

IN THE SEYCHELLES COURT OF APPEAL

Civil Appeal SCA MA 13/2019

Roy Laurette	1 st Applicant
Estate of the late Anne Morel Herein represented by the Executor Emar Joyce Morel	2 nd Applicant
Emar Joyce Morel	3 rd Applicant
Jean Francois Morel	4 th Applicant
James Marc Morel	5 th Applicant
Jovis Michel Morel	6 th Applicant
Iven Ernard Morel	7 th Applicant

Versus

Lina Savy	1st Respondent
Monique Boniface	2 nd Respondent
Marjorie Philoe	3 rd Respondent
Marth Adelaide	4 th Respondent
Jemma Boniface	5 th Respondent
Helene Francoise	6 th Respondent
Charles Payet	7 th Respondent
Charline Payet	8 th Respondent

Heard: 20 August 2019
Counsel: Mr. Nichol Gabriel for the Applicants
Mr. Joel Camille for the Respondents
Delivered: 22 October 2019


RULING ON MOTION

F. Robinson (J.A)

1. This is an application by way of notice of motion, dated the 27 May 2019, seeking an extension of time for the applicants to file their notice of appeal against the judgment of the Supreme Court dated the 11 April 2019 in CS 08/2017 [2019] SCSC 147. The application seeking an extension of time was lodged with the Registrar of the Supreme Court on the 28 May 2019. Written testimony from applicant No. 1 (para 1 of the affidavit in support of the application) was offered of the fact that he had been authorised by the other applicants to swear the affidavit in support of the application – that is, to give sworn written evidence as a witness.
2. Written testimony from respondent No. 1 (para 1 of the affidavit in support of the affidavit in reply) was offered of the fact that she had been authorised by the other respondents to swear the affidavit in reply. The respondents have objected to the application for extension of time.
3. Pursuant to Rule 18 (1) of The Seychelles Court of Appeal Rules 2005: "*[e]very appeal shall be brought by notice in writing (hereinafter called "the notice of appeal") which shall be lodged with the Registrar of the Supreme Court within thirty days after the date of the decision appealed against.*"
4. Rule 26 of The Seychelles Court of Appeal Rules provides: "*[t]he times fixed within these Rules may, on good cause shown, be extended by the President or a Judge designated by the President or may be extended by the Court*". Hence it is a discretionary power vested in the Court which can be exercised in favour of an applicant only on good cause shown.
5. The applicants delayed by four days in filing the notice of appeal. Para 5 of the affidavit in support states the cause for delay in filing, as follows: "*5. [t]hat the Assistant Registrar of the Court of Appeal did tax the appeal documents on the same date but due to my Counsel heavy commitments before the different Courts he was late in collecting the tax documents for payments at the accounts. By then the one month delay had already lapsed.*" The Court observes that the affidavit has been very poorly drafted. In addition the applicants did not

offer details on the commitments. The affidavit does not even contain any material which can serve as the basis for the assessment of the arguability of the grounds of appeal. The Court mentions as well, that the judgment had not been exhibited to the affidavit. Overall the deficiencies establish a lack of significance and urgency on the part of the applicants in making this application.

6. In *Aglae v Attorney General (2011) SLR 44* the Appellate Court guided by *Ratnam v Cumarasamy and Another [1964] 3 All ER 933*, stated: "[t]he rules of court must, prima facie, be obeyed, and, in order to justify a court in extending the time during which some step in procedure requires to be taken, there must be some material on which the Court can exercise its discretion. If the law were otherwise, a party in breach would have an unqualified right of extension of time which would defeat the purpose of the rules which provide a timetable for the conduct of litigation. In **Ratnam** supra, the applicant for extension of time had filed the notice of appeal and furnished security for costs of the appeal timeously, but had delayed by four days in filing the records of appeal which comprised the Memorandum of Appeal and other miscellaneous documents.
7. For the reasons given above, the Court is satisfied that the applicants have failed to show good cause for the Court to consider exercising its discretion to extend the time to file the notice of appeal. Thus the Court dismisses the application. The Court makes no order as to costs.



F.(Robinson (J.A))

Signed, dated and delivered at Palais de Justice, Ile du Port on 22 October 2019.