

IN THE SUPREME COURT OF SEYCHELLES

COMMISSIONER OF TAXES

Plaintiff

VS.

GERRY-SON MARIE

Defendant

Civil Side No. 79 of 2005

Mrs. Cecile for the Plaintiff

Mr. Bonte for the Defendant

JUDGMENT

Gaswaga, J

The Commissioner of Taxes, plaintiff hereinafter, is empowered to maintain court action pursuant to Section 125 of the Business Tax Act, Cap 20 and has accordingly lodged a plaint against Mr. Gerry-Son Marie, defendant hereafter of La Gogue, who performs business as a pick-up hirer.

At the hearing the plaintiff called one witness, Marie-Nanette Fred, PW1, an employee of twenty years standing with the tax office. She testified that vide application form (PE1) the defendant was registered as a business man (mason) with the tax office and as such was to pay provisional tax deductions at source every month. The defendant filed returns for the years 1999 and 2000 which were duly assessed by the plaintiff and notices (PE2) – dated 20th September, 2001

thereof mailed to him. The said notices were not returned. As for the defendant he did not make any objections to the assessment. A review of the business tax affairs of the defendant was done and the figures for the relevant years adjusted (See letters PE3 and PE4). Again the amended notices of assessment were served on the defendant on the 27th August, 2004 and were not returned as unserved. The outstanding taxes then stand as herein below:

Particulars:

1999 Assessment Due Date 20/10/2001	SR70,
904.00	
Add; Amendment Due Date 26/09/2004	<u>SR12, 366.00</u>
	SR83, 270.00
Less 2001 credit Assessment	SR 1, 300.00
Less; payment	<u>SR 15, 800.00</u>
	SR 65, 470.00
Add; Late payment penalty	<u>SR 35, 797.18</u>
Total	<u>SR101, 267.18</u>
2000 Assessment Due Date 20/10/2001	SR 16,
185.45	
Add; Amendment Due Date 26/09/2004	<u>SR 8, 656.00</u>
	SR 24, 841.45
Add; Late payment penalty	<u>SR 9, 226.17</u>
Total	<u>SR 34, 067.62</u>

Total Due & owing
334.62

SR135.

It was submitted for the plaintiff that despite several reminders to the defendant to pay this outstanding sum, he has failed, refused and or ignored to honour them hence this suit wherein both claims were joined pursuant to section 105 of the Seychelles Code of Civil Procedure, Cap 213. Further, even when the defendant visited the offices of the plaintiff and was allowed to pay in installments he defaulted (See PE5, PE6 and PE7). Therefore, Mr. Bonte's submission of the defendant to pay of SR 87, 000 by monthly installments of SR 1, 000 at the moment is untenable since the defendant himself breached the arrangement. In addition, all the changes in the sums effected were duly communicated to the defendant and demand thereof made. I am unable to agree with Mr. Bonte that the plaintiff did not take adequate steps to recover this money which the defendant was under duty himself to pay to the plaintiff. Allowing this submission would be demanding too much from the plaintiff.

In conclusion I find that the plaintiff has proved its case against the defendant on a balance of probability. Judgment is entered for the plaintiff in the sum of SR 135, 334.80 cents together with costs of the suit.

D. GASWAGA

JUDGE

Dated this 26th day of November, 2008.

