

COURT OF APPEAL OF SEYCHELLES

Reportable

[2023] SCCA 25 (4 July 2023)
SCA MA 20/2023
(Arising in SCA 26/2021 and SCA
27/2021)

Jeanne D'Arc Isabelle Savy
(*rep. by Serge Rouillon*)

Applicant

And

Meria Nourrice
(*rep. by Amanda Faure*)

Respondent

Neutral Citation: *Savy v Nourrice* (SCA MA 20/2023 [2023] SCCA 25 (Arising in SCA 26/2021 and SCA 27/2021 (4 July 2023)

Before: Robinson, JA

Heard: 27 June 2023

Summary: The outcome of the appeal and cross-appeal is final, and this Court is *functus officio*

Delivered: 4 July 2023

ORDER

The Application is dismissed with no order as to costs.

RULING

F. Robinson JA

1. The notice of motion is seeking the following orders from this Court —

"a. an urgent hearing of this Application; and

b. for an order that using the Court's inherent powers the execution of Judgment in case SCA26/2021 and SCA27/2021 dated 26th April 2023 be

stayed pending the final determination of Supreme Court case c.s. 127 of 2019; and

c. other consequential orders for the proper formal registration of Title V18949 in the name of the Applicant." [verbatim]

2. The affidavit in support of the notice of motion averred, inter alia —

"3. *That after receipt of the judgment I discovered that there is a Supreme Court case c.s.127 of 2019 currently pending which involves a dispute over the right to the property V18949 subject of this case (Copy of Supreme Court Plaintiff and amended Plaintiff attached marked Exhibit B and C).*

4. *That I filed my appeal several years ago and I am not a party to the dispute between the parties in case c.s. 127 of 2019 which has the name Meria Louise Nourrice born Lebon as the second defendant and I am afraid of the consequences if I am to purchase property under the order of the honourable within the time limit set whether I will actually get good title to V18949.*

5. *That the prayer in the (i) original Plaintiff in case CS127 was;*

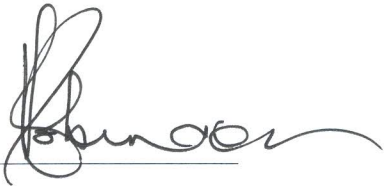
"1. Declare that the Application for Partition of parcels V18947, V18948, V18949 and V19323 dated 27 September 2019 is null and void:

2. Declare that the transfers of Parcels V18948 and V18947 to the Third and Fourth Defendants, respectively are null and void:[...]"

6. *That it is in the interest of justice for the Judgment of this honourable court for specific performance to be stayed and for the time limit therein not to start running until the final determination of the suit c.s. 127 of 2019 before the Supreme Court otherwise I will lose out even more than I have already from this whole set of transactions as recorded in the Appeal booklet.*

[...]" [verbatim]

3. Counsel for the Applicant failed to provide the legal basis for the application to stay the judgment of this Court. On the other hand, Counsel for the Respondent contended that the Court of Appeal had already reached a final decision in the appeal and cross-appeal. I agree with this argument and hold that the outcome of the appeal and cross-appeal is final and this Court is *functus officio*. Additionally, the application filed by the Applicant falls within the definition of frivolous and vexatious.
4. For the reasons stated above, I dismiss the application and make no order as to costs.

A handwritten signature in black ink, appearing to read 'F. Robinson', written over a horizontal line.

F. Robinson JA

Signed, dated and delivered at Ile du Port on 4 July 2023.