

IN THE SEYCHELLES COURT OF APPEAL

Siana Bistoquet

Appellant

V

Mandana Ross

Respondent

SCA 18 of 2010

[Before : Fernando, Twomey and Karunakaran, JJA]

F. Bonté, Attorney-at-law for the Appellant

J. Camille, Attorney-at-law for the Respondent

Date of hearing: 3rd April 2012.

Date of judgment: 13th April 2012.

JUDGMENT

Twomey, JA

1. The Appellant brought a case in the Supreme Court on the 25th September 2009 against the Respondent for specific performance of a contract, namely for the retransfer of a distracted piece of land from a parent parcel already transferred to the Respondent.
2. The Respondent filed a defence and counterclaim to the suit on 14th January 2010 in which she claimed that it was a term of the contract that the Appellant would build a house, retaining wall and access road in exchange for the transfer of land.
3. In her defence to the counterclaim on 25th March 2010, the Appellant though putting the Respondent to strict proof of her counterclaim submitted that the retaining wall had been built as had the access road apart from its "concrete surface."
4. On the 19th May 2001 the Respondent filed an application for interim injunction praying for an order that she be restored the right of

access to her property and that the Appellant be refrained from further interrupting her right of access until the final determination of the suit.

5. In his ruling of 23rd July 2010, the learned trial judge Bernadin Renaud found “the inconvenience the Petitioner (now Respondent) will suffer by a refusal is greater than that which the Respondent will suffer by the grant of an injunction.” He exercised his discretion in favour of the Petitioner (now Respondent) and ordered the status quo maintained until the final determination of the case and ordered the Appellant to restore access to the Respondent’s land.
6. The Appellant has appealed on one ground alone, complaining that the learned judge had by the granting of the interlocutory injunction created a right of access to the Respondent which had never been agreed or granted by deed.
7. Learned Counsel for the Respondent responded in his head of argument, submitting that the appeal is a foul **section 12 (2) (a)** of the **Courts Act**. He has also submitted on the substantive ground but we need not trouble ourselves with his arguments as we entirely agree with him on the procedural issue. Leave to appeal does not lie of right from any interlocutory judgment or order of the Supreme Court as is clearly provided in the Courts Act. No leave to appeal was applied for and granted by the Supreme Court in this case.
8. Hence, this Appeal is therefore dismissed with costs.

I concur

I concur

M. Twomey

A. Fernando

D. Karunakaran

Justice,

Justice,

Justice,

Court of Appeal

Court of Appeal

Court of Appeal

Delivered at Victoria, Mahé, Seychelles, this 13th day of April 2012.