

COURT OF APPEAL OF SEYCHELLES

Reportable

[2023] SCCA 50 (25 August 2023)

SCA 04/2022

(Arising in CS 15/2020)

Mountain View Investment Pty Ltd

(rep. by Mr Frank Elizabeth)

Appellant

and

Jenny Pomeroy

(rep. by Ms Alexandra Benoiton)

Respondent

Neutral Citation: *Mountain View Investment Pty Ltd v Pomeroy* (SCA 04/2022) [2023] SCCA 50 (Arising in CS 15/2020) (25 August 2023)

Before: Fernando President, Robinson, Tibatemwa-Ekirikubinza, JJA

Heard: 9 August 2023

Summary: The Seychelles Court of Appeal Rules 2005 as amended — Skeleton heads of argument filed out of time in breach of the Rules — Grounds of appeal combined in breach of the Rules — Grounds of appeal are vague or general in terms in breach of the Rules

Delivered: 25 August 2023

ORDER

- (i) The appeal is deemed withdrawn and consequently stands dismissed
 - (ii) With costs in favour of the Respondent
-

JUDGMENT

Robinson JA

(Fernando President, Dr. L. Tibatemwa-Ekirikubinza JJA concurring)

THE BACKGROUND

1. The Respondent transferred the land comprised in title number PR4611 to the Appellant for a consideration of 1,800,000/- rupees on 6 December 2006 (hereinafter referred to as

the "*Transfer of Land*". According to the Appellant, the Transfer of Land was made subject to certain conditions reproduced verbatim hereunder —

- i) The Defendant will keep the house in good tenantable condition and "en bon père de famille".*
 - ii) The Defendant was obliged to allow the Plaintiff to inspect the properties when agreed with the Defendant when required.*
 - iii) The Defendant will pay for the annually renewed insurance of the property and keep it insured at all times.*
3. *The Defendant's sister will occupy the house for 25 years thereafter".*

2. The Appellant claimed that the Respondent has acted in breach of the conditions of the Transfer of Land by constructing new buildings and structures on the property without getting written approval from the Appellant and the necessary permits. Additionally, the Appellant claimed that the Respondent's sister does not live in the house, but the Respondent allowed her son to house Indian workers on the property.
3. As a result, the Appellant has suffered loss and damage for which the Respondent was liable to make good to the Appellant. The Appellant in its particulars of claim has specified "*loss of use and enjoyment of property*" amounting to 500,000/- rupees.
4. The Appellant prayed to the trial Court for a judgment ordering the Respondent to pay to it the sum of 500,000/- rupees with interest and costs. The Appellant also prayed for all Indian workers who were unlawfully occupying the property to be evicted immediately and for the Respondent to hand over vacant possession of the property to the Appellant.
5. The Respondent denied these claims and claimed that the structures were built to maintain and keep the premises in good condition. The Respondent also claimed that she had never lived in the house, and that her employees were living there at the time of the Transfer of Land. As a result, an agreement for the use of the house was entered into. The current occupants of the house are living there under the Respondent's right of use.
6. During the trial, it came to light that the Appellant did not disclose the accurate terms stated in the Transfer of Land. It is worthy of note that the registered Transfer of Land was not

presented as evidence. The learned Judge stated at paragraph [22] of the judgment that the conditions set out in the Transfer of Land were discussed at length and brought up during the Respondent's personal answers. During cross-examination of the Appellant's representative, Mr. Nabil Elmasry, it was agreed that the Transfer of Land contained the entire agreement between the Appellant and the Respondent, and that the plaintiff did not disclose the accurate terms stated in the Transfer of Land.

7. It was unclear on what basis the learned Judge found that the conditions pleaded (referred to at paragraph [1] hereof) were the same as those in the Transfer of Land, which was not presented as evidence. The learned Judge found that an agreement existed between the Appellant and the Respondent and was contained in the Transfer of Land. In this respect, she found that the conditions set out in the Transfer of Land were as follows (reproduced verbatim) —

- i) "it is reserved for the transferor a right of use and habitation in respect of two houses and its immediate precinct for a period of 30 years free of charge."*
- ii) "the transferor shall be responsible for the upkeep and maintenance of the houses and shall keep insured with a reputable company."*
- i) "the transferor may neither assign nor hire out his right to another."*
- ii) "the right granted may also be terminated a) by abuse on the part of the transferor either by committing waste or allowing the houses to fall into disrepair or by non-use for a period of five years."*

8. I will not comment further on the approach taken by the learned Judge in this case as it was not a matter of contention at the appeal. Instead, I will focus on the issues raised by the grounds of appeal.

9. After considering the pleadings and evidence of the Appellant and the Respondent, the learned Judge concluded that the Appellant had failed to prove its case on a balance of probabilities. I will not address the evidence; the reasons for doing so will become clear.

THE APPEAL

10. The Appellant has challenged the judgment on the following grounds —

"Ground 1

The presiding Judge erred in law when she dismissed the appellant's case on the basis that the Appellant had failed to discharge the burden of proof.

Ground 2

The presiding Judge erred when she made a finding that the Respondent was not in breach of the agreement.

Ground 3

The presiding Judge erred when she refused to grant the Appellant's prayer for eviction of the Respondent's Indian workers who are illegally occupying the Appellant's property without the Appellant's permission, authorisation or consent."

11. By way of relief, the Appellant prayed that the Court of Appeal should make the following orders —
- (i) to allow the appeal;
 - (ii) to evict the Indian workers from the Appellant's property forthwith; and
 - (iii) to order the Respondent to hand over vacant possession of the property to the Appellant forthwith, along with costs.

The Preliminary Objections

12. Counsel for the Respondent in her skeleton heads of argument and at the appeal raised three preliminary objections regarding the Appellant's appeal —
- (i) the Appellant had breached the relevant provisions of The Seychelles Court of Appeal Rules, 2005, as amended (hereinafter referred to as the "*Seychelles Court of Appeal Rules 2005*") by filing its skeleton heads of argument out of time. Hence, if leave is not granted, the appeal should be deemed abandoned;
 - (ii) the Appellant through Counsel has combined the third ground of appeal with either of the first two grounds or both, without leave of the Court of Appeal, in breach of the Seychelles Court of Appeal Rules; and

- (iii) the first, second and third grounds of appeal are vague or general in terms, and, hence, should be struck out under the relevant provisions of the Seychelles Court of Appeal Rules.
13. Both Counsel presented their respective case on the preliminary objections and merits of the appeal.
14. First, I address the preliminary objections seriatim.
- (i) *The contention that the Appellant had filed its skeleton heads of argument out of time*
15. I address the preliminary objection of Counsel for the Respondent that the appeal should be deemed abandoned because the Appellant filed its skeleton heads of argument out of time in breach of the Seychelles Court of Appeal Rules 2005. I have carefully considered the oral submissions of both Counsel regarding this objection.
16. The Appellant filed an appeal to the Court of Appeal on 22 April 2022. The record of appeal was served on both Counsel on 12 June 2023. The Appellant through Counsel filed its skeleton heads of argument on 24 July 2023.
17. Sub-rule 24 (2) (a) and 24 (2) (b) of the Seychelles Court of Appeal Rules 2005 stipulates—
- "(a) *The appellant shall lodge with the Registrar five copies of the appellant's main heads of argument within one month from the date of service of the record. Two copies of such main heads of argument shall be served on each respondent.*
- (b) *The respondent shall lodge with the Registrar five copies of the respondent's main heads of argument within two weeks from the receipt of the appellant's heads of argument. Two copies of such main heads of argument shall be served on the appellant."*
18. Sub-rule 11 (1) (a) of the Seychelles Court of Appeal Rules 2005 permits the President or the Court to condone delays when the parties apply to the Court of Appeal.
19. In the case of *Auguste v Singh Construction (SCA 52/2020)* (16 December 2022), the Court of Appeal explained why breaches of the Seychelles Court of Appeal Rules 2005

concerning time limits should not be condoned unless there are "*some materials on which the Court can exercise its discretion*" —

"10. *In Aglae v Attorney General (2011) SLR 44, this court ruled an appeal abandoned for the breach of procedural time limits. The Court relied on the case of Ratnam v Cumarasamy and Another [1964] 3 All ER 933 for the proposition that:*

"The 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 materials 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."

11. *There is now settled jurisprudence on this point – most recently in the cases of Commissioner of Police & Anor v Antonio Sullivan & Ors (SCA 26 of 2015) [2018] SCCA 2 (10 May 2018) and Laurette & Ors v Savy & Ors (SCA 13 of 2019) [2019] SCCA 36 (21 October 2019).*

12. *We cannot overemphasise the importance of rules of procedure. There is an apparent necessity for courts to adopt a tough stance on time limits. Parties are entitled to certainty and clarity in court proceedings and the taxpayer to a system that is as cost-effective as possible.*

13. *For all these reasons, we cannot condone the breaches of the rules and deem the present appeal abandoned."*

[Emphasis supplied]

20. In **Auguste**, the record was served on the appellant and the respondent on 6 October 2022. The appellant was notified on 9 September 2022 about the Practice Direction that requires heads of argument to be filed timeously. During the case management hearing on 8 November 2022, Counsel for the appellant undertook to file the skeleton heads of argument by 11 November 2022. This undertaking was not kept, and, as a result, on 22 November 2022, the appellant was given another notice regarding the breach of the Practice Direction. The skeleton argument was filed on 28 November 2022 — just two days before the roll call — the respondent did not have enough time to file its skeleton heads of argument. The appellant did not file an application to extend the time or to condone the delay. The majority judgment of the Court of Appeal dismissed the appeal.

21. I now turn to the present application. On 25 July 2023, the Appellant, through Counsel, made an application for an extension of time or to excuse the delay, with supporting evidence from Mr. Elmasry in the form of an affidavit. In the affidavit, Mr. Elmasry averred the following concerning the delay —

- "3. *I am advised by the attorney for the Applicant, Frank Elizabeth, to make this application seeking leave of this Honourable Court to file the skeleton heads of argument out of time and for this Honourable Court to condone the delay in filing the same as our attorney has exceptionally six cases to prepare in the August session of the Court of Appeal and did not manage to file all the skeleton heads of argument within the prescribed time limit.*
4. *I am advised by the attorney for the Applicant, Frank Elizabeth, and I verily believe that he completed the skeleton heads of arguments on the 24th of July, 2023, and emailed it to the Court and the attorney for the respondent on the same day. (copy attached and marked A2)*
5. *I am advised by the attorney for the Applicant, Frank Elizabeth, and I verily believe that no prejudice will be caused to the respondent if leave is granted as the respondent still has two weeks between now and the 7th August 2023 when roll call is supposed to take place, to take her skeleton heads of argument in reply.*
6. *I aver that it is necessary and in the interest of justice for leave to be granted to the applicant to allow the applicant permission to file its skeleton heads of arguments out of time.*
7. *For the reasons mentioned above, I pray this Honourable Court to grant the application forthwith."*

22. I bear in mind the observation in **Auguste** that — "[t]here is an apparent necessity for courts to adopt a tough stance on time limits" unless there are "some materials on which the Court can exercise its discretion".

23. I have carefully considered the affidavit evidence of Mr. Elmasry. He claimed that his Counsel of record had six cases to prepare for the August 2023 Court of Appeal session and could not file all the skeleton heads of argument within the required timeframe. However, I find his excuse to be vague and unclear. Mr. Elmasry did not specify what makes these six cases "exceptional" or if he was referring to their complexity. Therefore, I conclude that Mr. Elmasry's evidence is insufficient.

24. In *Islands Development Company Limited v EME Management Services Limited SCA 31/09* (delivered on 11 December 2009), Fernando JA, as he was then, stated the following — "[m]aking broad statements in an affidavit without substantiating them, in a case which has to be decided purely based on the averments contained in the affidavit, does not espouse the cause of the party relying on such affidavit".
25. Hence, for the reasons stated above, I cannot condone the Appellant's breaches of the Seychelles Court of Appeal Rules 2005 and deem the present appeal abandoned.
26. Hence, the appeal stands dismissed.
27. Despite this conclusion, I have still considered the other two objections for the purpose of completeness, as the Court of Appeal allowed for arguments on these two objections.
- (ii) *The contention that the Appellant has combined the third ground of appeal with either of the first two grounds or both, without leave of this Court, in breach of the Seychelles Court of Appeal Rules*
28. As the second preliminary objection is connected to the third one, I will briefly consider it. The Appellant, through Counsel, stated in his skeleton argument that — "[g]round 3 has been dealt with under grounds 1 and 2 above, and the Appellant will not dwell on it further." Counsel for the Appellant did not provide any skeleton argument concerning the third ground of appeal.
29. Counsel for the Respondent in her skeleton argument and at the appeal objected to the Appellant through Counsel combining the third ground of appeal with either of the first two grounds or both. Counsel for the Respondent contended that this should not be allowed because it would bring up points that needed to be set forth in the grounds of appeal and outside of the time limit for raising new points without leave of the Court of Appeal. Counsel for the Respondent contended that this would violate the Seychelles Court of Appeal Rules. She referred this Court to *Freslon v Patel (SCA 20/2018)* (18 December 2020) and *Rostom v D. Bheenuck & Ors [2013] SCJ* in support of her submissions.

30. At the appeal, Counsel for the Appellant made a request to combine the three grounds of appeal in his oral submissions, which the Court of Appeal denied. This indicated that Counsel for the Appellant acknowledged that the grounds of appeal needed to be formulated in a concise, clear and felicitous manner. The Court of Appeal denied the request of Counsel for the Appellant to combine the grounds of appeal because it determined that the grounds were vague or general in terms. Concerning the third ground of appeal, it was also clear that the Appellant, through Counsel, was not pursuing it. Counsel for the Appellant was told to address each ground individually.
31. In **Freslon**, the Court of Appeal made the following remark regarding the combination of grounds of appeal. The Court of Appeal stated that if a contention is formulated as a ground of appeal, it should stand on its own. If two or more contentions are so closely linked that they form a single argument, it is best to formulate the argument in a single ground of appeal. Combining grounds of appeal in the skeleton heads of argument or oral submissions may suggest that those grounds needed to be formulated correctly. Counsel should not assume that the Court of Appeal will approve their decision to combine certain grounds of appeal. The Court of Appeal may find such a combination unacceptable and choose to address the grounds individually or treat two or more grounds as amounting to one precise contention.
32. The Mauritian case of **Rostom**, which is of persuasive authority, serves as a cautionary example of the risks of combining grounds of appeal. The Supreme Court of Mauritius stated in **Rostom** —

"[i]n their respective skeleton argument, both parties have combined by and large all the grounds together. They made their oral submissions along the same lines. It would not be right, in our view, to adopt such a course of action for the very good reason that in choosing not to follow the order in the grounds of appeal, the Appellant has introduced new issues not covered in those grounds. The respondents ill-advisedly responded to them. We would create a bad precedent if we were to condone such a practice, the effect of which will be that novel issues not covered in the grounds of appeal would be introduced by the back door, outside the time limit for raising new issues, without leave of the Court and without the proper procedure being followed".

33. As I have stated earlier, the second preliminary objection is connected to the third one, which I will now consider.

(iii) *The contention that the first, second and third grounds of appeal are vague or general in terms*

34. This preliminary objection was based on the assertion that the first, second and third grounds of appeal violated sub-rules 18 (3) and (7) of the Seychelles Court of Appeal Rules 2005 by being vague or general in terms and, hence, cannot be considered as grounds of appeal. As the Appellant was not permitted to combine the grounds of appeal and failed to submit skeleton heads of argument for the third ground, I have considered the first and second grounds in relation to this preliminary objection.

35. Sub-rules 18 (3) and (7) of the Seychelles Court of Appeal Rules 2005 stipulate —

"(3) Such grounds of appeal shall set forth in separately numbered paragraphs the findings of fact and conclusions of law to which the appellant is objecting and shall also state the particular respect in which the variation of the judgment or order is sought."

[...]

(7) [n]o ground of appeal which is vague or general in terms shall be entertained, save the general ground that the verdict is unsafe or that the decision is unreasonable or cannot be supported by the evidence".

36. Counsel for the Respondent contended that the Respondent was not given notice of the arguments that would be made in violation of sub-rules 18 (3) and (7) of the Seychelles Court of Appeal Rules. She relied on *Cedric Petit v Marguitta Bonte SCA No. 11/2003 (20 May 2005)* and *Chetty v Esther SCA44/2020 (13 May 2021)*, in which the Court of Appeal struck out the appeal on the ground that the appellant had failed to lodge proper grounds of appeal in breach of the Seychelles Court of Appeal Rules 2005.

37. In the case of *Petrescu v Illescu (SCA 22/2021) (26 April 2023)*, the Court of Appeal held that several grounds of appeal were vague and dismissed them accordingly. The Court of Appeal quoted with approval the observation made by the Court of Appeal in England in

Ferguson v Whitbread & Co plc 1996 SLT 659, where the following was said by Lord President Hope at page 659L concerning certain grounds of appeal —

"[10] [...] the preparation of the grounds of appeal, which require to be lodged as a step in the process, should never be regarded as a mere formality. The purpose of the rule, which is a simple example of case management, is to give notice to the parties and the court of the points to be argued. Specification of the grounds enables the parties to direct their argument, and their preparation for it, to the points which are truly at issue. "

[Emphasis is mine]

38. In **Ferguson**, the Court of Appeal of England refused the appeal because the appellant had failed to lodge proper grounds of appeal. The Court of Appeal concluded that the grounds of appeal lodged contained no more than the bare assertions (1) that the Sheriff Principal had erred in refusing the appeal, and (2) that the Sheriff had erred in dismissing the action.
39. In **Petrescu**, the Court of Appeal concluded that sub-rule 18 (7) of the Seychelles Court of Appeal Rules 2005 imposes an obligation on the appellant to formulate grounds of appeal in a concise, clear and felicitous manner. In this respect, it concluded that a ground of appeal that only sets out the findings of fact and conclusions of law to which an appellant is objecting would be a vague ground of appeal. The Court of Appeal stated that a ground of appeal should also set forth precisely the basis on which the Appellant is objecting. This is because the purpose of sub-rule 18 (7) is to give fair notice to the respondent and the Court of Appeal of the points that will be presented.
40. Filing a notice of appeal is not a mere formality. When preparing grounds of appeal, the appellant needs to adhere to sub-rules 18 (2), (3) and (7) of the Seychelles Court of Appeal Rules 2005. This is necessary because sub-rule 18 (8) of the Seychelles Court of Appeal Rules 2005 does not permit the appellant to rely on any grounds of appeal apart from those set forth in the notice of appeal. Failing to follow the rules could have serious consequences for the appellant. Sub-rule 18 (8) stipulates —

"(8) [t]he appellant shall not without leave of the Court be permitted, on the hearing of that appeal, to rely on any grounds of appeal other than those set forth in the notice of appeal: Provided that nothing in this sub-rule

shall restrict the power of the Court to make such order as the justice of the case may require."

[Emphasis supplied]

41. The Court of Appeal has consistently demonstrated its approach of striking out and dismissing notices of appeal with vague grounds of appeal.
42. In **Chetty**, the Court of Appeal struck out the notice of appeal, having determined that the two grounds of appeal reproduced hereunder were vague —

"GROUND 1

The presiding Judge erred when she dismissed the Appellant's application for a stay of execution and notice of appeal.

GROUND 2

The presiding Judge erred when she dismissed the Appellant's case as she failed to take into account the relevant facts and matters before coming to the decision that she did."

43. Counsel for the Appellant in this case, who was also Counsel for the appellant in **Chetty**, expressed dissatisfaction with the decision of the Court of Appeal to strike out the appeal in **Chetty**. Counsel for the Appellant was adamant that the grounds of appeal referred to at paragraph [42] hereof were formulated correctly according to the Seychelles Court of Appeal Rules 2005. It needs to be clarified what Counsel for the Appellant was dissatisfied about, considering that those grounds were vague or general in terms.
44. In **Cedric Petit**, Counsel for the Appellant, who was also Counsel for the respondent in **Cedric Petit**, raised a preliminary objection on the assertion that the ground of appeal violated rule 54 of the repealed Seychelles Court of Appeal Rules 2000, by being vague or general in terms. In **Cedric Petit**, the ground of appeal was framed in the following words —

"The trial Judge erred in the interpretation of sections 97 and 98 of the Code and as a result, the entire judgment is based on an erroneous proposition of law."

45. In **Cedric Petit**, the Court of Appeal accepted the submissions in support of his objection and struck out the notice of appeal. In this respect, it is unclear why Counsel for the

Appellant proposed during the appeal hearing that the Court of Appeal should provide guidance on how to frame grounds of appeal in accordance with the Seychelles Court of Appeal Rules 2005 since it is evident that Counsel for the Appellant knows how to prepare grounds of appeal.

46. I turn to the case of **Chetty**, in which the Court of Appeal, relying on **Cedric Petit**, stated the following in support of its decision to strike out the notice of appeal —

"[13] As mentioned above, it is reasonably plain that the notice of appeal is not sufficient notice of the grounds of appeal. Thus, it is unquestionable that I am duty-bound to refuse to entertain the notice of appeal under rule 18 (3) and (7) of the Seychelles Court of Appeal Rules.

[14] Fundamentally, if I were to condone such vague grounds of appeal, I would be allowing the Appellant to introduce issues that have not been raised in the insufficient notice of appeal or covered in the vague grounds of appeal outside the time limit for raising new issues, without leave of the Court of Appeal and the proper procedures having been followed under the Seychelles Court of Appeal Rules. Also, heads of argument should neither raise issues not envisaged in a ground of appeal nor raise a new ground of appeal.

[15] This is also the view held by the Court of Appeal in Cedric Petit v Marguitta Bonte SCA Civil Appeal No. 11 of 2003 (delivered on the 20 May 2005). In Cedric Petit, supra, the Court of Appeal considered the old rule 54 of the Seychelles Court of Appeal Rules, 2000, as amended, which dealt with a notice of appeal. Rule 54(3) and (6) of the Seychelles Court of Appeal Rules, 2000, as amended, stipulated —

"54 [...].

(3) Every notice of appeal shall set forth concisely and under distinct heads, without argument or narrative, the grounds of the appeal, specifying the points of law or fact which are alleged to have been wrongly decided together with particulars of such errors, such grounds to be numbered consecutively and to state the exact nature of the relief sought and the precise form of the order which the appellant proposes to the Court to make [...].

(6) No ground of appeal which is vague or general in terms or which discloses no reasonable ground of appeal shall be permitted, save the general ground that the judgment is against the weight of evidence and any ground of appeal or part thereof which is not

permitted under this rule may be struck out by the Court of its own motion or on the application by the respondent ...".

[16] *In Cedric Petit, supra, Mr Elizabeth, Counsel for the respondent, raised a preliminary objection in law to the effect that the ground of appeal advanced by the appellant did not amount to a ground of appeal in law. Mr Georges, for the appellant, conceded the point. The Court of Appeal held that: "sub-rules (3) and (6) are of a mandatory nature". Emphasis is mine. The Court of Appeal went on to state —*

"It is important to note that Rules of Court are made in order to be complied with. Without complying with and should the Court allow that to happen, then it is both sending wrong signals and establishing precedent, which may eventually lead to flouting and abuse of the whole court process. That should not be allowed to happen. This Court had an opportunity, recently, to re-emphasise this point (see Central Stores vs Minister William Herminie and Another, judgment dated 25 February 2005; Harry Berlouis and Francis Gill, SCA No. 13 of 2003)".

[17] *Turning to this appeal, having failed to comply with rule 18 of the Seychelles Court of Appeal Rules, I am duty-bound to strike out the notice of appeal.*

[18] *Consequently, I dismiss this appeal in its entirety. I uphold the order of the learned appellate Judge dismissing the Applications: MA No. 156/2020 and MC No. 69/2020."*

47. In this case, the first and second grounds of appeal formulated by Counsel for the Appellant are objectionable in a similar way to those ground(s) of appeal presented in **Chetty** and **Cedric Petit**. They appeared to set out the findings to which the Appellant is objecting, but they do not set forth precisely the basis on which the Appellant is objecting.
48. For the reasons stated above, I accept the contentions of Counsel for the Respondent that the first and second grounds of appeal are vague or general in terms and, hence, are not grounds of appeal.
49. It follows, therefore, that Counsel for the Appellant cannot be permitted to rely on any grounds of appeal other than those set forth in the notice of appeal without leave of the Court of Appeal and the proper procedures being followed as per sub-rule 18 (8) of the Seychelles Court of Appeal Rules 2005.

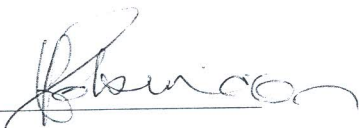
50. Additionally, it is evident that the heads of argument contained countless points in breach of the Seychelles Court of Appeal Rules 2005.

51. As the Appellant has failed to comply with sub-rules 18 (2), (3), (7) and (8) of the Seychelles Court of Appeal Rules 2005, I am duty bound to strike out the grounds of appeal, which stand dismissed.

THE DECISION


52. The appeal is deemed withdrawn and, consequently, stands dismissed

53. With costs in favour of the Respondent.



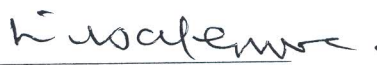
F. Robinson JA

I concur:-



Fernando President

I concur:-



Dr. L. Tibatemwa-Ekirikubinza JA

Signed, dated and delivered at Ile du Port on 25 August 2023.