IN THE SEYCHELLES COURT OF APPEAL

ADMIRALTY ACTION IN REM
(Against the vessel "Global Natali) **APPELLANT**

versus

THE OWNERS AND CHARTERERS OF THE VESSEL "GLOBAL NATALIE" **RESPONDENT**

Civil Appeal No. 59 of 1997

AND

THE OWNERS AND CHARTERERS OF THE VESSEL GLOBAL NATALIE **APPELLANT**

VERSUS

TEXTILE BAQUIT **RESPONDENT**

Civil Appeal No: 7 of 1999

[Before: Ayoola, P., Silungwe & De Silva, JJ.A]

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Mr. R. Valabhji for the Appellant
Mr. P. Boulle for the Respondent

JUDGMENT OF THE COURT

(Delivered by Ayoola, P.)

By judgment delivered on 13th April 2000 this Court ordered that Elpida Marine Company Ltd ("Elpida") be joined as a defendant in the action then (and still) pending in the Supreme Court, between Textil Baquit v Davies and Charters of the vessel "Global Natali" on the ground that Elpida has been proved to be owner of the vessel from 12th February 1997. By an application dated 3rd August 2000 Textil Baquit ("the appellant") prayed "(a) for an order to review of (sic) the interlocutory

order of the Court of Appeal dated 13th April 2000, (b) for direction on the procedure to be followed and (c) for consequential order to help resolve the question arising as set out in the attached submission". The application contains no grounds whatsoever why a review of our judgment was sought but attached to it was a document titled "Submissions on behalf of the Respondent".

Counsel on behalf of the respondent in answer to the notice of motion raised the point that the application was incompetent on the grounds, inter alia, that "the order and discretion sought are not within the jurisdiction of the Court of Appeal".

Rule 15(1) of the Seychelles Court of Appeal Rules 1978 provided that:-

> *"The Court may of its own motion or on application correct any slip or accidental error arising in its proceedings, so as to give effect to the manifest intention of the court, notwithstanding that the proceedings have terminated and the Court is otherwise functus officio in respect thereof."*

However, in this case there was no "slip or accidental error" to be corrected and the decision of this Court as contained in the judgment represented our manifest intention.

To the same effect as Rule 15(i) but in different words is O 20 r.11l of the English Rules of the Supreme Court which provided that:-

> *"Clerical mistakes in judgements or orders, or errors arising thereon from any accidental slip or omission may at any time be corrected*

by the Court on motion or summons written appeal."

A note on the application of the rule is contained in paragraph 20/11/2 of the Supreme Court Practice, 1985 p 384 where the following passage occurred:-

> "The error or omission must be an error in expressing the manifest intention of the Court, the Court cannot correct a mistake of its own in law or otherwise, even though apparent on the face of the order (Bright v Sillar [1904] 1KB6; Re Gist [1904] 1 Ch.398, p 408) such as a mistake due to a misunderstanding of a rule or statute (Benthey v O'Sullivan [1925] W.N. 95)".

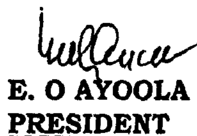
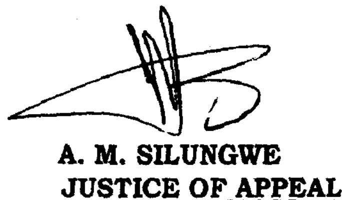
In the present case what counsel for the appellant wanted us to do is to review our judgement on the merit as if we were sitting on appeal over our own decision. He graciously conceded that he had no authority for what he requested us to do, and we are not surprised. There will be no finality to decisions if a Court which has decided a case should have the jurisdiction to reconsider its decision after it has been delivered. The process of reconsideration and review will be endless and the value of the judicial process as a mechanism of dispute resolution will be lost. It is in the interest of the State that there should be an end to litigation.

Counsel for the applicant has referred us to the case of **Arnold & Or v National West Minister Bank Plc** [1991] 3 AllER 41 (H.L) which was authority for the view that "There might be an exception to issue estoppel in the special circumstance that there had become available to a party further material relevant to the correct determination of a point involved in the earlier proceedings, whether or not that point was

specifically raised and decided, being material which could not by reasonable diligence have been adduced in those proceedings" (see also **Arnorld v National Westminister Bank Plc**: The Times, April 26, 1991). However, it is evident that that was not a case in which the court was invited to review its own decision or re-open a case after it has given a decision and has become functus officio.

Learned counsel for the respondent was right when he argued that the submissions of the appellant which ~~was~~ were incorporated as part of the notice of motion attempted to re-open an appeal in a manner unfounded in procedural law is unsound in legal reasoning. We feel no hesitation in agreeing with him.

The application is clearly incompetent and must be refused. The respondent is entitled to costs of the application.

E. O AYOOLA	**A. M. SILUNGWE**	**G. P. S. DE SILVA**
PRESIDENT	**JUSTICE OF APPEAL**	**JUSTICE OF APPEAL**

Dated at Victoria, Mahe this 12th day of *April* 2001.