

IN THE SEYCHELLES COURT OF APPEAL

1. The Government of Seychelles
2. The Attorney General

Appellants

v

Charles Alfred Paul Moulinie
(Executor of the estate of the
late Michel Paul Moulinie)

Respondent

SCA 16 of 2012

[Before: Domah, Twomey and Msoffe JJA]

Counsel: *Ronny Govinden, Hon. Attorney General,*
 Jayath Chinasammy, Principal State Counsel,
 A. Madeleine, Assistant Principal State Counsel for
 Appellants
 P. Boullé for the Respondent

Date of hearing: 22nd and 25th April 2013

Date of order: 25th April 2013

Order

Mathilda Twomey, JA

[1] In this matter relating to the transitional provisions of the Constitution of Seychelles, namely section 14(1) of Part III of Schedule 7 (Land Acquisitions), we delivered our judgment on 7th December 2012 ordering inter alia that the government return “such parts of PR13 as have been agreed.” We further ordered that the case be called “at the next sitting to ascertain what progress has been made in the disposal of cases under Part III of Schedule 7.”

[2] The case was duly cause-listed for 22nd April 2013. In the intervening period, the Respondent filed a motion supported by affidavit in which it claimed that the order of the Court in respect of the return of parts of PR13 had not been complied with. The Appellants responded with a supporting affidavit sworn by the Principal Secretary, Yves Choppy claiming that parts of

parcel PR13 could not be returned as they were “developed with housing agriculture, community and recreational infrastructure, roads and public infrastructure and land bank pots...” Both parties attached a number of plans and other documents with their affidavits.

[3] At the hearing it became clear that contrary to what the parties had intimated to the court as concerned the land to be returned, it was in reality far from settled. The case was adjourned for 25th April to enable the Appellants to show why the land had not been returned as per the Court’s order.

[4] At the hearing of the 25th April emotive exchanges took place between the parties. The Court intervened to remind the parties of the serious constitutional commitment by the Government in such cases and the difficulties posed by third party development on the land acquired and still unreturned. Mr. Boullé gracefully conceded that land comprising of buildings occupied by third parties but not registered in their names would have to be excised from PR13. That gesture is welcomed given the history of the case.

[5] At the same time we place on record the personal presence of the Attorney General at the monitoring stage of the hearing and the Principal Secretary of the Ministry of Land Use and Planning as parties directly involved. It shows the goodwill on the part of the State to settle this matter once and for all.

[6] In the circumstances we make the following orders:

- (1) Existing buildings, their curtilage and access roads to them are to be excised from Parcel PR13 and are to remain in Government ownership against compensation at market value for the part excised.
- (2) The remainder of PR13 is to be immediately returned to the Respondent.
- (3) Excision of the land and buildings referred in (1) is to be completed within one month of this order, as agreed between the parties.

[7] This matter will be called at the next session to ascertain compliance with the said orders, it being understood that for any delay beyond the one month agreed, the State will be liable to the owner for indemnity for illegal use and occupation under the law of Seychelles.

With costs.

S.B. Domah
Justice of Appeal

M. Twomey
Justice of Appeal
Appeal

J. Msoffe
Justice of
Appeal

Delivered at Victoria, Mahé, Seychelles this 3rd day of May 2013