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MIND THY NEIGHBOUR

Should your neighbour build an encroaching structure without prior approval from the municipality, you can turn to the court for a removal order should other remedies fail, as was demonstrated in the recent High Court judgement of *Bet-el Faith Mission v Motthame and Others* (hereafter the 'Bet-el' case).

In this case, Mr and Mrs Motthame, who owned the property next to the Bet-el Faith Mission church, built a brick garage on what they thought was their property. However, aerial photographs later showed that the garage encroached on the Mission's land.

The Mission sought the help of the local municipal council, as the couple had not obtained the necessary approval before constructing the garage. The municipality issued a formal notice to the couple, instructing them to demolish the garage. When Mr and Mrs Motthame refused to carry out the municipality's demolition order, the Mission turned to the court for relief. Mr and Mrs Motthame argued in the pleadings that instead of issuing a demolition order, the Court should order the Mission to transfer the land on which the garage had been built to them at a reasonable price. However, the Court maintained that upholding the doctrine of legality must take precedence over personal considerations such as inconvenience, disruption, and financial implications, and ordered the demolition of the garage.

If you are in a similar situation, it is important to take prompt action against your encroaching neighbour to avoid a lengthy and expensive legal battle.