

**IN THE COURT OF APPEAL OF SEYCHELLES**

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**Reportable**

[2022] SCCA 51 (19 August 2022)  
SCA 67 & 74 of 2019  
(Appeal from CS 03/2018)

**In the Matter Between**

Barry Laine	<b>1<sup>st</sup> Appellant</b>
Derothy Laine	<b>2<sup>nd</sup> Appellant</b>
Amanda Chang-Waye	<b>3<sup>rd</sup> Appellant</b>
<i>(all rep. by Mr Bryan Julie)</i>	
and	
Lise Batienne <i>(rep. by Mr Basil Hoareau)</i>	<b>1<sup>st</sup> Respondent</b>
Basil Hoareau <i>(rep. in person)</i>	<b>2<sup>nd</sup> Respondent</b>
Alix James Michel <i>(rep. by Mr Basil Hoareau)</i>	<b>3<sup>rd</sup> Respondent</b>
Jean-Claude Michel <i>(rep. by Mr. Frank Elizabeth)</i>	<b>4<sup>th</sup> Respondent</b>
Sebastien Pillay <i>(rep. by Mr Basil Hoareau)</i>	<b>5<sup>th</sup> Respondent</b>
Mervyn Marie <i>(rep. by Mr Basil Hoareau)</i>	<b>6<sup>th</sup> Respondent</b>
Joel Henriette <i>(rep. by Mr Basil Hoareau)</i>	<b>7<sup>th</sup> Respondent</b>
Regency Corporate & Secretarial Services (Pty) Ltd <i>(rep. by Mr. Frank Elizabeth)</i>	<b>8<sup>th</sup> Respondent</b>

Leslie Boniface  
(rep. by Mr Basil Hoareau)

9<sup>th</sup> Respondent

George Thande  
(rep. by Mr Basil Hoareau)

10<sup>th</sup> Respondent

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**Neutral Citation:** *Laine & Others v Bastienne & Others* (SCA 67 & 74 of 2019) [2022]  
SCCA 51  
(Arising in CS 03/2018)  
(19 August 2022)

**Before:** Twomey-Woods, Robinson, Andre JJA

**Summary:**

**Heard:** 3 August 2022

**Delivered:** 19 August 2022

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### ORDER

- (1) Appeal is dismissed in its entirety
  - (2) Orders of the learned Judge, striking out and dismissing the suit, are upheld.
  - (3) With costs in favour of all the respondents
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### JUDGMENT

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**ROBINSON, JA**

#### *Introduction*

1. This is an appeal from a ruling of a learned Judge of the Supreme Court, which upheld the pleas in *limine litis* raised by the respondents.
2. The second respondent abandoned his cross-appeal in the skeleton heads of argument filed on behalf of the respondents.
3. The pleas in *limine litis* raised by the respondents are as follows —

- "1. *The Plaintiffs have wrongly and illegally joined different causes of action in the same suit despite the different causes of action being against different Defendants, and consequently, the Plaint ought to be set aside or struck out;*
2. *The Plaintiffs have no rights and/or locus standi to institute the present suit;*
3. *The Plaintiffs have no rights and/or locus standi to institute certain of the causes of action contained in the present suit;*
4. *The causes of action challenging the holding of the Extraordinary General Meeting, and the resolution passed at the said meeting appointing the 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> Defendants as Directors of TVT, are prescribed and/or is being brought out of time;*
5. *A number of causes of action set out in the present suit ought to have been commenced by Petition in accordance with the Companies (Supreme Court Proceedings) Rules rather than by suit;*
6. *The Plaint ought to be dismissed - in accordance with section 92 of the Seychelles Code of Civil Procedure - as it is frivolous and vexatious;*
7. *Further, the Plaint ought to be dismissed under the inherent powers of the court on the ground that it is frivolous and vexatious or an abuse of the Court's process;*
8. *[...];*
9. *[...]."*

4. The respondents did not pursue pleas 8 and 9.

5. The appellants challenged the ruling of the learned Judge on the following grounds —

1. *The Learned Trial Judge erred in law by applying Company Law to the claim of the Plaintiffs in this case in that the Learned Judge failed to apply the provisions of the civil court and gave his findings wrongly.*
2. *The Learned Trial Judge misapplied the concept of locus standi in this case because the suit was filed by the Plaintiffs, not in any representative capacity or class action.*

3. *The Learned Trial Judge erred in law in finding that the suit was frivolous and vexatious when there is no evidence at all to substantiate his finding on this issue.*
  4. *The Learned Trial Judge erred in his judgement that the Plaintiffs abused the process of the court when there is no evidence to come to such conclusion.*
  5. *The Learned Trial Judge erred in substantial law and in procedural law by accepting documents from the Defendant Basil Hoareau without following the rules as to admissibility of documents in evidence.*
  6. *The Learned Trial Judge erred in applying Section 4 of the Courts Act in exercising his equitable powers whereas this Section does not apply to abuse of the court.*
  7. *The Learned Trial Judge erred in his judgement that the Plaintiffs should have invoked the Company Act for their remedy in that he failed to appreciate that the Plaintiffs have the right to choose the course of action under which to proceed." [Verbatim]*
6. The appellants moved this Court to set aside the learned Judge's ruling and remit the case to the Supreme Court to be heard by another learned Judge on the merits.

***Consideration of the appeal***

7. On the 2 August 2022, at 10 50 a.m., on the eve of this appeal, the appellants handed this Court a document titled — *"This Final Submission document is to be read in conjunction with the 103 pages Appeal Submission dated 7 September 2020 and the Summary of Appeal Submission dated 7 December 2020"*. That document, which appeared to contain six new grounds of appeal, was entirely disregarded by this Court at the appeal.
8. We also remark that the appellants did not file skeleton heads of argument in breach of the Seychelles Court of Appeal Rules, 2005, as amended. At the appeal, the respondents relied on their skeleton heads of argument. The appellants relied on their *"APPEAL SUBMISSION"* dated the 8 September 2020, hereinafter referred to as the *"Written*

Submissions". The Written Submissions contained seven appendices, which the appellants chose not to rely upon. The appendices included the following matters — *"point by point response to judgment, 1st appellant's affidavit submission unfairly rejected by the Judge, comparison between fraudulent acts and companies act misdemeanours, no justification for Foss v Harbottle, Bibliography & case laws researched, Letter to the Chief Justice and author's profile and qualifications."*

9. We have considered all the materials on file in dealing with this appeal. We reluctantly considered the Written Submissions of the appellants, who did not file skeleton heads of argument.
10. We found that the appellants' Written Submissions were of poor quality — 103 pages of unhelpful verbosity. As a result, it was difficult to either identify or understand the issues, contentions and positions. Moreover, we observe that the Written Submissions were inadequate in supporting the grounds of appeal.
11. The serious irregularities in this appeal were compounded by the fact that the appellants' Written Submissions raised countless grounds of appeal in breach of the Seychelles Court of Appeal Rules, 2005, as amended. The Written Submissions discussed *inter alia* issues relating to natural justice, violations of the appellants' human rights, *"violation of the code of professional responsibility"* by the learned Judge, *"complaints"* made by the appellants to the Constitutional Appointments Authority and so forth. The Written Submission also made a serious allegation in that the learned Judge *"displayed judicial bias and unfair conduct"*.
12. We now consider the suit filed by the appellants. The plaint contained 48 pages and 241 paragraphs of verbosity. Both Counsel for the respondents submitted that it contained countless irrelevant and unnecessarily detailed averments, which were repetitive in nature. Both Counsel added that it was prepared with the apparent objective of harassing the respondents. They proceeded to submit that the plaint had not been presented or prepared in an intelligible form, and as such, the respondents were

embarrassed in responding to the merits of the plaint. The learned Judge found that the plaint fell foul of legal propriety. We agree. With all due respect to Mr Julie, the plaint is not a model of felicitous drafting.

13. We reiterate the function of pleadings —

*"The function of pleadings [...] is to ascertain with precision the matters on which the parties differ and the points on which they agree; and thus to arrive at certain clear issues on which both parties desire a judicial decision.*

*In order to attain this object, it is necessary that the pleadings interchanged between the parties should be conducted according to certain fixed rules [...]. The main purpose of these rules is to compel each party to state clearly and intelligibly the material facts on which he relies, omitting everything immaterial, and then to insist on his opponent frankly admitting or explicitly denying every material matter alleged against him. By this method they must speedily arrive at an issue.*

*Neither party need to disclose in his pleading the evidence by which he proposes to establish his case in the trial. But each must give his opponent a sufficient outline of his case." Odgers on Pleading And Practice Nineteenth Edition by G.F. HARWOOD & B.A HARWOOD at p. 74.*

14. This Court, in dealing with the concept of abuse of process in *Gomme v Maurel [2012] SCA 342, CA 6/2010*, stated —

*"Courts cannot stay unconcerned where their own processes are abused by parties and litigants. There is a time where they have to decide that enough is enough where lawyers have not advised their clients [...]. Courts have a duty to intervene to stop abuses of such legal and judicial processes."*

15. For the reasons stated above, the appeal is dismissed in its entirety. We uphold the orders of the learned Judge, striking out and dismissing the plaint. With costs in favour of all the respondents.

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F. Robinson, JA

I concur

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Dr. M. Twomey-Woods, JA

I concur

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S. Andre, JA

Signed, dated and delivered at Ile du Port on 19 August 2022.