

**IN THE COURT OF APPEAL OF SEYCHELLES**

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**Reportable**

[2022] SCCA 74 (5 December 2022)

SCA MA 37/2022

(Appeal from SCA 3/2020)

In the matter between

**Sabrina De Souza Jahnel**

**John Aubrey De Souza Jahnel**  
(*Inops consilii*)

**Applicants**

and

**Patrick Putz**  
(*rep. by Mr Camille*)

**Respondent**

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**Neutral Citation:** *De Souza Jahnel & Anor v Putz* (SCA MA 37/2022) [2022] SCCA 74  
(Arising in SCA 3/2020) (5 December 2022)

**Before:** Twomey-Woods, Robinson, Tibatemwa-Ekirikubinza JJA

**Heard:** 5 December 2022

**Summary:** Finality of judgments is in the interests of justice — Court is *functus officio*  
— Court has no jurisdiction to entertain the application

**Delivered:** 16 December 2022

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**ORDER**

The application is dismissed with no order as to costs

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**RULING**

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**Robinson JA**

1. The case before the Supreme Court concerned the sale by a property owner (Flory Fonseka-Larson, the Deceased) of a bare interest in a property (Parcel V17060) to her nephew, Patrick Putz while reserving the usufructuary interest in the same to herself for the remainder of her life. Two years after the sale, the Deceased passed away. The

Applicants, the two children of the Deceased, the then Plaintiffs, brought an action for rescission of the sale on the basis that there had been *lésion* of more than half of the property's value.

2. The Supreme Court gave judgment in favour of the Applicants and made the following orders in their favour —

"(i) [t]he Transfer of Title No. V17060 of the 12 October 2011 and registered on the 19 January 2012, is rescinded accordingly, and the said property shall form part of the Estate of the deceased, the late Therese Flory Floriana De Souza is formerly known as Therese Floriana Larson; and  
(ii) [t]he Respondent shall pay costs inclusive of the cost of the expert report for the valuation of the property in question."

3. The Respondent, the then Defendant, appealed the judgment. The majority judgment allowed the appeal and quashed the orders of the learned trial Judge.
4. The Applicants have filed this application, claiming that the majority judgment "*has completely overlooked the merits in terms of law and facts*". The Applicants have asked this Court *inter alia* to set aside its judgment, SCA 3/2020. At the appeal, the Applicants relied on their application and the written submissions filed by the first Applicant. The Respondent denied the Applicants' claims at the appeal but did not offer any submissions.
5. We have considered the application and the written submissions. The issue is whether or not this Court has jurisdiction to entertain this application. The written submissions do not offer any reliable submissions on the issue. Essentially, the Applicants contended that the majority judgment was wrong on the issue of *lésion*. We hold that this Court has no jurisdiction to entertain this application. We also hold that the outcome of the appeal in SCA 3/2020 is final, and this Court is *functus officio*. We add that this application is an abuse of the process of this Court and falls within the definition of frivolous and vexatious.

6. For the reasons stated above, the application stands dismissed.

7. We make no order as to costs.

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F. Robinson (JA)

I concur:

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Twomey-Woods (JA)

I concur:

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Tibatemwa-Ekirikubinza (JA)

Signed, dated and delivered at Ile du Port on 16 December 2022.