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IN THE SEYCHELLES COURT OF APPEAL

MRS ANNE MOUSBE APPELLANT

versus

MISS ANNE MOUSBE & OTHERS RESPONDENTS

Civil Appeal No: 27 of 1998

[Before: Silungwe, Pillay & De Silva, JJJ.A]

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Mr. D. Lucas for the Appellant
Mr. J. Renaud & Mr. S. Rouillon for the Respondents

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JUDGMENT OF THE COURT

(Delivered by Pillay J.A)

This is an appeal against a decision of the Supreme Court which dismissed the plaint of the appellant, then the plaintiff, that the six defendants, now the respondents, who are in one way or another related to the appellant's husband, had illegally entered her premises, had harassed and intimidated her, assaulted her daughter and broken several items of furniture. The Court also dismissed the appellant's claim that, by reason of their acts, the respondents had caused severe strain to the appellant and her family and led the appellant to file for judicial separation from her husband.

We shall first deal with grounds 1, 2, 3, 5 and 6 of the appellant's grounds of appeal which question the findings of fact of the trial Court. It is quite clear from the evidence adduced on behalf of the appellant, i.e. the evidence of the appellant herself, of her husband and of her daughter, that although it was only the second respondent who was invited to come to the house of the appellant by the latter's husband, all the other respondents

came thereto and all six respondents then started harassing and swearing at the appellant in front of the latter's children. According to the appellant, her husband and her daughter, the appellant never swore at any of the respondents. When asked to leave by both the appellant and her husband who are the co-owners of the house, the respondents refused to do so, so that the police had to be called in. The respondents also had caused some damage to an armchair and some flower pots when they were in the verandah of the appellant's house.

Against that evidence, there was the version of the first respondent who deponed on her behalf and that of the third respondent and went against her plea by claiming that it was at the invitation of the appellant that she came to the latter's house so that the plea had to be amended in the course of the trial and the evidence of the second respondent who deponed on her behalf and that of the fourth, fifth and sixth respondents and stated that she came to the house of the appellant at the invitation of the latter's husband. Both respondents, however, claimed that the appellant swore at them but denied having harassed, intimidated or sworn at the appellant or having caused damage to the appellant's furniture and flower pots.

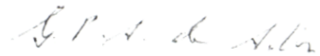
Although we are perfectly aware that a Court of Appeal is normally reluctant to disturb the findings of fact of a trial Court, we consider in the special circumstances of this case that the learned Judge ought to have preferred the version of the appellant to that of the respondents, the more so as it was supported by the testimony of her husband who is related to all the respondents and we are left in the dark as to why the trial Judge chose to reject his evidence.

Granted that the second respondent was invited over by the appellant's husband but the fact of the matter remains that the other five respondents had no such proven invitation. In any case, all six

respondents were specifically asked to leave when they started harassing and swearing at the appellant but they refused to do so and continued to cause distress to the appellant. By so doing, they committed "a faute", in our opinion, against the appellant for which they are liable in damages.

Taking into account all the relevant circumstances of the case, we consider that SR500 is a reasonable sum for the damage caused to the armchair and flower pots whereas the appellant should be entitled to SR3000 as moral damages for trouble and annoyance. We agree with the learned Judge, however, that there was no cogent evidence on record to show that the acts of the respondents had caused the appellant to separate from her husband.

In the light of our conclusion, we need not consider the remaining two grounds of appeal. In the result, we quash the judgment of the trial Court and order all the respondents jointly and severally to pay to the appellant the sum of SR3,000 + SR500 as moral and material damages respectively.



A. M. SILUNGWE	A. G. PILLAY	G. P. S. DE SILVA
JUSTICE OF APPEAL	JUSTICE OF APPEAL	JUSTICE OF APPEAL

Dated at Victoria, Mahe this 6th. day of August 1999.