

IN THE SUPREME COURT OF SEYCHELLES

In the matter of:

Estate of Pierre Ernest Vidot
Represented by its Executrix
Germaine Amesbury of Au Cap, Mahe
Plaintiff/ Applicant

Vs

Golden Sun Co. (Pty) Ltd
Represented by Gerald Maurel
Of Kingsgate House, Victoria
Defendant/Respondent

Civil Side No: 262 of 2001

Ex Parte

Mrs. A. G. Amesbury for the Plaintiff/ Applicant

D. KARUNAKARAN, J.

ORDER

This is an interlocutory application, made by the plaintiff/applicant under Section 304 of the Seychelles Code of Civil Procedure read with Section 6 of the Courts Act. In this application, the plaintiff/applicant seeks this court for an urgent ex parte order of injunction restraining the defendant/respondent from selling or transferring or otherwise dealing or interfering with the land registered as Title H1585 and Title C569 hereinafter collectively called the "suit property", pending the final determination of the main suit in this matter.

By an amended plaint dated 10th October 2002, the applicant has already instituted a civil suit in C. S No: 262 of 2001, seeking a judgment for the rectification of the land register in respect of the suit-property. The said suit is still

pending before the Court for determination. Having thus filed the suit for rectification of the Land Register, the plaintiff reasonably fears that unless precautionary measures are taken, the defendant may sell the suit-property and deprive the plaintiff from realizing the fruits of the judgment the court may give in its favour. Hence, the plaintiff has now come before this court for *an urgent ex parte order of injunction* against the defendant as mentioned supra.

Upon a careful perusal of the application, the affidavit and other relevant documents on record, I am satisfied on the face of the affidavit that the applicant has a *bona fide* claim against the respondent in this matter. From the documents on record, it appears to me that there is a clear danger in that, unless precautionary measures are taken and an order of injunction is granted, the applicant would not be able to realise the fruits of the Judgment, if given in its favour in the main suit. Furthermore, I find that it is an appropriate case, where the court should make an urgent *ex parte* order of injunction against the defendant as sought by the plaintiff. Moreover, I believe that such an order ought to be made in the interest of justice in this mater. See, *Mareva Compania Naviera SA V. International Bulkcarriers SA [1980] 1All E. R at p 215.*

In the light of the above and having regard to all the circumstances of the case, I hereby make an order of injunction restraining the defendant/respondent from

selling or transferring or otherwise dealing or interfering with the land registered as Title H1585 and Title C569 pending the final determination of the main suit in this matter or until further order of the Court.

Final order:

In pursuance of the above order, I direct the Registrar of the Supreme Court to cause service of the above order of injunction on the defendant/respondent. Besides, a copy of the above order should also be served on the Land Registrar as well as on Mrs. Alexia G Amesbury, counsel for the plaintiff/applicant.

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D. Karunakaran

Judge

Dated this 15th day of December 2009