

**WALKER'S FRUIT FARMS LTD & ANOTHER v HOPKINS & OTHERS [1955] 1 All SA 165 (T)**

<p><b>Importance</b></p>	<p>This case is primarily of historical interest as the points of law raised related to interpretation of various sections in the Gold Law Act 35 of 1908. The one point of law which possibly remains relevant is the extent to which the conditions of title attached to land can constrain mining on that land. In this case the court held that the conditions of title in question did constrain the first and second respondents from conducting slate quarrying operations in the district of Walkerville. Turning to the present day, while there is clear precedent establishing that local authorities may determine and regulate land uses in their areas of jurisdiction in line with their constitutional duties, there is no case as yet that examines the effect conditions of title attached to land may have in possibly constraining the carrying out of a prospecting or mining right granted in terms of the Mineral and Petroleum Resources Development Act 28 of 2002.</p>
<p><b>Parties</b></p>	<p><b>First Applicant:</b> Owner of a portion of the farm Hartzenbergfontein in the district of Vereeniging. Also holder of the balance of the unsold agricultural holdings established in the Walkerville region.  <b>Second Applicant:</b> Resident of the farm Hartzenbergfontein  <b>First and Second Respondents:</b> Purchasers of holdings of third respondent (transfer had not yet taken place however) who were carrying on slate quarrying operations on the holdings.  <b>Third Respondent:</b> Holder of one of the agricultural holdings in the Walkerville region.</p>
<p><b>Facts</b></p>	<p>In 1838 the first applicant established agricultural holdings on the farm Hartzenbergfontein in accordance with the Agricultural Holdings (Transvaal) Registration Act 22 of 1919. The agricultural holdings became known as Walkerville. The establishment of the agricultural holdings was approved subject to a number of conditions. These included the condition that the holding was held as an agricultural holding that could be used only for the purposes of the definition of that term in the Act (i.e. solely or mainly for the purposes of agriculture or horticulture or for breeding and keeping domestic animals, poultry or bees). This and the other conditions were registered against the title of each holding.</p> <p>In selling the agricultural holdings the first applicant had not reserved mineral rights in its favour and these therefore vested in the purchasers of the holdings, and thus in the third respondent. The third respondent had sold its holding to the first and second respondents who were carrying out slate quarrying operations on the site.</p> <p>The applicants held that the quarrying operations constituted a nuisance and created unsightly conditions out of keeping with the character of the holdings in Walkerville.</p>
<p><b>Relief sought</b></p>	<p>Whether the conditions of title attached to each of the holdings prohibited the first and second respondents from conducting slate quarrying operations on the holding.</p>

<b>Legal Issues &amp; Judgment</b>	The court had to deal with certain questions of interpretation relating to sections of the Gold Law Act 35 of 1908 which are no longer relevant. The court did however find that while it was true that the respondents, as holders of the mineral rights, had the right to mine for base metals, these rights were limited and controlled by the conditions of title.
<b>Outcome</b>	The application was upheld.
<b>Obiter</b>	None.