

Seychelles

## Adjudication of Title Decree

### Chapter 1

Legislation as at 1 June 2020

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# Seychelles

## Adjudication of Title Decree

### Chapter 1

Commenced on 1 July 1979

*[This is the version of this document at 1 June 2020.]*

*[Dec 25 of 1979; Act [5 of 1984](#); Act [3 of 1987](#); S.I. 77 of 1987; S.I. 6 of 1990]*

### Part I – Preliminary and application

#### 1. Short title

This Decree may be cited as the Adjudication of Title Decree.

#### 2. Interpretation

"**adjudication area**" means an area to which this Decree has been applied under [section 4](#);

"**adjudication officer**" means an adjudication officer appointed under [section 5](#);

"**adjudication record**" means the adjudication record prepared in accordance with [section 20](#) in respect of an adjudication section;

"**charge**" bears the meaning ascribed to that word by the Land Registration Act;

"**Registrar of Deeds**" bears the meaning ascribed to the term by the Mortgage and Registration Act;

"**demarcation map**" means a demarcation index map prepared under [section 15](#) in respect of an adjudication section;

"**demarcation officer**" means a demarcation officer appointed under [section 5](#);

"**diagram**" has the meaning given by section 2 of the Land Survey Act;

"**easement**" bears the meaning ascribed to that term by the Land Registration Act;

"**guardian**" means any person appointed under the Civil Code of Seychelles responsible for protecting the interest of any person who is under a disability, whether by reason of age, unsoundness of mind or any other cause;

"**interest in land**" means any right or interest in or over land which is capable of being recorded under the provisions of Land Registration Act;

"**land**" includes land covered with water, all the things growing on land, buildings and other things permanently affixed to land;

"**parcel**" means an area of land separately shown on demarcation map and thereon given a number;

"**recording officer**" means a recording officer appointed under [section 5](#);

"**the register**", "to register", "registered" and "registration" bear the meanings ascribed to those terms by the Land Registration Act;

"**survey officer**" means a survey officer appointed under [section 5](#).

### 3. Application

Nothing in this Decree shall affect or shall be capable of affecting any land or any interest in land registered under the Land Registration Act, not being land which is so registered by virtue of the operation of this Decree.

### 4. Declaration of adjudication area

- (1) Whenever it appears expedient to the Minister that the adjudication and registration of rights and interest in land in any area should be effected, the Minister may, by order published in the *Gazette*, declare that this Decree shall apply to that area and thereupon that area shall become an adjudication area.
- (2) Any order under this section shall define the situation and limits of the adjudication area to which it relates either by means of a plan or by description, or by both, and the Minister may at any time, or by order published in the *Gazette*, vary the limits of an adjudication area.

## Part II – Officers

### 5. Appointment and powers of officers

- (1) Whenever an order made under [section 4](#) is published the Minister shall appoint an adjudication officer for the adjudication area it declares and such demarcation officers, recording officers, and survey officers as may be necessary for performing the duties and exercising the powers and conferred upon them by this Decree in relation to such area.
- (2) The adjudication officer shall, subject to the directions (whether general or special) of the Minister, be in charge of the adjudication under this Decree of rights and interest in land in the area for which he is appointed and may issue such general or special directions as he thinks necessary to the other officers appointed under subsection (1) for such area, and may himself perform and exercise all or any of the duties given under this Decree to demarcation officers and recording officers.
- (3) The adjudication officer shall be competent to administer oaths and take affidavits in any enquiry made by him and to issue summons, notices or orders requiring the attendance of such person or the production of such documents as he may consider necessary for carrying out the adjudication.
- (4) A demarcation officer or survey officer may at any reasonable time enter upon any land within the adjudication area for the purpose of demarcating or surveying any parcel therein and may summon any person who can give information regarding the boundaries.
- (5) An adjudication officer, a demarcation officer and a survey officer appointed under subsection (1) shall be deemed to be a Government surveyor in terms of the Land Survey Act.

## Part III – Claims and demarcation

### 6. Division into adjudication sections

The adjudication officer shall divide each adjudication area into two or more adjudication sections or declare the whole area to be a single adjudication section, and shall give each such adjudication section a distinctive name.

### 7. Notice of adjudication section

- (1) The adjudication officer shall prepare a separate notice in respect of each adjudication section, and in such notice shall—
  - (a) specify the situation and limits of the adjudication section;

- (b) declare that all interest in land in such section will be ascertained and recorded in accordance with this Decree;
  - (c) require any person who claims any interest inland within the adjudication section to make a claim thereto either in person or by agent within the period, to the person, at the place and in the manner specified in the notice:  

Provided that no claim shall be required in respect of land within the adjudication section which is registered under the Land Registration Act;
  - (d) require all claimants to land, other than land registered under the Land Registration Act, within the adjudication section to mark or indicate the boundaries of the land in such manner and before such date as shall be required by the demarcation officer.
- (2) The adjudication officer shall as soon as possible after preparing a notice under subsection (1)—
- (a) cause such notice to be published in the *Gazette* and at such administrative and other offices as he thinks fit; and
  - (b) cause the substance of such notice to be made known throughout the adjudication section and elsewhere in such manner as he considers to be most effective for the purpose of bringing it to the attention of all persons affected thereby.
- (3) The Land Registrar shall, as soon as possible after the publication of a notice under subsection (2), prepare a list of all titles to land in the adjudication section which are registered under the Land Registration Act, and shall provide the adjudication officer with such particulars as he may require in respect of each such registered title.

## 8. Staying of land suits

- (1) Except with the consent in writing of the Registrar of the Supreme Court, no action concerning land or any interest in land in an adjudication section shall be begun in any civil court until proceedings under this Decree with regard to such land or interest have been completed.
- (2) Where, at the time of the publication of a notice under [section 7](#), an action concerning land or an interest in land in the adjudication section referred to in such notice is pending or in progress, such action shall, where practicable, be determined before the adjudication under this Decree of the land or interest therein is commenced.

Provided that it shall be lawful for the Registrar of the Supreme Court at any stage of such action to order that it shall be stayed and it shall be stayed accordingly.

## 9. Restriction on surveys

- (1) Except with the consent of the Director of Surveys, no survey of unregistered land in an adjudication section shall be commenced after the publication of a notice under [section 7](#) in respect of the adjudication section.
- (2) No costs, fee, reward or disbursement on account of or in respect of a survey commenced in contravention of subsection (1) are recoverable in any action, proceeding or matter.

## 10. Claims and attendance

- (1) Every Person claiming an interest in land within an adjudication section shall make his claim in the manner and within the period fixed by the relevant notice given under [section 7](#).
- (2) Every person whose presence is required by the adjudication officer, demarcation officer or recording officer, as the case may be, shall attend, in person, or by agent, at the time and place specified, if any such person fails so to attend, the demarcation, recording or other proceedings may continue in his absence.

## 11. Safeguarding of rights of absent persons and minors

- (1) If the adjudication officer, demarcation officer or recording officer is satisfied that any person who has not made a claim has a claim to any interest in land within the adjudication section, the adjudication officer, demarcation officer or recording officer may, but shall not be bound to, proceed as if a claim had been made, and may call upon the Registrar of Deeds or Land Registrar to supply him with a certified copy of any document relevant thereto and registered under the Mortgage and Registration Act or Land Registration Act as the case may be.
- (2) If the adjudication officer, demarcation officer or recording officer is satisfied that a claim might be established by a minor and that no person has been appointed to represent the minor, he shall refer the matter to the Supreme Court for the appointment of a guardian pursuant to Article 402 of the Civil Code of Seychelles.

## 12. Notice of demarcation and recording

- (1) Not less than seven clear days before the demarcation of land in an adjudication section is begun, the demarcation officer shall give notice of such demarcation and of the time and place at which it will begin, in such manner as the adjudication officer shall deem to be most likely to bring the notice of the demarcation to the attention of the persons likely to be affected thereby.
- (2) Such notice shall require every claimant to indicate the boundaries of the land affected by his claim in the manner specified in the notice.

## 13. Indication of land claimed

Subject to any general or particular directions issued by the adjudication officer, the demarcation officer shall within each adjudication section—

- (a) ensure that the boundaries of each parcel of land which is the subject of claim are indicated or demarcated in accordance with the requirements of the notice given under [section 12](#);
- (b) indicate or cause to be indicated the boundaries of—
  - (i) any public roads, public right of way and other public; and
  - (ii) any unclaimed land.

## 14. Special powers of demarcation officer

The demarcation officer may—

- (a) divide the adjudication section into blocks which shall be given distinctive numbers or letters or combinations of numbers and letters;
- (b) with the consent of the owners concerned adjust the boundaries of any land in the adjudication section or re-allot the same to ensure the more beneficial occupation thereof or to effect a more suitable subdivision thereof; and
- (c) make any reservations he considers necessary for the purpose of defining existing roads and paths or for the better drainage of any land.

## 15. Duties of survey officer

- (1) Subject to any general or particular directions issued by the adjudication officer, the duties of the survey officer shall be—
  - (a) to carry out such survey work as may be required in the execution of the adjudication process; and



- (b) to prepare or cause to be prepared a demarcation index map of the adjudication section on which shall be shown every separate parcel of land, identified by a distinguishing number, except that rivers and public roads shall not be required to identified by a number; and
- (c) to prepare or cause to be prepared a diagram in respect of each separate parcel of land shown on the demarcation map.

Provided that where there is an existing diagram in respect of a parcel of land, it shall not be necessary to prepare a diagram under this paragraph for that parcel of land and existing diagram may be used for all purposes under this Decree.

- (2) In subsection (1) "existing diagram" means a diagram prepared in respect of a parcel of land before the publication of the notice under [section 7](#) for the adjudication section in which the parcel of land is situated or where the Director of Surveys has given his consent under [section 9\(1\)](#), any diagram prepared pursuant to that consent.

## 16. Duties of recording officer

The recording officer shall consider all claims to any interest in land, and, after such investigation as he considers necessary, shall prepare in accordance with [section 20](#) an adjudication record in respect of every parcel of land shown on the demarcation map.

## 17. Disputes

- (1) If in any case—
  - (a) there is a dispute as to any boundary, whether indicated to the demarcation officer or demarcated or readjusted by him, which the demarcation officer is unable to resolve; or
  - (b) there are two or more claimants to any interest in land and the recording officer is unable to effect agreement between them,

the demarcation officer or the recording officer, the case may be, shall refer the matter to the adjudication officer.

- (2) The adjudication officer shall adjudicate upon and determine any dispute referred to him under subsection (1), having due regard to any law which may be applicable, and shall make and sign a brief record of the proceedings.
- (3) In hearing a dispute the adjudication officer shall, so far as may be practicable, follow the procedure directed to be observed in the hearing of civil suits save that, in his absolute discretion, he may admit evidence which could not be admissible in a court of law, and may use evidence adduced in any other claim or contained in any official record and may call evidence on his own motion.

## Part IV – Principles of adjudication and preparation of adjudication record

### 18. Principles of adjudication

- (1) In preparing an adjudication record—
  - (a) if the recording officer is satisfied that a person—
    - (i) has a good documentary title to the land referred to in such record and that no other person has acquired a little to such land under any law; or
    - (ii) has acquired ownership of the land referred to in such record by prescription in accordance with Title XX of the Civil Code of Seychelles,

the recording officer shall record such person as the absolute owner of the land;

- (b) if the recording officer is satisfied that a person is in possession of, or has a right to possession of, the land referred to in such record, but is not satisfied that such person is entitled to be recorded under paragraph (a) as the owner of the land, the recording officer may record such person as qualified owner of the land, and, if he does so, shall also record—
    - (i) the date on which the possession, if any, of that person, began, or is deemed to begin or have begun;
    - (ii) particulars of any deed, instrument or other document under or by virtue of which some estate, right or interest in such land adverse to or in derogation of the entitlement of that person might exist; or
    - (iii) any qualification which affects the title;
  - (c) if the recording officer is satisfied that any land, referred to such record is subject to any right which is registrable as a lease, charge, usufruct, easement or restrictive agreement under the Land Registration Act, he shall record such particulars as shall enable the right and the name of the person entitled to the benefit thereof to be registered under that Act;
  - (d) if the recording officer is satisfied that any land referred to in such record is entirely free from private rights or that the rights existing in or over it do not amount to full ownership and are not such as to enable him to record any person as qualified owner under paragraph (b), he may record such land as "the public domain".
- (2) In performing his duties under this section the recording officer shall observe the rules contained in [section 19](#).
- (3) In this section, the term "good documentary title" means a title founded on documentary evidence which—
- (a) consists of, or commences with—
    - (i) a written law;
    - (ii) a grant or conveyance from the State; or
    - (iii) a grant, conveyance or assignment which is more than 20 years old; and
  - (b) establishes that a person is entitled to land as absolute owner.

## 19. Rules to be followed in adjudication

- (1) All unoccupied land which does not belong to the public domain shall, until the contrary is proved, be treated as if it were land of which the State is the qualified owner.
- (2) The exercise by any person of any rights in or over one or more parcels of land shall not be taken as a presumption in his favour of any rights in or over any greater extent of land than that in or over which such rights are exercised.
- (3) Where two or more persons have rights which will entitle them to be registered as joint owners, the recording officer shall record such persons as joint owners and the share of each such owner.

## 20. Adjudication record

- (1) The adjudication record shall consist of a form in respect of each parcel of land, which form shall show—
  - (a) the number and approximate area of the parcel as shown on the diagram of that parcel;
  - (b) either the name and description of the person entitled to be registered as the owner of the parcel with particulars of his entitlement and of any restriction affecting his power of dealing with it, or the fact that the parcel is the "public domain";

- (c) where the parcel is part of the succession to the estate of a deceased person, that the person entitled to be registered as the owner is described as—
    - (i) in a case where the person deceased died before 1st January, 1976, the heir of the person deceased; and
    - (ii) in any other case the executor of the person deceased.
  - (d) such particulars of any right registrable under the Land Registration Act as shall enable it to be registered as a lease, charge, easement, usufruct or restrictive agreement, as the case may be, affecting the parcel together with the name and description of the person entitled to the benefit thereof and particulars of any restriction affecting his power of dealing with it;
  - (e) if any person shown in the adjudication record is under a disability, whether by reason of age, unsoundness of mind or otherwise, the name of his guardian;
  - (f) a list of the documents, if any, produced to the recording officer and retained by him;
  - (g) the date on which the form is completed.
- (2) When completed the form shall be signed by the recording officer, and, in case of privately-owned land, shall, where possible, include an acknowledgement signed by the owner of the parcel or by his agent, and by any person recorded under subsection (1)(d) as having an interest in such parcel, that such owner and every such person accepts the record.

## 21. Notice of completion of adjudication record

When the adjudication record in respect of any adjudication section has been completed, the adjudication officer shall sign and date a certificate to that effect and shall forthwith, by notice published in the *Gazette*, give notice of the completion thereof and of the place or places at which the same can be inspected together with the relevant demarcation map.

## Part V – Objection and finality

### 22. Objection to adjudication record

- (1) Any person, including the Minister, named in or claiming an interest in any land referred to in any adjudication record or demarcation map or diagram, who considers such record or map or diagram to be inaccurate or incomplete in any respect may, within 90 days of the date upon which the notice of completion of the adjudication record is published, inform the adjudication officer stating the grounds of his objection in such manner as may be prescribed.
- (2) The adjudication officer, after giving reasonable notice to all persons affected by the objection, shall hear the objection, and shall allow or dismiss the objection or otherwise determine the matter in such manner as he thinks just and he may make an order as to costs.

### 23. Procedure on hearing objections

- (1) In hearing an objection the adjudication officer shall, so far as may be practicable, follow the procedure directed to be observed in the hearing of civil suits save that in his absolute discretion he may admit evidence which would not be admissible in a court of law, and may use evidence adduced in any other claim or contained in any official record and may call evidence of his own motion.
- (2) Any proceedings conducted under this Decree by the adjudication officer shall be deemed to be judicial proceeding for the purposes of the Penal Code.
- (3) A record of all proceedings on an objection shall be made or caused to be made by the adjudication officer.

#### 24. Correction of adjudication record

- (1) Any correction in the adjudication record required by a decision of the adjudication officer given under [section 22](#) shall be made by the recording officer, and any alteration in the demarcation map or diagram required by such decision shall be made by the survey officer.
- (2) At any time before the adjudication record becomes final the recording officer may—
  - (a) correct any error or omission not materially affecting the interests of any person; and
  - (b) with the consent of every person whose interest is affected, make in the adjudication record any alteration which in his opinion is necessary.

#### 25. Finality of adjudication record

- (1) After the expiry of 90 days from the date of the publication of the notice of completion of the adjudication record, or on determination of all objections in accordance with [section 22](#), whichever shall be the later, the adjudication officer shall—
  - (a) where the diagram has already been approved by the Director of Surveys, make out and sign a certificate to the effect that the adjudication record, the diagram and the relevant demarcation map have become final;
  - (b) where the diagram has not yet been approved by the Director of Surveys, submit the diagram to the Director of Surveys for his approval under the Land Survey Act and, as soon after receiving the diagram approved by the Director of Surveys, make out and sign a certificate to the effect that the adjudication record, the diagram and the relevant demarcation map have become final.
- (2) The adjudication officer shall, after making out the certificate under subsection (1), deliver to the Land Registrar—
  - (a) the adjudication record;
  - (b) the diagram, approved by the Director of Surveys;
  - (c) the relevant demarcation map; and
  - (d) any other document received by him in the process of adjudication.

#### 26. Cost of adjudication survey

- (1) The costs of survey at such rate as may be prescribed shall be borne by the owner of the land adjudicated and constitute, until paid, a charge in favour of the Government on the land adjudicated.
- (2) The Land Registrar shall, upon receipt of the adjudication record in respect of any parcel of land, register the charge referred to in subsection (1) under section 43 of the Land registration Act.

### Part VI – Appeals

#### 27. Appeal to Supreme Court

- (1) Any person, including the Minister, who is aggrieved by any act or decision of the adjudication officer and desires to question it or any part of it on the ground that it is erroneous in point of law or on the ground of failure to comply with any procedural requirement of this Decree, may, within three months from the date of the certificate of the adjudication officer under [section 25](#) or within such extended time as the Supreme Court in the interest of justice, may allow, appeal to that Court in the prescribed form.

- (2) On any such appeal the Court may, if satisfied that the decision is erroneous in point of law or that the interests of the appellant have been substantially prejudiced by failure to comply with the procedural requirements of this Decree, make such order or substitute for the of the adjudication officer such decision as it may consider just and may order rectification of the register, and the order or decision of the Supreme Court shall be final and conclusive and shall not be questioned in any proceedings whatsoever.
- (3) Notwithstanding section 90 of the Land Registration Act, no indemnity shall be payable to any person by reason of any rectification of the register under subsection (2).
- (4) A decision of the Supreme Court on appeal under subsection (1) shall be in writing and copies of it shall be furnished by the Court to the Land Registrar, to the appellant and to all other parties to the appeal and, by the Land Registrar, to all other parties who, in his opinion, may be affected by the appeal.
- (5) Any person, including the Minister, appealing under subsection (1) shall give notice to the Land Registrar of his intention to appeal and the land Registrar shall enter a restriction under section 84 of the Land Registration Act in every register affected by the appeal.

## **Part VII – Miscellaneous**

### **28. Fees**

Every person who is a party to any proceedings under [section 22](#) shall be required to pay such fees in respect of the proceedings as may be prescribed.

### **29. Offences**

Any person who—

- (a) after the delivery of a summons issued under this Decree, willfully neglects or refuses to attend in pursuance of such summons, or to produce any document which he is required to produce;
- (b) willfully neglects or refuses to answer upon oath or otherwise any question which may lawfully be put to him under this Decree by any officer; or
- (c) without reasonable cause willfully neglects or refuses to indicate his land or to assist in the demarcation of his land when required under this Decree to do so by a demarcation officer,

shall be guilty of offence and liable to a fine of R.10,000 and to imprisonment for six months.

### **30. Indemnity of officers**

No officer shall be liable to any action or proceedings for or in respect of any act or matter done in good faith or omitted to be done in exercise or supposed exercise of the powers conferred by this Decree.

### **31. Regulations**

The Minister may make regulations for the purpose of carrying into effect the provisions and purposes of this Decree.