

**THE REPUBLIC OF SEYCHELLES**  
**IN THE SUPREME COURT OF SEYCHELLES**

Civil Side No. 143 of 2010

Ex Parte: Bernard Georges of Trinity House, Victoria

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*Bernard Georges appeared in person*

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**RULING**

**Egonda-Ntende, CJ**

- (1) This is an application for an investment scheme by the applicant, Bernard Georges, an attorney of this court, for the benefit of 2 young children, Danio Selwyn Harry Esparon and Shania Kella Maria Esparon, children of the late Michael Hansley Selwyn Esparon. A sum of US\$ 7,000 is due to each minor as damages arising out of the death of their father. The said sum is being held by the agent of their father's employer.
  
- (2) Mr. Bernard Georges avers that the said sums of money need to be invested on behalf of the minors until they reach the age of majority. In his address to this court, Mr Bernard Georges, stated that this application is made under article 450 of the Civil Code of Seychelles. This application is not objected too by the Attorney General, represented by Mrs Cesar, State Counsel in the Attorney General's Chambers.
  
- (3) Before I turn to the Civil Code of Seychelles, herein after referred to as CCS, it is noteworthy at this stage to state that the status of Mr. Georges, the applicant is not clear. There is no averment that he is the guardian of the minors. There is no

averment that he is acting for the guardians of the children in the matter. It can be inferred that he is possession of the US\$ 7,000 for each child, and therefore most probably the agent or attorney or both of their father's former employer.

(4) Article 450 of the CCS states in part,

'1. The guardian shall have the care of the person of the minor and shall represent him in all legal acts. He shall administer his property showing in this respect, reasonable care, and shall be liable for damages which may arise from his mal-administration. He shall neither buy the property of the minor nor take it on lease, nor shall he consent to the assignment of a right belonging to the pupil or bind the minor's property to the payment of any sum.

2. Except when authorised by a Judge in Chambers, the guardian shall only invest the minor's funds in such stocks and securities as are mentioned in laws enacted from time to time. Pending investment, the guardian shall deposit into a Savings Bank or the Treasury or a Bank approved by a Judge all the funds which are not required for the yearly expenses of a minor and for the administration of the minor's property, and he shall owe interest on all funds not so deposited. He shall not withdraw the funds deposited, or any part thereof, without the authorisation of a Judge in chambers.'

(5) It is clear that the person authorised to act for the minor in relation to his property is a guardian. It is the guardian that is anticipated to make an application under article 450 of CCS, and not any other person. Under article 389 of the CCS natural parents, in succession, of a minor are presumed to be the guardians of the minor. Initially it is the father of the minor and in his absence, the mother would assume the role. Parents may also appoint guardians to their minor children and when none of such guardians is available the court may appoint a guardian and in the absence of any such guardians, the Attorney General may intervene. See articles 401 and 402 of the CCS.

(6) Given that on the face of this application Mr Bernard George is not the guardian of the minors in question I hesitate to grant this application. I shall require Mr. Bernard George to give further particulars both as to the guardianship of the

minors and or as regards the surviving parent, if any, of the minors in question, and in case there is no surviving parent or other guardian I direct the Attorney General to intervene in terms of article 402 of the CCS.

Signed, dated and delivered at Victoria this 21<sup>st</sup> day of February 2011

FMS Egonda-Ntende  
**Chief Justice**