

THE REPUBLIC OF SEYCHELLES

IN THE SUPREME COURT OF SEYCHELLES HOLDEN AT VICTORIA

Civil Side No. 298 of 2009

Cornelius Hendrik Loots

Petitioner

And

Marie Alphonsine N. A. Anderson nee Sullivan
The Attorney General

Respondent No.1

Respondent No.2

Ms Lucie Pool for the Applicant
Mrs Cesar for the Attorney General

JUDGMENT

Egonda-Ntende, CJ

1. The petitioner is the son in law of the respondent no.1. The petitioner is married to the daughter of the respondent no.1, and her only child. The respondent no.1's husband, Roland Anderson, passed away on the 12th August 2009. The petitioner was appointed executor of the estate of the said Roland Anderson by this court on 9 December 2009. Respondent no. 1 is 93 years old and is residing with Vincent Zialor, at Anse aux Pins, Mahe in Seychelles.
2. The Respondent no.1 is stated to be suffering from senile dementia according to a medical report issued by Dr. Tsultrim Tenzin of Hareh Medical Services, Mont Fleuri. Her ability to understand or make judgment is impaired and it is contended she is unable to look after her affairs.
3. The Petitioner is seeking an order of interdiction from this court so that he may manage the affairs of the respondent and provide for her care. On the petition it is stated that the petitioner is of Premier Building, Victoria, Mahe, Seychelles. At the hearing I was able to learn in a statement from the Bar that the Petitioner is actually resident in South Africa though he comes frequently to Seychelles.
4. The Attorney General who is respondent no.2, in his capacity as Ministere Public, has no

objection to this application in light of the medical report annexed to this application.

5. Under Article 489 of the Civil Code a person of full age who is habitually feeble minded, insane or a lunatic, shall be interdicted, even if he has lucid intervals. The respondent no.1 has by medical evidence been proved to be suffering from senile dementia which in my view is equivalent to being feeble minded. I am satisfied that she is need of a guardian to look after her and her affairs.
6. Article 490 of the Civil Code allows three categories of people to commence such proceedings as the current one. These are the relative of the person whose interdiction is sought or a spouse with regard to the other spouse or the Attorney General. In the instant case the petitioner is a son in law of the respondent. I am satisfied that the petitioner and the respondent no.1 are related by marriage. The petitioner qualifies to bring these proceedings.
7. I drew the attention of counsel for the petitioner to the provisions of Article 507 of the Civil Code, which by inference, suggest that the person who may be appointed guardian should be a resident of Seychelles, in so far as it provides for the appointment of sub-guardian to a person who is interdicted during the absence from Seychelles of the guardian. I shall set out the said article in full.

'Article 507

The Supreme Court may appoint a temporary sub-guardian to a person who is interdicted during the absence from Seychelles of the guardian.'

8. Ms Lucie Pool responded that much as that provision provides so there is no requirement that the petitioner be a resident of Seychelles. That may be true. There is no direct provision on the point but in my view it seems to be an underlying basis on which these provisions were grounded. That is the reason, I would suggest, why Article 507 was made, to cater for situations where a guardian would be absent from Seychelles and ensure that the interdicted continues to receive the care she or he deserves and that the interdicted's estate continues to be managed in the absence of the guardian.
9. I was informed that currently the respondent no1 is staying with Vincent Zialor, at Anse aux Pins, Mahe. Mr. Vincent Ziator is paying be paid to look after the respondent no.1. He is not related to the respondent no.1. The only child of the respondent no.1 is the wife of the Petitioner. She had a stroke and has appointed the Petitioner as her agent manage to her affairs.

Though the respondent no.1 has some nephews and nieces in Seychelles I understand that they have not shown any interest in looking after her.

10. The Petitioner has stated that he will be able to manage the affairs of the interdicted and provide for her care and maintenance. Even though he is not resident in Seychelles, he undertakes to make regular visits to Mahe look after the respondent no.1. The respondent no.1 will continue to be under paid care.

11. In light of the foregoing, the respondent no.1, known as Marie Alphonsine N A Anderson nee Sullivan is interdicted. The Petitioner, Cornelius Hendrik Loots, is appointed the guardian of the respondent no.1 in accordance with Article 505 of the Civil Code. This decree shall be served upon the respondents, posted within 10 days on the notice boards of Court rooms and notarial offices as well as being published in the Gazette.

Signed, dated, and delivered at Victoria this 28th day of January 2010

FMS Egonda-Ntende
Chief Justice