

IN THE SEYCHELLES COURT OF APPEAL

ROBERT CONFAIT & OTHERS

APPELLANTS

versus

1. PATRICK TALL

2. GOVERNMENT OF SYCHELLES

RESPONDENTS

Civil Appeal No: 32 of 1998

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

Mr. F. Elizabeth for the Appellants  
Ms. K. Domingue for the Respondents



JUDGMENT OF THE COURT

*(Delivered by Pillay J.A)*


The appellants, then the plaintiffs, in their capacity as heirs, legal representatives and "ayant droit" of the deceased had brought an action in tort against the respondents, then the defendants, for the sudden death caused to the deceased whilst in custody of the first respondent, a Superintendent of Prisons. The trial Court upheld the plea in limine of the respondents that the action of the appellants was time-barred under section 3(a) of the Public Officers (Protection) Act (Cap 192). The appellants are now appealing against this decision


We have not been persuaded by the arguments of learned Counsel for the appellants that the period of prescription should run as from 19 May 1997 when legal aid was granted to them to institute the action. It is a well-known maxim that everyone is presumed to know the law and cannot plead ignorance thereof or of the legal rights available to him or of the provisions of the Public Officers (Protection) Act. It is significant that the appellants chose not to reply to the preliminary point raised by the


respondents in their defence to the effect that the action was time-barred. The appellants ought to have pleaded by way of reply the particular time they had knowledge of the facts and acts on which their cause of action was based. There is no need for us to decide on this appeal whether lack of knowledge is material.

In any event, the learned Judge had generously accepted the submission of learned Counsel for the appellants that it was only at the conclusion of the inquest held by the Magistrate, i.e on 27 December 1996 that the appellants learnt for the first time of certain events that could give rise to the liability of both respondents in tort. Even so, since the action of the appellants was commenced on 15 July 1997, it was outside the period of six months prescribed by the Public Officers(Protection) Act by over two weeks, as rightly pointed out by the learned Judge.

There is no merit in this appeal which is dismissed. We make no order as to costs.

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

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

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

Dated at Victoria, Mahe this 22nd. day of April 1999.