

25

IN THE SEYCHELLES COURT OF APPEAL

GERARD NICETTE

APPELLANT

versus

VIOLETTE PIERRE

RESPONDENT

Civil Appeal No: 10 of 1998

*[Before: Ayoola, P., Pillay & De Silva, J.J.A]*

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Mr. F. Simeon for the Appellant

Mr. F. Bonte for the Respondent

JUDGMENT OF THE COURT

*(Delivered by De Silva, J.A)*



This is an appeal against the judgment of the Supreme Court awarding the plaintiff, (the respondent) a total sum of Rs84409.65 for breach of contract against the defendant who is now the appellant before this Court. It is not disputed that the respondent entered into a contract with the appellant to construct a house for the respondent at Cascade, Mahe. It is further admitted that a sum of Rs.158700 has been paid to the appellant. The respondent averred that in breach of contract the appellant left the work site and refused to complete the work he had undertaken. The respondent claimed from the appellant a total sum of Rs.122,550.61 as damages, the particulars of which are as follows:-

1.	The excess sum of money taken	Rs.51,409.65
2.	Material unaccounted for	Rs.30,000.00
3.	Lost interest at the Commercial rate of 10%	Rs. 8,140.96
4.	Legal costs	Rs. 5,000.00
5.	Valuation fees	Rs. 3,000.00
6.	Damages	Rs. 25,000.00

The Learned Counsel for the appellant first submitted that there was no evidence of a contract between the respondent and the appellant. When it was pointed out to Learned Counsel that paragraphs 3 and 4 of the plaint were admitted by the appellant, the submission was not pressed.

The next submission of Learned Counsel for the appellant was that the award of damages was excessive. On a consideration of the evidence and the detailed findings of the Learned Judge, we consider that there is no merit in this submission. The claim for damages in a sum of Rs.25,000/- was disallowed as no evidence was led in support of the claim. For the same reason the claim of Rs.8140.96 for lost interest was not allowed. The claim for legal costs was struck off as this is usually taxed and "there is no need to claim it as a separate head". The Learned Judge having carefully considered the evidence awarded the respondent a sum of Rs.30,000/- for materials unaccounted for, Rs.51,409.65 for other money unaccounted for and Rs3000/- as valuation fees. These findings are supported by the evidence.

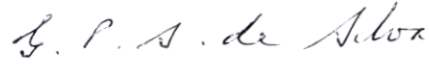
The judgment of the Supreme Court is accordingly affirmed and the appeal is dismissed with costs.



**E.O. AYoola**  
**PRESIDENT**



**A. G. PILLAY**  
**JUSTICE OF APPEAL**



**G. P. S. DE SILVA**  
**JUSTICE OF APPEAL**

Dated at Victoria, Mahe this 16<sup>th</sup> day of April 1999.