

**Government of Seychelles v Ramrushaya
(2003) SLR 94**

Basil HOAREAU for the Applicant
Respondent (not served)

Order and Addendum delivered on 14 August 2003 by:

PERERA ACJ: The Government of Seychelles has filed a plaint wherein it is averred that the Defendant, who had agreed to be bonded for service for five years, consequent to a sponsorship to complete a University Degree in Australia, is seeking to leave Seychelles on 16 August 2003 for good, without refunding a sum of R196,721 as agreed. The motion before Court is for the granting of an interim injunction preventing the Defendant from leaving the jurisdiction until sufficient security is provided or until the final determination of the matter. This motion is supported by the affidavit from the Principal Secretary, of the Ministry of Education, wherein it is averred inter alia that the Defendant has applied for leave to proceed to Australia and has supplied copies of his Airline tickets. The Airline ticket shows that he is due to travel to Mauritius by flight no. HM 055 on 16 August 2003 at 8.55 am, and leave for Perth, Australia, by flight MK 940 on 18 August 2003 at 13.40 hours. The date of return from Australia to Mauritius is open. There is also no ticket from Mauritius, back to Seychelles. It is also averred that the Defendant has no assets in Seychelles.

The said bonding Agreement has been guaranteed by one Mr Ralph Rampal. However he has by affidavit, averred that the Defendant has informed him of his intention to go to Australia for good, and that hence, he has requested the Ministry to discharge him as a guarantor to the bond. Although Section 305 of the Civil Procedure Code requires that an application for an injunction should be served on the Defendant before an order is made, yet tomorrow (15 August 2003) is a Public Holiday, and moreover the Defendant has to be served with notice in Praslin. He is also due to leave Seychelles on 16 August 2003 at 8.55 am. Hence it is impracticable to serve notice on the Defendant and to make an order after hearing him.

This Court, in the case of *Attorney General v Deltel* (1954) SLR 277, and more recently in the case of *France Bonte v Innovative Publications (Pty) Ltd* (CS no. 200 of 1993) issued interim injunctions on a consideration of the urgency involved and the impracticality of serving notice on the Respondent in time before the Act or Event complained of occurs. In *Deltel* (supra), the Attorney-General sought an injunction against the Defendant Mr Alexandre Deltel, who was elected as a member of the Legislative Council for the South Mahe District, from sitting and voting at the session of the Legislative Council to be held the next day, on the ground that he was disqualified to hold such Office by virtue of Section 11(5) (a) of the Seychelles (Legislative Council) order in Council, 1948. The application was filed on 16 December 1954, and the Legislative Council sitting was to be held on 17 December 1954. The Court granted an injunction on the basis that:

The prestige of the Council and the standard of Public business in the Colony could be lowered should someone be there taking part in the proceedings who had no right to be there.

Further, in that case, the Court invoked the equitable jurisdiction vested in Clause 7 of the Seychelles Judicature Order in Council, 1903. (Now Section 6 of the Courts Act (Cap 52).

In the case of *Bonte* (supra), the "Seychelles Independent" newspaper published the text of a telephone conversation between the Plaintiff in his professional capacity as a lawyer, and a client. The newspaper, in the same issue informed its readers that other parts of that conversation would be published in the next issue, which was due to be circulated within three days when the application was filed. I, as trial Judge in that case invoked the equitable jurisdiction of the Court on a consideration of the impracticability of serving notice on the Defendants and holding an inter partes hearing, and granted an interim injunction returnable eight days later, when the Defendants were required to appear in Court and show cause against the order.

In the present case, if the Defendant leaves Seychelles for good on 16 August 2003 there would be financial loss to the Government as the Defendant has no other assets in Seychelles. Hence the preservation of public funds is a valid reason to limit the fundamental right of freedom of movement within the spirit of the derogation contained in Article 25(3) (a) of the Constitution.

As I stated before, tomorrow being a public holiday, it is impracticable to serve notice on the Defendant in Praslin. Moreover as 16 August 2003 is Saturday, when the Court does not usually sit, the earliest day for the hearing would be Monday, 18 August 2003. Hence, invoking the equitable jurisdiction of the Court, I grant an ex parte interim injunction, restraining the Defendant from leaving Seychelles without paying the bonded sum of R196,721, or furnishing sufficient security for such payment to the satisfaction of the Ministry of Education.

This order will remain in force until Monday 18 August 2003 at 1.45 pm on which day and time, the Defendant will be required to attend Court, and show cause, if any, against the extension of this order until the final disposal of the matter.

Copies of this order to be served forthwith on the Defendant, and on the Doctor General of Immigration who shall not permit the Defendant to leave Seychelles without a further order of this Court.

ADDENDUM

Since delivering the above order, I have been informed by the Attorney-General that on instructions received by him from the Ministry of Education, the Defendant has furnished sufficient security to the satisfaction of that Ministry, and that in the circumstances, the injunction need not be served on the Defendant.

Accordingly, the serving of the injunction is withheld, and the case is adjourned *sine die*.

Record: Civil Side No 225 of 2003