the specificity of identity (re)formation: the folly of being able to describe what is real or “the past”.

Or, rather, *The Folly* is about how narrative (read: history) is constructed: be that the past, the present, the past in the present, or the future. It is about ways of speaking, describing, analysing, that is, methods of cognitive mapping – essentially the practice of research. Descriptively and poignantly, Mr Malgas stumbles onto a realisation that underpins research methods: “As the geometry of the string proliferated, a disturbing potential arose: with every move Nieuwenhuizen made, some portion of a new house became possible.”²⁸ Surely, if the strategy of Vladislavic’s prose is probed, the narrative logic follows and situates the narrating subject (the author) within a historical/textual context, thereby attempting to evade, unsuccessfully, an authorial presence in the text.²⁹ If this is so, the conceptual maps employed by a researcher represents reality within the limits of language (word) and location (word). And in that nexus information (events) becomes (historical) knowledge, with both social use and political intent - the discourse of restitution is one of many modes of instituting change in the new South Africa.

²⁶ For example see Jean and John Comaroff, *Of Revelation and Revolution: Christianity, Colonialism and Consciousness in South Africa*, Volume 1, (Chicago; University of Chicago Press, 1991), 7-39.

²⁷ Michel Foucault, *The History of Sexuality: An Introduction*, Volume 1, trans. Robert Hurley, (London: Penguin, 1990), 98.

²⁸ Ivan Vladislavic, *The Folly*, (Cape Town: David Philip, 1993), 99.

²⁹ Not unlike a Foucauldian pose, see Mark Poster, *Critical Theory and Poststructuralism: In Search of a Context*, (Ithaca: Cornell University Press, 1989), 120.

The “strings” of restitution research are bound to a specific “secret nail”: dispossessed land rights. Yet, even still, the “string” lies somewhat unravelled about that partially buried “secret nail”, despite the fact that historical sources and a legal framework exist to give it both content and shape.

The content and the form of restitution research

The legal criteria of the Restitution of Land Rights Act provided the framework onto which historical traces and other claim related information were added in making up a research report. The research report reflected a reading of official documentation (Durban City Council and Community Development Board historic property files), cadastral plans, information submitted by claimants, legal documentation, and at times housing development related data. In this way, each research report becomes an archive of the social texts of restitution, a historical trace documenting a specific moment in the history of South Africa and both accountable to the state and the public. They are texts describing the recovery of rights in land lost by claimants and the optimism of change at the personal, economic and political levels.

Each of these texts added layers to the research report, crafted for the purpose of either a mandate to negotiate the settlement of a claim (claims for financial compensation needing the approval of the Minister in terms of section 42D of the Restitution of Land Rights Act), negotiation report (out of court settlement) or a court referral report (disputed claims). The demands of the law, framed by Constitutional imperatives and the Restitution of Land Rights Act set out the political arena in which restitution research occurs. In particular, the criteria in section 2(1) of the Restitution of Land Rights Act drove the investigation of land claims; namely, (i) is the claimant a dispossessed person (including a deceased estate) or a direct descendant, (ii) did the dispossession occur after 1913, (iii) was the dispossession in terms of racial laws and/or practices, and (iv) was just and equitable compensation paid at the time of the dispossession.

These criteria were given form in the structure of the research report. Report formats therefore provide a synopsis of: the history of the claims process within the Commission (lodgement and gazetting); the restitution option chosen by the claimant (restoration of land, financial compensation, alternative state land, or housing allocations); direct descent from the dispossessed person (the claimant(s) details, the number of beneficiaries to the claim, and in the case of an deceased estate, the legal heirs); a description of the property claimed (historical and current details); a history of the dispossession of the land (historical valuations and legislation); a legal analysis of the claim; a list of interested parties to the claim; the claimant’s legal representation; development imperatives which need consideration; the attempts to settle the claim (mediations or negotiations); if a court referral report, the issues in dispute, and the Regional Land Claims Commissioner’s recommendations for the settlement of the claim. Each research report was therefore a social history and legal document of claim for land rights.

All research reports, once completed by a researcher, were, in theory, handed over to the settlement team’s manager for quality control. The report was then tabled at a monthly Negotiation and Prioritisation Committee (NAPCO) meeting for approval by the Regional Land Claims Commissioner.³⁰ In practice, however, there was much interaction between the researcher, the legal officer and the Regional Land Claims Commissioner in the finalisation of a research report, especially court referral reports. This was true of my experience in the researching and writing up of Ridgeview Quarry land claims.

³⁰ NAPCO was a forum, developed in the KwaZulu Natal office, for management to address the claims process.

Restitution and Ridgeview Quarry (Cato Manor)

Cato Manor for many its dispossessed and relocated former residents has become a political memory in which the “historic violence of apartheid can always be treated as a metonymy” of their own life experience.³¹ That experience was amplified by the nearly 40 000 Indians and 120 000 Africans estimated to have lived in Cato Manor during the mid-1950s.³²

The Regional Land Claims Commissioner: KwaZulu Natal received claims from both 15 Indian landowners and 1 304 African tenants who were dispossessed of their rights to Ridgeview Quarry land as a result of racial laws and/or practices during the 1950s, 1960s, 1970s and even in 1990.³³ These dispossessions were enforced by either the Durban City Council or the Group Areas Development Board (later known as the Community Development Board). The Indian landowners were dispossessed of not only freehold ownership rights but also lost income earned from market gardening, trading, or shack renting. In comparison, the African tenants on this land, either shack lords or sub-tenants, held less secure land rights determined by, amongst other, influx control legislation.

The history of land dispossession in Ridgeview Quarry has many layers of narrative. First, the Indian landowners whose land was dispossessed by the Durban City Council as of 1952 to make way for the Cato Manor Emergency Camp. Second the Umkhumbane African residents who were forcibly removed out of Cato Manor, some of which received rental housing allocations in KwaMashu or Umlazi. Third, those landowners who were dispossessed by the Community Development Board in the 1960s as a result of Group Areas legislation. Among these changes the Ridgeview Quarry, which was given official local authority sanction to operate alongside the banks of Umbilo River in 1954, continued its mining of dwyka tillite stone for the Durban construction industry, ensuring the strategic and economic importance of the land in the city.³⁴ Later, in the 1980s, the land parcels 131.6627 hectares in extent previously described as portions of land in SB3 of the farm Cato Manor 812, were consolidated into Subdivision 993 of Lot 76 of Cato Manor by the Durban City Council, and then leased to the quarrying company, Ready Mix Materials, in 1992. The quarry is now owned by the holding company LaFarge SA.

It is largely due to the expansion of the quarry that these land claims came to the fore at this time and were research en bloc by the Commission. In particular the land claims by the Kara family has highlighted the possible inclusion of mineral rights within the land rights lost at the time of dispossession for properties in the current Ridgeview Quarry area. There is retrospective argument based on detailed legal submissions from the claimants, emphasising the calculated and underhand manner in which the Durban City Council acquired the land and prohibited the Kara family from quarrying on subdivision 18 of SB3 of the farm Cato Manor.³⁵ While there is no evidence indicating that the mineral rights were not separated from the title deeds to the claimed properties within Lot SB3 of Cato Manor 812,³⁶ neither the Kara

³¹ Jacques Derrida, *Spectres of Marx*, (London: Routledge, 1994), xv.

³² Surplus People Project, *Forced Removals in South Africa*, 234.

³³ According to W.T. Henstock's Report on the Ownership History in Ridgeview Quarry, 4 February 1999, at least a further 38 land parcels were dispossessed.

³⁴ Stone was quarried from this area as early as the 1860s, see Beverly Ellis, “The Impact of White Settlers on the Natural Environment of Natal, 1845-1870” in Bill Guest and John Sellers, eds. *Enterprise and Exploitation in a Victorian Colony: Aspects of the Economic and Social History of Colonial Natal*, (Pietermaritzburg: University of Natal Press, 1985), 80. The initial quarry area consisted of subdivisions 827 to 832 and a portion of subdivision 889 all of SB3 of the farm Cato Manor 812. In March 1971 the Durban City Council gave authorisation of to the mining company, Ridgeview Quarries, to extend the quarry on a portion of Subdivision 19 of SB3 of the farm Cato Manor No. 812.

³⁵ See the Report of the Commission on Restitution of Land Rights: Ebrahim Kara, 29 May 1998.

³⁶ W.T. Henstock, Report on Mineral Rights, Cato Manor, 11 May 1998.

family nor any other claimants engaged in quarrying activities prior to dispossession. I would argue that restitution of mineral rights, and hence the inclusion of a mineral value for these claims, is beyond the moral and economic responsibility of a theory of restitution grounded in actual rights lost at the time of dispossession.

In many ways, the layers of dispossession then come full circle with the lodgement of the claims in the area in terms of the Restitution of Land Rights Act. During the section 34 legal proceeding in December 1996, Ridgeview Quarry was excluded from the Cato Manor Development Association's Reconstruction and Development Programme urban renewal programme as the land could not be utilised for housing purposes.³⁷ Nevertheless, as a result of the legal pressure and dogged determinism of the Kara family in pursuing the restoration of mineral rights, Ridgeview Quarry land claims became a priority of the office of the Regional Land Claims Commissioner: KwaZulu Natal, in the hope of establishing a legal precedent for urban land claims.³⁸

In May 1998, the five land claims of Ebrahim Kara were referred to the Land Claims Court, specifically in terms of the disputed nature of the inclusion of mineral rights and the historical value of mineral rights in the settlement of the claim in the light of the continued quarrying of the land today. In response to a request by the Land Claims Court, the Commission began a special research project within the Cato Manor Team in December 1998, dedicated to claims for ownership rights in Ridgeview Quarry. The results of that research are quantified in the Tables 1 to 3 below, indicating the profiles of the claimants, particulars of the claims process, and claims before the Land Claims Court.

Principal Claimant	Land Claimed	Relation to dispossessed	Age	Religion	Residence
Ahmed, Pharos	Sub 25, Rem 27, Sub 29 all of SB3 of Cato Manor.	Son	36	Muslim	Phoenix
Gounden, Bogavathiamma	Sub 22 of SB3 of Cato Manor.	Daughter	52	Hindu	Overport
Kara, Ebrahim (Two separate claims)	(1) Sub 18, Rem of 23, Rem of 34, Sub 581 and 582 all of SB3 of Cato Manor. (2) (2) Sub A of 38 of SB3 of Cato Manor.	Son	66	Muslim	Durban
Khan, Amannulla Mohamed	Sub SK of SB3 of Cato Manor.	Grandson	47	Muslim	Mayville
Khan, Amod	Sub KK of SB3 of Cato Manor.	Self	83	Muslim	Kenville
Khan, Ayoob	Sub 36 of SB3 of Cato Manor.	Son	65	Muslim	Shallcross
Khan, Sherally	Subs 32 and 37 both of SB3 of Cato Manor.	Grandson	44	Muslim	Pietermaritzburg
Moodley, Mogamberry	Sub 1 of SB3 of Cato Manor.	Grandson	58	Unsure	Chatsworth
Munisami, Rajoo (Two separate claims)	(1) Sub 813 of SB3 of Cato Manor. (2) Sub 19 of SB3 of Cato Manor.	Self	85	Hindu	Reservior Hills
Paruk, Ismail G. H.	Subs 584, 585, 586 all of SB3 of Cato Manor.	Son	55	Muslim	Durban
Pathan Community Trust (Secretary: Moosa Kara)	Rem of 2 of SB3 of Cato Manor.	-	(est. 1916)	Muslim	(Cato Manor)
Pillai, Muthu	Subs 854, 855, 856, 857, 858, 859 all of SB3 of Cato Manor.	Son	52	Hindu	Phoenix
Rakim, Zubeda	Sub 25, Rem 27, Sub 29 all of SB3 of Cato Manor.	Daughter	51	Muslim	Veralum
Singh, Rathipal	Sub 846 of SB3 of Cato Manor.	Son	53	Unsure	Johannesburg

Table 1: Principal Claimant Profiles.

³⁷ The section 34 application lodged by the Council led to the signing of an uneasy compromise between restitution and development in the form of the Cato Manor Agreement.

³⁸ A process initiated in 1995 by Cheryl Walker and Asma Hassan.

Principle Claimant	File No.	Lodged	Gazetted
Ahmed, Pharos	KRN6/2/3/E/8/813/2716/370	11 May 1996	9 April 1999
Gounden, Bogavathiamma	KRN6/2/3/E/8/813/2716/2794	30 August 1996	10 July 1998
Kara, Ebrahim (1)	KRN6/2/3/E/8/813/2716/85	25 May 1995	17 November 1995
Kara, Ebrahim (2)	KRN6/2/3/E/8/813/2716/85	6 May 1996	Awaiting
Khan, Amannulla Mohamed	KRN6/2/3/E/8/813/2716/218	3 December 1997	24 April 1998
Khan, Amod	KRN6/2/3/E/8/813/2716/381	1 February 1996	16 July 1999
Khan, Ayooob	KRN6/2/3/E/8/813/2716/644	6 May 1996	9 April 1999
Khan, Sherally	KRN6/2/3/E/8/813/2716/85	6 May 1996	Awaiting
Moodley, Mogamberry	KRN6/2/3/E/8/813/2716/2494	9 January 1997	16 July 1999
Munisami, Rajoo (1)	KRN6/2/3/E/8/813/2716/121	4 July 1997	28 November 1997
Munisami, Rajoo and Others (2)	KRN6/2/3/E/8/813/2716/121	14 May 1996	9 April 1999
Paruk, Ismail G. H.	KRN6/2/3/E/8/813/2716/1524	31 January 1998	17 April 1998
Pathan Community Trust (Secretary: Moosa Kara)	KRN6/2/3/E/8/813/2716/87	6 February 1996	Awaiting
Pillai, Muthu	KRN6/2/3/E/8/813/2716/1897	16 April 1996	9 April 1999
Rakim, Zubeda	KRN6/2/3/E/8/813/2716/334	6 May 1996	16 July 1999
Singh, Rathipal	KRN6/2/3/E/8/813/2716/208	16 June 1994	5 March 1999

Table 2: Commission Claim Profile

The claims process engaged for this Ridgeview Quarry Project was one that included four Commission-claimant meetings, locating historical and claimant documentation, the gazetting of the claims, the detailed analysis of the claims, and the writing up of court referral reports. The outcome of the process was that in July 1999 a further 14 land claims for Ridgeview Quarry were referred to the Land Claims Court for consideration alongside the Kara case (LCC44/98).

Principle Claimant	No. of Beneficiaries	Referred to LCC	Case No.	Legal Rep.
Ahmed, Pharos	1	10 July 1999	LCC89/99	Yes
Gounden, Bogavathiamma	4	10 July 1999	LCC87/99	No
Kara, Ebrahim (1)	16	29 May 1998	LCC44/98	Yes
Kara, Ebrahim (2)	16	10 July 1999	LCC91/99	No
Khan, Amannulla Mohamed	1	10 July 1999	LCC90/99	Yes
Khan, Amod	1	10 July 1999	LCC92/99	No
Khan, Ayooob	Khan Family Trust	10 July 1999	LCC86/99	No
Khan, Sherally	10 families	10 July 1999	LCC100/99	No
Moodley, Mogamberry	11 families	10 July 1999	LCC97/99	Yes
Munisami, Rajoo	1	10 July 1999	LCC98/99	Yes
Munisami, Rajoo and Others	4 families	10 July 1999	LCC88/99	Yes
Paruk, Ismail G. H.	4	10 July 1999	LCC99/99	No
Pathan Community Trust	Pathan Community	10 July 1999	LCC93/99	No
Pillai, Muthu	1	10 July 1999	LCC94/99	Yes
Rakim, Zubeda	3 families	10 July 1999	LCC95/99	No
Singh, Rathipal	4	10 July 1999	LCC96/99	No

Table 3: Ridgeview Quarry Cases before the Land Claims Court

The Ridgeview Quarry Case Studies

The histories below represent claims researched while I was the Cato Manor Researcher assigned to Ridgeview Quarry landowner claims. I focus on certain dispossession histories of the Indian landowners to illustrate the means and mode of dispossessions by the local and central state during the years 1950s to 1970s. These are drawn from among the 15 Ridgeview Quarry claims lodged with the Commission by December 1998, ever mindful of the absent

histories of the African tenants who were later forcibly removed from Cato Manor to the township settlements of KwaMashu, Umlazi and other areas in or outside Durban in the early 1960s.³⁹ However, it should be noted that I do not discuss the more contentious histories of the Kara family land claims for mineral rights and the claim for the restoration of the cemetery to the Pathan Community Trust.⁴⁰ Rather I have kept my attention to the dispossession of freehold ownership rights of seven land claims.

Periodisation

The history of land ownership and dispossession in Ridgeview Quarry can be periodised in terms of the shift from the segregationist to apartheid land policies in the passing of the Group Areas Act in 1950. However, there were continuities between the racial practices of the Durban City Council prior to the proclamation of group areas in Cato Manor in 1958 and the use of racial legislation by the Group Areas Development Board (later the Community Development Board) to effect a racial geography in Durban. A narrative progression which therefore reflects the overlapping of neat chronologies in which Indians acquired land in Cato Manor, and then were dispossessed of those land rights by the Durban City Council and the Group Areas Development Board. An experience of the power of apartheid in which the material loss ownership of the land was textually effected in re-inscribing the state into the deeds of transfer and properties diagrams of Ridgeview Quarry. Yet, for the sake of clarity I use the chronological distinction in which ownership was acquired before 1950, and the Durban City Council dispossessions (1950s and 1960s) were followed by the Group Areas Development Board (1960s and 1970s) useful in framing these case studies.

Land ownership and use

In the mid-1840s George Cato acquired ownership of Cato Manor Farm. After his death the farm was subdivided and sold to various parties.⁴¹ The land parcel Lot SB3 of Cato Manor 812 became a legal entity in 1915 when it was transferred from the insolvent estate of Ralph Heathcote Tatham to George MacKeurtan.⁴² Besides the number of whites who took ownership of land in this area, many individual plots of land had come into Indian ownership from the late nineteenth century.

Many of the Indian landowners that purchased properties in the area used the land for private residence, market gardening, trading, or shack renting. In terms of transfers of deceased estates, ownership was passed on to the heir(s), however, in some cases ownership remained in a deceased estate till the date of dispossession. Table 4 provides an overview of the ownership and land use of the Ridgeview Quarry claims.

³⁹ A task reserved for Maduri Daya, who is currently researching claims for tenancy rights in Umkhumbane.

⁴⁰ Each are papers in themselves, and since both are now before the Land Claims Court their stories are yet unfinished.

⁴¹ See W.T. Henstock, Report on Mineral Rights, Cato Manor, 11 May 1998 and Edwards, "Cruel Past, Pivotal Future", 416.

⁴² See Deed of Transfer T1747/1915 and Deeds Office: Outlines of Grants: Cato Manor 812, DI30/GV19F20A.

Acquired	Land	Owner/s	Land Use
1923	Rem of 2 of SB3 of Cato Manor	Pethai Khan, Goolab Khan, Sayed Omer Shah	Cemetery
1925	Sub 1 of SB3 of Cato Manor	Vedachellam, then deceased estate	Market gardening and residence
1927	Rem of 23 and Rem of 34 both of Cato Manor	Essop Kara, then deceased estate	Vacant and shack rental
1927	Sub 32 of SB3 of Cato Manor	Goolab Khan	Market gardening
1928	Sub 18 of SB3 of Cato Manor	Essop Kara, then deceased estate	Shack rental (intended to quarry)
1931	Sub 37 of SB3 of Cato Manor	Goolab Khan	Market gardening
1936	Sub 19 of SB3 of Cato Manor	Brothers: Govinden, Kuppan, Munian and Rajoo Munisami	Market gardening and residence
1937	Sub 36 of SB3 of Cato Manor	Abdul Gaffur	Market gardening
1940	Sub 25, Rem of 27, Sub 29 all of SB3 of Cato Manor	Brothers: Ghulam Mohammed, Abdul Rakhman, Bosthan, Abdulla, Abdool Rakim, Abdool Gafoor and Fazliak Madh	Market gardening and shack rental
1941	Sub 22 of SB3 of Cato Manor	Munsamy, then deceased estate	Vacant
1941	Sub SK of SB3 of Cato Manor	Sadulla Khan, then deceased estate	Shack rental
1945	Sub KK of SB3 of Cato Manor	Mariam and Amod Khan	Residence and trading
1948	Sub A of 38 of SB3 of Cato Manor	Marjan ⁴³	Trading
1949	Subs 581 and 582 both of Cato Manor	Essop Kara, deceased estate	Shack rental
1949 (full share in 1961)	Subs 584, 585, 586 all of SB3 of Cato Manor	Goolam Paruk and Babu John Singh	Shack rental
1953	Sub 813 of SB3 of Cato Manor	Rajoo Munisami	Vacant
1961	Sub 846 of SB3 of Cato Manor	Parbiteer, deceased estate	Vacant

Table 4: Ownership History and Land Use

In the 1940s Indian “penetration” into the commercial spaces of Durban came under increasing pressure. The passing of the 1943 Pegging Act and the 1946 Asiatic Land Tenure Act were the results of white agitation with a growing Indian economic base, and had the further effect of restricting the ownership of land for Indians in Durban.⁴⁴ These political changes were exacerbated in Cato Manor in 1949. The 1949 “race riots” introduced a discontinuity in Indian owners’ control of the use of their land, an induced acquiescence of sorts of their land rights. As a result of that social turmoil, which should be seen in terms of class struggle and access to economic opportunities, most Indian owners vacated properties.⁴⁵ For example, the home built by Vedachellam was destroyed during the rioting.⁴⁶ It was in that new social space that a thriving African shackland community emerged.

This “New Africa” was soon to catch the eye of the local state, which saw the unregulated growth of an urban African presence as a political and public health threat to white Durban. The Durban City Council then took steps to acquire the land. In 1951 the Durban City Council received the approval of the Administrator for Natal and the Minister of Health for the establishment of the Temporary Native Housing Scheme at Cato Manor. As City Valuator and Estates Manager noted:

The purpose of this scheme is to provide sites for the temporary accommodation of Native shack dwellers under a measure of control which, it is anticipated, will

⁴³ Deed of Transfer T7133/1948. She was the wife of Essop Kara.

⁴⁴ See Meer, *The Ghetto People*.

⁴⁵ A political moment still etched in memory of many former Indian residents in Cato Manor. Interestingly, a Ridgeview Quarry claimant noted to me in conversation, in the context of the Land Claims Court’s decision to include tenancy claims for restoration of land rights in the Kara case, that the historic tensions between Indian landowners and African tenants may well surface again if the landowner’s rights were not fully recognised or negatively affected in that court process.

⁴⁶ Claimant interview with Mogamberry Moodley, 12 December 1998.

have the effect of eliminating the unsatisfactory conditions which presently prevail, with particular reference to the public health aspect. The scheme envisaged entails the provision by the City Council of roads, water services, sewage facilities, communal ablution blocks, latrines, etc.⁴⁷

The planning and establishment of the Cato Manor Emergency camp was not unrelated to the wider discourse of the Durban City Council's engagement with the central state's objectives of zones of group areas within the apartheid city. The recommendations of the Technical Sub-Committee in 1951 clearly affirmed segregationist thinking and placed Cato Manor within a zone of white residential and economic privilege.⁴⁸

The Durban City Council and the beginnings of racial dispossessions

In the 1950s the Durban City Council began alienating properties from Indian landowners to create the Cato Manor Emergency Camp. The first phase of Durban City Council dispossessions occurred on the eastern side of Ridgeview Road. The Durban City Council either negotiated the sale or expropriated Indian owned properties in terms of amendments to the Housing Act or provincial ordinances. As a result a number of the hire-purchase agreements held by Indian purchasers were cancelled when the white-owned property speculation company, Lebice Properties (Pty) Ltd sold its properties to the Durban City Council. Yet it should be noted that some Durban City Council dispossessions only occurred in the 1960s, after protracted negotiations with Indian landowners who resisting the Durban City Council's approaches to acquire their land. In what follows, I address the bureaucratic mode of the Durban City Council acquisitions and the effects of the dispossessions themselves.

In most cases, according to official records, the Durban City Council informed individual owners by registered letter in January 1952 of its intention to acquire the properties for the purpose of establishing the Cato Manor Emergency Camp. Clearly evident in that process was the web of documentation and bureaucratic discourse surrounding the establishment of the Cato Manor Emergency Camp. Armed with this bureaucratic power, the duplicity of the Durban City Council can be seen in the following case studies, which illustrate the reactions of the Indians occupying or using the land: the shock at cancelled sale agreements, the resignation of Goolab Khan, the experience of expropriation, and the dogged resistance of market gardeners and traders.

Case Study 1: The cancellation of land rights

The racially based nature of the Durban City Council's dealings in this instance is clearly illustrated in the case of Kristnamsamy Pillai. In January 1947 Krishtnasamy Pillai, through the agents Isaac, Geshen and Company, entered into an agreement of sale with Lebice Properties (Propriety) Limited (hereafter, Lebice Properties).⁴⁹ He acquired access to the six adjoining properties in Ridgeview Estate at a Public Auction Land Sale for a sum of £960; namely, Subdivisions 854, 855, 856, 857, 858, and 859 all of SB3 of the farm Cato Manor 812. In terms of the Memorandum of Agreement, Mr Pillai would receive full transfer of the

⁴⁷ Extract from City Valuator and Estates Manager to Mr G. Khan, 23 January 1953, 2. DMC, RED, J599/2/11/73.

⁴⁸ See Maharaj, "The 'spatial impress' of the local and central states".

⁴⁹ See J.H. Issacs, Greshen and Company to Krishtnasamy, 14 January 1947. Claimant submissions. Commission Records: KRN6/2/3/E/8/817/2716/1897.

property once all payments plus interest had been paid. Until that time, the property was subject to the suspensive condition that ownership remained vested in Lebice Properties.⁵⁰

Yet, as a result of the Durban City Council's negotiations with Lebice Properties the agreement of sale with Krishtnasamy Pillai was cancelled on the 1st December 1952.⁵¹ He therefore lost his rights to acquire ownership. And, as can be seen in the City Valuator and Estates Manager's reply to M.E. Soupen, the Durban City Council held Indian purchasers, despite their anger, at arms length during the process of dispossession by insisting that dealings were only conducted with the registered owner, Lebice Properties.⁵²

On the 8 December 1952 the Panel of Valuers appointed by the Durban City Council assessed the compensation value of the six properties as £1 030.⁵³ This became the agreed upon amount by which Lebice Properties sold the properties to the Durban City Council on 19 December 1952.⁵⁴ These properties were included in the sale of other Lebice Properties land that fell within Zones II and III of the proposed Cato Manor Emergency Camp housing scheme.⁵⁵ The six properties, along with others, were then transferred to the Durban City Council on 26 June 1953.⁵⁶

The historical documentation does not indicate whether the company refunded monies to Krishtnasamy Pillai. However, the claimant, Muthu Pillai, the son of the dispossessed person, has indicated that the compensation paid at the time of dispossession was inadequate.⁵⁷ Krishtnasamy Pillai had been paying monies monthly toward the property since 1947. By September 1950 an amount of £139.14.0 was owing, while £1108.3.7 had been paid towards the properties, inclusive of repayments and interest.⁵⁸ Nonetheless, the effect of the cancellation of the sale and the transfer of the property to the Durban City Council was such that Krishtnasamy Pillai was forced to rent premises elsewhere in Durban.⁵⁹

Comment on Case Study 1

The merits of this case stand on both the lost of unrealised ownership rights and a probable inequitable compensation paid for the properties. The strength of the claim lies in the substantive change in tenure forced upon Krishtnasamy Pillai as a result of the cancellation of the sale agreement, and at a time when the Durban City Council's was enforcing a racial geography onto Cato Manor's landscape.

⁵⁰ Memorandum of Sale [1947]. An incomplete document submitted by the claimant. Commission Records: KRN6/2/3/E/8/817/2716/1897.

⁵¹ Durban City Council Hire-Purchase and Zoning Schedules, December 1952. Durban Metropolitan Council (DMC), Real Estates Department (RED), File No. J599/2/11/36.

⁵² City Valuator and Estates Manager to M.E. Soupan, 29 July 1953. DMC, RED, File No. J599/2/11/36.

⁵³ Valuation certificates, 8 December 1952. DMC, RED, File No. J599/2/11/36.

⁵⁴ Durban City Council, Deed of Freehold Title (including sales receipts) 23 April 1953. DMC, RED, File No. J599/2/11/36.

⁵⁵ Extract from the Minutes of the Durban City Council, 19 December 1952. It should be noted Zones II and III, fell within the boundary of the present-day Ridgeview Quarry, only included the shackland areas of Benoni, Dabulamanzi, Khumalo, KwaKanyile, KwaMnguni, Mount Carmel and New Look, as well as Mkalandodo.

⁵⁶ Deed of Transfer T4850/1953.

⁵⁷ See the claim form submitted by Muthu Pillai. Commission Records: KRN6/2/3/E/8/817/2716/1897.

⁵⁸ J.H. Issacs, Greshen and Company to Krishtnasamy, 2 February 1950. Claimant's submissions: Commission Records: KRN6/2/3/E/8/817/2716/1897.

⁵⁹ Claim form.

Case Study 2: The resignation of Goolab Khan

Goolab Khan, who only spoke broken English, was in nearly 90 years of age in 1953. He had arrived in Natal in the 1890s as a Pathan soldier recruited by Gandhi to assist in the South African War.⁶⁰ He was one of the three founding members of the Pathan Community Trust in 1916, a community organisation whose purpose “was the acquisition of land for the establishment of a cemetery in Cato Manor, where descendants of Pathan soldiers mainly reside, such cemetery to provide for burial of, mainly, Pathans belonging to the Islamic faith and, generally, Muslims.”⁶¹

In March 1953, in response to the Durban City Council’s letter of intent of the previous year, Mr Goolab Khan approached the Council with a translator requesting the speedy purchase of his properties, namely, Subdivisions 32 and 37 both of SB3 of the farm Cato Manor 812. The urgency of the matter was Goolab Khan desire to return to India.⁶² In response the Durban City Council made an urgent appeal to Major Edgar Baden Issacs of the Panel of Valuers to assess the properties.⁶³ They determined the amount of compensation due for each of the properties as £1 500 and £400 respectively.⁶⁴ On 16 June 1953 the Council made an offer to Goolab Khan for the properties based on the assessments. The bureaucratic power of the Durban City Council’s offer was evident in that correspondence: the offer was open for acceptance for a month, thereafter proceedings would be instituted for the compulsory acquisition of the properties by means of the Housing Act (Act 35 of 1920) or the Housing (Emergency Powers) Act (Act 45 of 1945).⁶⁵

On 19 June 1953 Goolab Khan again approached the Durban City Council and complained that the offer was unsatisfactory. He noted that a property, Subdivision 14 of MB4 of the farm Cato Manor 812, purchased by the Durban City Council had received £400 per square acre. However, Mr Khan then accepted the Durban City Council’s explanation that the other property was better situated. While still holding that the offer was too low and, after refusing the expense of legal representation, Goolab Khan agreed to the Durban City Council’s offer of £1 900 for both properties on 22 June 1953.⁶⁶

The Durban City Council adopted the motion to purchase the properties on 6 July 1953.⁶⁷ The property was transferred to the Durban City Council on 29 July 1954 as reflected in the Deed of Transfer, T5778/1953. The final amount paid by the Durban City Council to Goolab Khan was £1 853.17.10, an amount calculated on the compensation of £1 900 adjusted downward to accommodate rate arrears and penalties of £46.2.2.⁶⁸

⁶⁰ See City Valuator and Estates Manager to Principle Immigration Officer, 20 July 1953. Durban Metropolitan Council (DMC), Real Estates Department (RED), File No. J599/2/11/73. This was substantiated during conversations with claimants.

⁶¹ Affidavit of Amod Khan, Chairman of the Pathan Community Trust, 10 June 1996, paragraph 4. DMC, RED, File No. J58/1/1190.

⁶² Handwritten memorandum to Mr Williams, 30 July 1952. DMC, RED, File No. J599/2/11/73.

⁶³ City Valuator and Estates Manager to Major E.B. Issacs, for Panel of Valuers, 9 March 1953. DMC, RED, File No. J599/2/11/73. The Panel of Valuers also consisted of Stanley William Cridick and Aliwal Edward Voysey.

⁶⁴ Panel’s valuation certificates, 15 March 1953. DMC, RED, File No. J599/2/11/73.

⁶⁵ City Valuator and Estates Manager to Goolab Khan, 16 June 1953. DMC, RED, File No. J599/2/11/73.

⁶⁶ Goolab Khan to City Valuator and Estates Manager, 22 June 1953 and Memorandums, 23 June 1953. DMC, RED, File No. J599/2/11/73.

⁶⁷ Acceptance of the Report of the Finance Committee, 29 June 1953: Meeting of Minutes of the Durban City Council Meeting, 6 July 1953. DMC, RED, File No. J599/2/11/73.

⁶⁸ Payment Voucher, City Valuator and Estates Manager to Goolab Khan, 4 August 1953. DMC, RED, File No. J599/2/11/73.

Commentary on Case Study 2

Goolab Khan's resignation to the Durban City Council acquisition of the two properties should be interpreted in light of his old age, a desire to leave Natal and return to India, and possibly meager financial savings. While a racial practice can be construed from the context of the dispossession, Goolab Khan's personal motives and actions clearly weaken a case for restitution. A possibility does exist for a financial settlement based on the amount of historic under-compensation of claim; that is, if a strong argument can be made within a legal context for the beginnings of the skewing of the Cato Manor property market in the early 1950s as a result of the passing of the Group Areas Act.⁶⁹

Case Study 3: The inertia of expropriation

In January 1952 the seven co-owners were informed by the Durban City Council of its intention to purchase the property, subdivision 29 of SB3 of the farm Cato Manor 812.⁷⁰ In following up on that letter, the Durban City Council made a tentative offer on 18 June 1953 to purchase the property for £1 605.⁷¹ In February 1955 this offer was increased to £2 180, after the valuation of property was amended.⁷² It was noted at the time that a failure to accept this offer would result in compulsory acquisition, and considerably less in compensation for the property. Consequently, the co-owners were informed in October 1955 of the Durban City Council's intention to expropriate the property.⁷³

The co-owners accepted the Durban City Council's offer on 5 April 1956.⁷⁴ However, the co-owners delayed in lodging their Title Deed with the Durban City Council. The Durban City Council then took the step of notifying the Provisional Secretary of Natal with a view that as co-owners were "unco-operative", the Minister of Health's consent be sought to institute expropriation proceedings.⁷⁵ As a result, a Notice of Expropriation was served on the co-owners on 21 December 1956 in terms of the Housing (Emergency Powers) Act (Act 45 of 1945) and Ordinance 19 of 1945. The offer to purchase was also withdrawn.

Then in July 1957 the matter was referred to the Natal Arbitration Board. The hearing was adjourned to allow for a settlement, and the Durban City Council approved the settlement amount of £2 180. The property was sold on 5 August 1957.⁷⁶ However, due to the fact that the Title Deeds were lost, added to the fact the Durban City Council's difficulties in gaining the signatures of the certain co-owners, the transfer of the property could not be effected. This was further complicated by the fact that the Durban City Council's newly appointed legal

⁶⁹ This is still not fully substantiated in the available cost based and historical valuation findings which sees the 1958 proclamation in Cato Manor sounding the death knell for property prices.

⁷⁰ City Valuator and Estates Manager to Ghulam Mohamed and others, 23 January 1952. DMC, RED, File No. J599/2/11/30/1.

⁷¹ City Valuator and Estates Manager to Ghulam Mohamed and others, 18 June 1953. DMC, RED, File No. J599/2/11/30/1.

⁷² City Valuator and Estates Manager to Ghulam Mohamed and others, 8 February 1955. DMC, RED, File No. J599/2/11/30/1.

⁷³ City Valuator and Estates Manager to Ghulam Mohamed and others, 5 October 1955. DMC, RED, File No. J599/2/11/30/1.

⁷⁴ Co-owners to City Valuator and Estates Manager, 5 April 1956. DMC, RED, File No. J599/2/11/30/1.

⁷⁵ Town Clerk to Provincial Secretary, 29 August 1956, DMC, RED, File No. J599/2/11/30/1.

⁷⁶ Acceptance of Report of City Valuator and Estate Manager, 24 July 1957, and Report of Finance Committee, 29 July 1957, Minutes of Durban City Council Meeting, 5 August 1957. DMC, RED, File No. J599/2/11/30/1.

officer noted that the purchase of the property was out of order.⁷⁷ While a further arbitration hearing was held in late October 1959 to re-determine the amount compensation, the Durban City Council resorted to its previous offer in the light of the original Notice of Expropriation.⁷⁸

In the meantime Cato Manor had been declared a white group area in terms of Proclamation 153 of 6 June 1958.⁷⁹ In terms of the provisions of the Group Areas Development Act (Act 69 of 1955), the Durban City Council requested certificate deleting the property from the list of affected properties in May 1960. And on receipt of that document, on 6 July 1960, the Durban City Council expropriated the property for housing purposes in terms of Section 11(1) of the Housing Act (Act 35 of 1920), as amended.⁸⁰

The amount of compensation paid to each of the co-owners was £310.13.7. This amount was calculated on the total of £2 180, less a £15 fee for the cost of the Durban City Council's procurement of the previous Title Deed.⁸¹

Commentary on Case Study 3

The case for restitution strengthened as the Durban City Council's bureaucratic process grew over time, expanding the initial racial practice into a skewed property market of the Group Areas context. The co-owners inability to produce a Title Deed does not exonerate the Durban City Council's expropriation of the property for racial purposes. And due to the fact that the expropriation took place in 1960, an amount of under-compensation is probable. It does seem irony that it was the inertia of the Durban City Council's own administrative and legal procedures that made this particular dispossession complex, even without any real resistance from the co-owners.

Case Study 4: Resisting the Durban City Council

The events that surround this property reveal the complexity of the areas past, cautioning one against placing too neat an interpretation on the role of the historical characters in the drama of dispossessions. The history of the remainder of 27 of SB3 of the farm Cato Manor 812, a further property jointly owned by the seven brothers mentioned above in case study 3,⁸² is multi-layered both in terms of land use and its dispossession. It also shows how the contradictions within and between state departments provided these Indian landowners with a means to resist the Durban City Council's dispossession until the late 1960s.

During the 1950s and early 1960s the land was used for market gardening, producing a crop a small banana plantation and about 300 litchi trees with annual revenue of R700 to R800. A number of African families also occupied the property. The property was located in the bend of Ridgeview Road and fell within the KwaKanyile shack area of the Cato Manor Emergency Camp. This area was cleared of shacks by 1964 despite the fact that the Durban City Council had not acquired ownership of the land by that stage.

⁷⁷ Memorandum of Legal Officer, 25 June 1959. DMC, RED, File No. J599/2/11/30/1.

⁷⁸ Town Clerk to City Valuator and Estates Manager, 26 January 1960. DMC, RED, File No. J599/2/11/30/1.

⁷⁹ Government Gazette Notice 6068 of 1958.

⁸⁰ See Deed of Transfer T5451/1960.

⁸¹ City Valuator and Estates Manager to Ghulam Mohamed and others, 14 July 1960. DMC, RED, File No. J599/2/11/30/1.

⁸² They also co-owned subdivision 25 of SB3 of the farm Cato Manor 812.

In 1952 the co-owners were informed of the Durban City Council's interest in the property. However, the negotiations for the sale of the property in the early to mid 1950s were essentially derailed by disputes over the amount of compensation of the litchi trees, despite the fact that the Durban City Council had proposed using the threat of the expropriation to acquire the property. The co-owners also used delaying tactics by initially insisting that this property be sold along with subdivision 29 of SB3 of the farm Cato Manor.⁸³ Yet, in 1956 a portion of the property, Subdivision (Road) of 27 of SB3 of the farm Cato Manor No. 812, had been expropriated for road development.⁸⁴ Later, in 1962, there was confusion within the Durban City Council as to whether the property was still needed for the Cato Manor Emergency Camp, especially as the legal terrain had begun to shift with the removal of shack-dwellers out of the area. The Town Clerk was not sure that an expropriation in terms of the early 1950s consent from the Minister of Health would have weight in the 1960s. Rather, the view was put forward that, as falling in white group area, the property should be acquired to facilitate white ownership in terms of Local government Ordinance 21 of 1942.⁸⁵ His reasoning adopted by the Finance Committee in September 1962.⁸⁶

In January 1963, in accordance with standard procedures for affected properties within Cato Manor, the Group Areas Development Board informed the co-owners that the 'basic value' of the property in terms of Section 19(2) of the Group Areas Development Act (1955) was R5 280.⁸⁷ Mooney, Ford and Partners, the attorneys for the co-owners, objected to the basic value and submitted that the property be valued at R9 000.⁸⁸ In the meantime, the Group Areas Development Board, itself, objected to the Committee of Valuers' assessment, indicating that as there were no ratable building structures on the property, the land value should be R4 500.⁸⁹ It was further noted that the actual extent of the property was significantly less than the extent, including the road's area, used for the initial basic value assessment. The basic value of the property was then re-determined in August 1963 as R4 750.⁹⁰

As an aside to the above administrative paper shuffling, the Group Areas Development Board's acquisition of the shares of the insolvent estates of Abdool Rakim and Abdool Gafoor adds another dimension to the history of this property. In 1960 Syfret's Trust and Executor Company Natal Limited advised the Group Areas Development Board of the insolvent estates of A. Rakim and A. Gafoor intention to sell their shares in the property.⁹¹ In March 1962 the Trustee informed the Group Areas Development Board that the properties, along with others,

⁸³ Memorandum from City Valuator and Estates Manager, 7 May 1954 and Memorandum from City Valuator and Estates Manager, 12 July 1962. DMC, RED, File No. J599/2/11/30. The co-owners asking price for the property was £8 000, including the litchi trees, as opposed to the valuation of the property at £2 570, and £600 for the fruit trees.

⁸⁴ Memorandum from City Valuator and Estates Manager, 12 July 1962. DMC, RED, File No. J599/2/11/30.

⁸⁵ Correspondence between the Assistant City Valuator and Estates Manager and Town Clerk, 8 June 1962 and 29 June 1962. DMC, RED, File No. J599/2/11/30. See also Draft Report of the City Valuator and Estates Manager for the Finance Committee, [c.1962]. DMC, RED, File No. J599/2/11/30. The report also noted the view of S. Bourquin, the Director of the Bantu Administration Department, that as the shack area was being cleared, "no good purpose would be saved in acquiring" the property. Some doubt was also cast over the future plans of the Group Areas Development Board for the area.

⁸⁶ Minutes of the Finance Committee, 17 September 1962. DMC, RED, File No. J599/2/11/30.

⁸⁷ Group Areas Development Board, Notice to Owners and Mortgages, 3 January 1963. Community Development Board (CDB) File No. L4005/3459/4 (Housed with RLCC:KZN).

⁸⁸ Co-owners' objection to the basic value, 18 January 1963. CDB File No. L4005/3459/4.

⁸⁹ Group Areas Development Board objection to basic value, 3 January 1963. CDB File No. L4005/3459/4.

⁹⁰ Group Areas Development Board to Ghulam Mohamed and others, 21 August 1963. CDB File No. L4005/3459/4.

⁹¹ Syfret's Trust and Executor Company Natal Limited to Group Areas Development Board, 7 November 1960. CDB File No. L4005/3459/4.

would be sold by private auction to recover the amount secured by mortgage bonds. The two co-owners' one-seventh shares in the property were offered for sale at a public auction on 2 February 1963. The highest offer received was R20 for the shares by Mr S.N. Colam.⁹² However, in March 1963 the Group Areas Development Board decided to exercise its pre-emptive right and purchased the two-sevenths shares in the properties.⁹³ Group Areas Development Board took transfer of the two-sevenths share in the property on 29 October 1964.⁹⁴

While the above negotiations had taken place, the Council had resumed its attempts to acquire the property in April 1963 and offered R4 830 for the remaining five-sevenths shares. In May 1963 the Indian co-owners made a counter-offer of R5 500; that is, R1 100 for each share. In August 1963, Lionel Birt, the agent for the co-owners, approached the Group Areas Development Board to review the basic value of the property as R7 500 by appealing to the Revision Court.⁹⁵ Mr Birt followed this up by offering to withdraw the appeal on certain conditions; namely, to delete from the List of Affected Property the remaining shares, along with a payment to the Board of an appreciation contribution, and the use of the land till 15 January 1965 to reap their crops of litchis.⁹⁶ In September 1963, while noting the Durban City Council's interest in the property, the Group Areas Development Board decided to accept R3 500 as the market value of the co-owners' shares and agreed to remove the property from the list.⁹⁷

In November 1964 the Durban City Council accepted the Indian co-owners price of R5 500 for the five-sevenths shares.⁹⁸ At his time the Durban City Council informed the Group Areas Development Board of its intention to acquire the property, along with including two-sevenths shares owed by the Group Areas Development Board.⁹⁹ The Group Areas Development Board agreed to sell their shares for R1 600 in March 1965.¹⁰⁰ The Durban City Council was then able to conclude the protracted negotiations of the sale with the Indian co-owners begun in 1952. The Durban City Council adopted the sale on 3 May 1965,¹⁰¹ and the property was transferred to the Durban City Council in October 1967.¹⁰² The final amount paid by the Council to the Indian co-owner was R5 494.83 for their five-sevenths shares in the property, calculated on the compensation amount of R5 500 adjusted downwards to include costs amounting to R5.17.¹⁰³

Even though the Durban City Council finally acquired the property, it did so without the explicit racial mechanisms to effect the dispossession. As a result the co-owners were able to draw income from their crops well into the 1960s. It could be argued that the co-owners' 15 year war of attrition with the Durban City Council was a form of resisting the impending loss of land rights.

⁹² J.H Issacs, Greshen and Company to Group Areas Development Board, 8 February 1963. CDB File No. L4005/3459/4.

⁹³ See Group Areas Development Board Memorandum, 26 June 1963 and the correspondence between Group Areas Development Board and J.H Issacs, Greshen and Company, 8 March 1963 and 30 March 1963. CDB File No. L4005/3459/4.

⁹⁴ Deed of Transfer T13668/1964.

⁹⁵ Lionel Birt to Group Areas Development Board, 27 August 1963. CDB File No. L4005/3459/4.

⁹⁶ Lionel Birt to Group Areas Development Board, 27 August 1963. CDB File No. L4005/3459/4.

⁹⁷ Group Areas development Board decision, 6 September 1963. CDB File No. L4005/3459/4.

⁹⁸ One of those share was now vested in the deceased estate of Fazliak Madh, who had died earlier in 1964.

⁹⁹ Durban City Council to Group Areas Development Board, 13 November 1964. CDB File No. L4005/3459/4.

¹⁰⁰ Group Areas Development Board decision, 16 March 1965. CDB File No. L4005/3459/4.

¹⁰¹ Durban City Council to Group Areas Development Board, 7 May 1965. CDB File No. L4005/3459/4.

¹⁰² Deed of Transfer, T15825/1967.

¹⁰³ Payment voucher, Durban City Council, 22 November 1967. DMC, RED, File No. J599/2/11/30.

Commentary on Case Study 4:

The co-owners' restitution case became stronger over time, especially as the compensation was affected by a fixed 'basic value' within the group areas context. The sale of the shares of the insolvent estates is a clear reflection of the skewing of the market yet the amount received by the remaining co-owners may have been more generous. However, the protracted nature of the negotiations to sell the property was finally resolved in terms of a private treaty with the Durban City Council. The initial purpose of the Durban City Council's acquisition – the establishment of the Cato Manor Emergency Camp – did not hold weight. A strong case will have to be made for the racial nature of the dispossession within the context of group areas legislation and the skewed property market.

“The market is dead”: Dispossessions under the Group Areas Act

A second phase of dispossessions was effected after the 1958 Group Areas proclamation of Cato Manor. During this time the Group Areas Development Board began acquiring Indian owned land to the west of Ridgeview Road in the Ridgeview Quarry area. In these cases of dispossession, the landowners were under-compensated, a reflection of the skewed property market in operation in Cato Manor at the time as a result of Group Areas legislation.¹⁰⁴ In 1964 it was reported to the Group Areas Board that,

The market is dead. Market value placed on properties in the area are purely arbitrary, and are so low that it is futile to attempt to negotiate with owners for the acquisition of their property on that basis. There have been a few tentative enquiries from prospective buyers, but not a single offer has been received.¹⁰⁵

The death of the Cato manor property was a direct result of the proclamation on 6 June 1958 of the area of Cato Manor as a white group area.¹⁰⁶ The land was deemed as an 'affected property' in terms of Section 17(1) of the Group Areas Development Act (Act 69 of 1955). This meant that the owner could only sell the property to a 'qualified' buyer (i.e. a buyer classified as white) and could only make improvements or alterations with the consent of the Group Areas Development Board. These insidious mechanisms of state power as well as the other modes of the bureaucracy of the Group Areas Development Board, later, from 1966, the Community Development Board, are focussed on the in the case studies below. In a way similar to the above section, the dispossessions below illustrate an attitude of least resistance, the contestation of the loss of land rights, and the nature of a dispossession of deceased estates.

Case Study 5: The quiet loss of land rights

The dispossession of Abdul Gaffur's property portrays, even in comparison to Goolab Khan above, a resignation birth within a context of racial legislation. In February 1961 the Group

¹⁰⁴ See R.M. Fitchet, D. Bristow, Y. Moola and C. Bradshaw, *Report to the Commission on Restitution of Land Rights on Historical Valuations Research, Cato Manor, Durban*, 14 November 1997. Their valuation methodology is a the heart of the formula proposed by the Department of Land Affairs to determine the monetary value of claims.

¹⁰⁵ Report on a visit to the Durban Regional Office by Dr C.J. Jooste, 4-6, May 1964, Group Areas Board: Durban: Cato Manor, Vol. 1, Community Development Board records. (These records are housed in the office of the Regional Land Claims Commissioner: KwaZulu Natal).

¹⁰⁶ Proclamation No. 153, Government Gazette No. 6068 of 1958.

Areas Development Board informed the Abdul Gaffur that the ‘basic value’ of subdivision 36 of SB3 of the farm Cato Manor 812 was R4 000.¹⁰⁷ No objection to the basic value was made.

In September 1965 M.N. Pather, acting as the real estate agent for Abdul Gaffur, negotiated the sale of the property to the Durban City Council for R3 000.¹⁰⁸ Later that month, the Group Areas Development Board requested a valuation of the property by the Inspector of Works, J. Terblanche, who valued the property at R2 500.¹⁰⁹ The Group Areas Development Board then exercised its pre-emptive right in November 1965 and offered to purchase the property for the assessed amount.¹¹⁰ The property was transferred to the Board on 2 March 1966.¹¹¹

The final amount paid by the Board to Abdul Gaffur was R3 774.08. Initially R3 715.59 was paid, calculated on the compensation amount of R3 000 adjusted upwards to include a depreciation contribution of R800. A further adjustment downward accommodated a retainer’s fee of R40 and rate payments of R44.41. Later a refund on the retainer’s fee and rates of R58.49 was paid to Abdul Gaffur.¹¹²

Commentary on Case Study 5:

This straightforward restitution case can count on a distinct link between racial legislation and the loss of land rights, as well as the probable inclusion of an amount of under-compensation towards the settlement of the claim.

Case Study 6: Trading rights for compensation?

While the real estate agent, M.N. Pather was seemingly ineffective in Abdul Gaffur’s case, he attempted to contest the amount of compensation offered by the Group Areas Development Board to Marjan, the widow of Essop Kara, for her trading store on the property subdivision A of 38 of SB3 of the farm Cato Manor. However, even in this case he was not successful, largely due to a depreciated property market in Cato Manor as a result of the effects of racial legislation.

In July 1962 the Group Areas Development Board informed the owner that the ‘basic value’ of the property was R4 920.¹¹³ Marjan objected to the basic value and stated that R 8 750 was a fair value for the property, including the value of the trading store.¹¹⁴

There was no further correspondence between Marjan and the state until October 1966, when Mr M.N. Pather, acting as the real estate agent for Marjan, approached the Board after placing the property on the “open market” for R10 000.¹¹⁵ At the Board’s request, the property was valued at R3 240 by B. Mills.¹¹⁶ Later that same month, the Community Development Board

¹⁰⁷ Group Areas Development Board, Notice to owners and mortgagees, 17 February 1961. Community Development Board (CDB), File No. L4005/3454/3 (House with RLCC:KZN).

¹⁰⁸ M.N. Pather to Group Areas Development Board, 12 September 1965. CDB, File No. L4005/3454/3.

¹⁰⁹ J. Terblanche, Valuation Report, 20 September 1965. CDB File No. L4005/3454/3.

¹¹⁰ See Group Areas Development Board decision, 12 November 1965 and Group Areas Development Board to M.N. Pather, 16 November 1965. CDB File No. L4005/3454/3.

¹¹¹ Deed of Transfer T2240/1966.

¹¹² Community Development Board expenditure vouchers, 4 March 1966 and 21 March 1966. CDB File No. L4005/3454/3

¹¹³ Group Areas Development Board, Notice to owners and mortgagees, 17 February 1961. Community Development Board (CDB) File No. L4005/3466/7. (House with RLCC:KZN).

¹¹⁴ Marjan to Group Areas Development Board, [1962]. CDB File No. L4005/3466/7.

¹¹⁵ M.N. Pather to Community Development Board, 14 October 1966. CDB File No. L4005/3466/7.

¹¹⁶ B. Mills valuation report, 8 December 1966. CDB File No. L4005/3466/7.

responded, indicating a possible purchase price of R3 200.¹¹⁷ In the face of a closed market and the power of the state's bureaucracy, Marjan accepted this offer on 10 January 1967. The Community Development Board then purchased the property in terms of the Community Development Act of 1966.¹¹⁸ The property was transferred to the Board on 19 June 1967.¹¹⁹

The final amount paid by the Community Development Board to Marjan was R4 582.34. Initially R4 525 was paid. This was calculated on the compensation amount of R3 200 adjusted upwards to include a depreciation contribution of R1 376. A further adjustment downward accommodated a retainer's fee of R40 and rental payments of R11. Later a refund of R57.34 on the retainer's fee and rental payments less rate payments was paid to Marjan.¹²⁰

Commentary on Case Study 6:

There is clear case for restitution here despite the fact that M.N. Pather, on behalf of the dispossessed person, approached the Community Development Board. By the late 1960s, the Cato Manor market had not lived up to the hope of white interest besides the state. The market was effectively static as a result of effect of the Group Areas proclamation of the area. In that context the compensation paid for the property at the time of dispossession, including trading rights, was neither just nor equitable.

Case Study 7: Dispossessing deceased estates

The effects of racial legislation followed Indian landowners into their graves. A deceased estate was not safe from the restriction the Group Areas legislation placed upon the transfer of an estate. The state was therefore able to acquire properties vested in deceased estates due to provisions stating that the beneficiaries or heirs could not receive ownership of a property in an affected group area. This process can be seen in the how the Community Development Board dispossessed the joint estates of the late Vedachellum and the late Lutchmi of subdivision 1 of SB3 of the farm Cato Manor.

Like all the other case affected by the 1958 Cato Manor proclamation, the owner was informed by the Group Areas Development Board of the 'basic value' of the property, in this instance, the 'basic value' was R6000 and the executor of the estate of the late Vedachellam made no objection to the basic value.¹²¹

In March 1963 G. S. Naidu, the attorney acting for the executor of the estate of the late Vedachellam, in terms of winding up the estate, offered to sell the property to the Group Areas Development Board for R6 000.¹²² At this time the Durban City Council also showed interest in acquiring the land.¹²³ After the death of Vedachellam's widow, Lutchmi Moodley,

¹¹⁷ Community Development Board to M.N. Pather, 19 December 1966. CDB File No. L4005/3466/7.

¹¹⁸ Community Development Board recommendation to purchase property, 7 February 1967 and Community Development Board to Marjan, 4 March 1967. CDB File No. L4005/3466/7.

¹¹⁹ Deed of Transfer, T9112/1967.

¹²⁰ Community Development Board expenditure vouchers, 20 June 1967 and 7 August 1967. CDB File No. L4005/3466/7.

¹²¹ Group Areas Development Board, Notice to owners and mortgagees, 17 February 1961 and Group Areas Development Board to Executor of the estate late Vedachellum, 11 January 1964. Community Development Board (CDB) File No. L4005/3415/2 (House with RLCC:KZN).

¹²² G.S. Naidu to Group Areas Development Board, 7 March 1963. CDB File No. L4005/3415/2.

¹²³ G.S. Naidu to Group Areas Development Board, 29 April 1963. CDB File No. L4005/3415/2.

in 1964, the attorney for the joint estates of the late Vedachellam and the late Lutchmi reiterated the offer to sell to the Board for R6 000.¹²⁴

The Board made a counter-offer of R5 040, stating that was the ‘market value’ of the property at the time.¹²⁵ In August 1965 the executor of the joint estates accepted the offer.¹²⁶ On 15 October 1965 the Board acquired the property in terms of Section 12(2)(b) of Group Areas Development Act of 1955 and took transferred in January 1966.¹²⁷ The Community Development Board then paid an amount of R5 773.37 in compensation to the executor of the estates of the late Vedachellam and the late Lutchmi.¹²⁸

Commentary on Case Study 7:

The joint estates were dispossessed of rights in land, as well as under-compensated. The difficulty will lie in determining who are the beneficiaries the claim, especially as in this case the direct descendants, consisting of 10 large families, stretch down to the fourth generation. Once that is resolved, the division of the settlement amount among the beneficiaries will possibly be contested outside of the restitution arena – a lesson in the effect today of restitution on family dynamics once “justice” has redressed the past.

Conclusion: The Responsibilities of Restitution Research

In short there are three main responsibilities of restitution research: to historico-legal methods; to redress the past and offer a means toward social justice and financial equity for those, or their descendants, dispossessed of land rights; and, in doing so, instituting a progressive political commitment to both the (re)writing of “the past” and the realisation of democratic ideals in South Africa. These responsibilities therefore shape the power of restitution today, the ability to re-shape personal and social histories and the landscape from which those histories were initially etched. There is a sense of personal satisfaction in seeing utopian ideals become reality; and I eagerly await the settlement of the cases described in this paper.

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¹²⁴ G.S. Naidu to Group Areas Development Board, 21 January 1965. CDB File No. L4005/3415/2.

¹²⁵ Group Areas Development Board to G.S. Naidu, 7 May 1965 and B. Mills valuation attached to the Group Areas Development Board recommendation to purchase the property, 8 October 1965. CDB File No. L4005/3415/2.

¹²⁶ G.S. Naidu to Group Areas Development Board, 10 August 1965. CDB File No. L4005/3415/2.

¹²⁷ Group Areas Development Board Agreement of Sale, 15 October 1965, CDB File No. L4005/3415/2, and Deed of Transfer, T882/1966.

¹²⁸ Community Development Board expenditure vouchers, 31 January 1966 and 20 April 1966. CDB File No. L4005/3415/2.