

IN THE SUPREME COURT OF SEYCHELLES

EXPARTE: LISE CHURCH born HOAREAU

Civil Side No. 75 of 2009

Mr. C. Lucas for the Petitioner

JUDGMENT

Gaswaga, J

This is a petition of sans souci by Mrs. Lise Church born Hoareau also the executrix of the succession of the late Graziella Hoareau nee Jumeau. See letters of appointment dated 6th February, 2007 (PE3). The petition was lodged on the 3rd of April, 2009 under Section 13 of the Presumption of Deaths Act, Cap 178.

Only one witness, the petitioner was called to depone on the 26th of May, 2009 whereupon she stated that she is the sister of one Hector Antonin Hoareau who was born in Seychelles on the 9th of May, 1933 to Hector Hoareau (Senior) and Graziella Hoareau (parents) (See petitioner's birth certificate PE2 and that of Hector Antonin Hoareau PE1. That sometime in the 1950's Hector Hoareau left the Seychelles to emigrate and work in East Africa. The petitioner averred that to the best of her recollection, knowledge and information, her said parents, brothers and sisters, other members of the family and acquaintances have since never heard from or of the aforesaid Hector Antonin Hoareau.

The petitioner further averred that in the 1950's and 60's Hector Hoareau (Senior) and Graziella Hoareau took steps to attempt to locate and establish contact with Hector Antonin Hoareau through the auspices of the British Colonial Administration but to no avail. That he could not be located and has failed to return to Seychelles until this day.

Further, despite enquiries and other attempts to establish the whereabouts of Hector Antonin Hoareau, no information has been forthcoming whereupon the petitioner verily believes that her brother is dead as there are no other plausible reasons preventing him from establishing contact with his family who are still residents of Glacis, Mahe for a period of excess of 60 years even at the time when Hector Antonin Hoareau left Seychelles.

It also her evidence that her afore said parents have since passed away intestate leaving behind immovable property at Glacis.

As executrix of their estate, to which Hector Antonin Hoareau is heir, the petitioner is prevented from completing the administration of the said estate until such a time or unless the Court declares that Hector Antonin Hoareau, who for all legal intents and purposes is presumed alive due to the entry of his birth and non-entry of his death in the registers kept by the chief civil status officer, 'be presumed dead.'

It will be recalled that the Attorney General in his capacity as "Ministere Publique" intimated before the Court that he had no objection to the petition. The petition has fully complied with the requirements of Sections 2 and 3 of the above Act.

From the evidence on record I am satisfied that H. A. H disappeared from his home

country, Seychelles when he emigrated to East Africa in the 1950's. I am also further satisfied that all reasonable effort and means have been engaged to locate him but with no success.

Accordingly, pursuant to Section 7 of the Act I hereby declare Hector Antonin Hoareau dead.

It is also ordered that this judgment and record be placed before the Registrar of the Supreme Court.

I so order.

D. GASWAGA

JUDGE

Dated this 29th day of May, 2009.