

## **History of the legal fight for the land:**

The Nassar family have fought a legal battle to keep their land in the West Bank since 1991. The issue is ongoing but the family have already achieved much more than many Palestinians. Their battle is widely viewed as a landmark case and it illustrates the broader legal and political issues affecting Palestinian property rights which lie at the heart of the Israeli-Palestinian conflict.

The Nassars' land was bought in 1916 and comprises 400 dunams (100 acres). It is situated on a hill top south of Bethlehem next to the village of Nahalin, and falls within the area now known as the Gush Etzion settlement Bloc. The Nassars registered their land in 1924-5 during the British Mandate period, and possess Land Registration documents that list the boundaries of the land on which they grew wine grapes, fruit and olive trees. They updated their land documents with the Bethlehem Land Registry in 1987 and 2000.

The Nassars discovered their land was under threat by chance. In 1991 they passed a neighbouring farmer on the road who told them he had seen a lot of Israeli military and settlers on their land. After inquiring at the 'Absentee Property Office' in Bethlehem they discovered their land had been declared 'state land'; 7 days had elapsed since an official of the Civil Administration had visited the *mukhtar* of Nahalin, the closest village to their land, with a declaration order but the *mukhtar* had refused to sign it and also failed to inform the Nassars of the visit. Signature or not, the order declaring the Nassars' land 'state land' still held and they considered themselves fortunate to have discovered within the 45 day period that the Civil Administration allows for appeals to be lodged.

Unknown to the Nassars their land had been aerially photographed throughout the 1980s in order to observe ongoing cultivation of their land. The land was no longer intensively farmed in this period owing to the deaths of the two brothers who had worked the land.

However, when the declaration of state land was made no one had first checked land ownership rights to the land with the Nassars; since most of the land in the area they are in is classed as '*miri*' land which quite often means it is not registered, an assumption had been made that the Nassars' land was also unregistered and, due to patchy cultivation in the 1980s could be viewed as state land. But then the Nassars produced their title deeds to the Israeli authorities.

Despite their papers the Nassars still faced an expensive legal appeal with the Civil Administration's military court because the judge ruled their 1924 hand-drawn map accompanying the Mandate documents inadmissible as evidence. Thus according to an Israeli order the property was considered government property until proven otherwise.

In appealing the Nassars had to prove their right to the land either by ownership or through continuous agricultural use and the payment of land taxes. They were therefore obliged by law to hire a land surveyor and a lawyer whose evidence was presented to the appeals committee. After the hearing they waited years until in January 2002 they were told that their appeal had failed and the land was to be taken. They received no explanation.

The Nassars then took their appeal to the Israeli Supreme Court with the help of two Israeli-Palestinian lawyers in August 2002, where the Court judge demanded the military court provide an explanation within 60 days for their ruling. After gaining extensions to this deadline 5 times because he argued 'it is a complicated case and needs more time to study' the State Attorney produced the argument that the Nassar farm's 1991 satellite coordinates did not match exactly the 1924 land documents and one of the four boundary names was different.

The Nassars were advised by their lawyers to hire a leading Israeli land surveyor from the Civil Administration (Josef Kraus) who travelled to Istanbul and London to find land records for their case and verify they owned the land their documents referred to. His report produced in 2004 was emphatic, linked the Nassars to all of their land, but cost the Nassars a further \$70,000.

The State Attorney's office did not challenge the land surveyor's evidence. Eventually after not hearing anything the Nassars' lawyer pressurised the military appeals committee for a response and finally he received a 1 page fax indicating the Nassars could start the process of 'registering' their land – something Palestinians have been prohibited from doing since 1967. This instruction to the Nassars to do so is unique and is viewed by the Nassars lawyers as a 'face-saving' response from the State Attorney's Office.

The registration process required further legal work and another survey of the land, all of which cost around \$15,000. It is unclear whether

Although the Nassars' case is still 'open', lawyers have advised that from a legal point of view it is 90% clear that the Nassars will keep hold of all of their land. The Nassars' land case is illustrative of what Palestinians can expect once a legal battle is embarked on. The cost to the Nassars has been \$145,000 so far.

However even if the Nassars are granted a technical victory registering their land, there are many other factors which threaten the future of the land as a viable farm. See our other information on Israeli Settlements, the Separation Barrier, and Infrastructure.