

# IN THE SEYCHELLES COURT OF APPEAL

**Before: Justice F. MacGregor**

**Civil Appeal SCA MA 04/2018**

**(arising in SCA 03/2017)**

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In the matter of  
Island Development Company Limited

Applicant

Versus

LCP Developments Limited  
Government of Seychelles

1st Respondent

2nd Respondent

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Heard: 19 February 2018

Counsel: Ms Edith Wong, standing in for Mr. Francis Chang Sam for the Applicant

Mr. Divino Sabino for the 1<sup>st</sup> Respondent

Ms. Brigitte Confait for the 2<sup>nd</sup> Respondent

Delivered: 27 February 2018

## RULING ON MOTION

F. MacGregor (PCA)

1. This is a Motion for early hearing of this appeal specifically to be heard in our next April session, for reasons set out in a supporting affidavit plus a supporting summary of the latest state of Poivre Island, the location of the dispute between Appellant and 1<sup>st</sup> Respondent to the appeal.

2. At the outset although the Application entitles the next session as the April session, only one day of that session is in April, the 30<sup>th</sup>.  
All the other days of the session are in May.
3. In the hearing of this application I had cited several hurdles, obstacles and issues before an early hearing can be considered.
4. Foremost among them are that the records are not in order, hence I would require compliance with r.23(2)n of the Seychelles Court of Appeal Rules as to the completion of the records.
5. That alone precludes granting of this application, amongst also other reasons in principle that I find, there is partly a contribution to Laches in this case by the Applicant.
6. The case before us took 5 years to finalize in the court below, comprising an estimated 31 days set for hearing spread over the years 2013, 2014, 2015 and 2016.

In between were an estimated 13 days of mentions effectively adjournments and two mentions for mediation.

This is an unacceptable drag and delay of the case.

7. On adjournments I would observe sometimes they are taken, or allowed too easily and without appropriate justification or objection to it when mentioned. That is a responsibility which not only the courts but counsel bears.
8. After judgment below it took about a year for this application to come here, when Counsel should know very well there is a que of pending cases before the Court of Appeal and could have inquired very early on when and where early consideration could have been given as early as April 2017, as it is there are 20 civil cases before yours as of date of your application.

9. Also Applicant could have promptly applied for execution. Naturally and inevitably on that being done 1<sup>st</sup> Respondent, and Plaintiff below would have applied for Stay. On that application Applicant could have easily put conditions such as early hearing and security for costs. This they failed to do. This a glaring example of Indolence, the base of Laches.
10. The principle of Laches needs to be emphasized for this case and others who should be wary of being guilty of Laches and its consequences.
11. Laches is Negligence or unreasonable delay in asserting or enforcing a right. The equitable doctrine that delay defeats equities, or that equity aids the vigilant and not the indolent. A court of equity has always refused its aid to state demands, where a party has slept upon his rights and acquiesced for a great length of time. Nothing can call forth this court into activity but conscience, good faith and reasonable diligence; when these are wanting the court is passive and does nothing.
12. In the particular case here, and I would want not only counsel but your clients to take heed of it and its consequence.
13. In conclusion I would consider an earlier hearing in the next August session subject to
  1. The records being in order as per the rules.
  2. That it is in order in reasonable time before the listing of the August session which is generally done as soon as the prior session is over.
  3. Due to estimates of the records being rather lengthy I want the hearing of this appeal wholly dealt with by written submission subject to what the court may want the parties to respond to in court.
  4. The grounds of appeal must comply with the Rules. As of date of this Ruling some have not been complied with, by the 1<sup>st</sup> Respondent and risk not being heard.

5. As both Applicant and 1<sup>st</sup> Respondent bear some responsibilities or contribution to the Laches, each side will bear its own costs.

F. MacGregor (PCA)

Signed, dated and delivered at Palais de Justice, Ile du Port on 27 February 2018