

IN THE SUPREME COURT OF SEYCHELLES

CATHERINE WESLINE AZEMIA PETITIONER

VERSUS

KANDASAMY ANTOINE AZEMIA

RESPONDENT

Divorce Side No 119 of 2004

Ms. C. Hoareau for the Petitioner

Respondent absent – unrepresented

JUDGMENT

Perera J

The marriage between the parties was dissolved by this Court on 10th December 2004, and decree absolute was entered on 19th January 2005. The petitioner has now applied for a property adjustment order under Section 20(i) (g) of the Matrimonial Causes Act. It has been averred that during the subsistence of the marriage, she and the respondent purchased a property bearing Title no. C. 2326 in their joint names from the Government for a sum of Rs.30,000 (P1). Although the purchase price was paid by joint contributions, the petitioner avers that she obtained a loan of Rs.25,000 from the Seychelles Housing Development Corporation to rebuild the house standing thereon. She also avers that she is presently living in that house with her three children of the marriage.

The petitioner further avers that the respondent had an offer of a sale of 1/5 share in two properties at La Louise, with a house on one of them. It was agreed that the said properties be purchased in the name of their son Mario Azemia.

Consequently, the respondent stopped making monetary contributions towards the upkeep of the household. Hence she had to maintain the household. Contrary to that agreement, 1/5 shares in Parcels nos. V. 4531 and V. 4532 were purchased in the sole name of the respondent on 29th December 2000 (D3). The petitioner avers that the purchase price of Rs.15,000 was paid by the respondent, but she made indirect contributions by maintaining the household. She therefore seeks an order from this Court, settling the 1/2 share of Parcel C. 2326 owned by the respondent in her sole name in lieu of any compensation for contributions made by her in respect of Parcels V. 4531 and V. 4532 which are in the name of the respondent.

The respondent appeared in Court on 25th July 2005 and resisted the application. He was given time till 21st September 2005 to file a defence. On that day he defaulted appearance, and fresh summons was issued for 26th September 2005. On that day he was once again absent, and the Court, on application of Counsel for the petitioner fixed the case for exparte hearing on 12th October 2005. The respondent was absent and unrepresented on that day, and hence the court proceeded to hear the application exparte.

The petitioner testified on oath and supported the averments in her affidavit. She also produced the title deeds of the properties and proof that she paid the housing loan.

On the basis of the evidence of the petitioner, the Court is satisfied that although Parcel C. 2326 was purchased by joint contributions, yet the petitioner renovated the house from her own funds, thus appreciating the value of the property. On the other hand, although Parcels V. 4531 and V. 4532 were purchased by the

respondent from his own funds, the petitioner made indirect contributions in the form of paying the household expenses to enable the respondent to pay the purchase price of those properties in instalments. Hence in adjusting the financial assets, the Court thinks fit that a property adjustment should be made whereby, ownership of Parcel C. 2326 together with the house standing thereon where she and the three children are living, should be settled for the benefit of the petitioner subject to no claim being made by her to any share in Parcels V. 4531 and V. 4532 which are in the sole name of the respondent.

The Respondent appeared in Court on the date of delivery of this judgment and agreed to transfer his share to the three children namely, Ryan Anthony Azemia, Mario Jean-Yve Antoine Azemia and Lorraine Corine Azemia. The Petitioner consented to that offer.

The Respondent Kandasamy Antoine Azemia, shall accordingly transfer his $\frac{1}{2}$ share in Parcel C. 2326 to the three children, within two months from the date hereof. If he fails to do so, the Registrar of Lands shall, pursuant to Section 75 of the Land Registration Act (*Cap 107*) register the said three children as the proprietors of $\frac{1}{2}$ share of Parcel C. 2326.

There will be no order for costs.

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A. R. PERERA

JUDGE

Dated this 28th day of November 2005