

IN THE SUPREME COURT OF SEYCHELLES

**BUGGY AND JEEP RENTALS
(PROPRIETARY) LTD**

PETITIONER

VS

**THE LAND REGISTRAR
DANIELE PULCIANI**

1ST RESPONDENT

2ND RESPONDENT

Civil Side No: 270 of 2010

Mr. S. Rouillon Attorney at Law for the Petitioner
Ms. S. Aglae State Counsel for the 1st Respondent
Ms. L. Pool Attorney at Law for the 2nd Respondent

RULING

Burhan J,

This is an application where the petitioner seeks a writ of mandamus to compel the respondent the Registrar of lands to register the transfer deeds in respect of lands bearing title no T1752 and T 2395 as there is no lawful reason or justification for the respondent to withhold such registration.

Subsequent to the filing of this application, notice was issued on the respondent who appeared in court and was represented by state counsel from the Attorney General's Department. It was submitted by learned state counsel that the respondent has now entered a restriction order in terms of section 84 of the Land

Registration Act CAP 107 on an application made by Mr. Wilby Lucas counsel for Andrea Colucci and Miss Lucie Pool counsel for Daniele Pulciani whose application to intervene in this case was subsequently granted. It is apparent from the pleadings that the application to transfer the said lands were made on the 7th of July 2010 while the application for a restriction order by the aforementioned parties had been made in the year 2009 but as at 18th January 2011 according to paragraph 7 of the objections filed on behalf of the 1st respondent, the Registrar had yet been at the inquiry stage and not yet issued any restriction order in terms of section 84 of the said Act. According to the documents tendered to court it is apparent that the restriction order was eventually made on the 1st of March 2011 after the filing of the instant application.

Learned counsel for the petitioner too admits that subsequent to filing this application a restriction order has been entered in the case and therefore does not wish to pursue his application.

In terms of section 84 of the said Act the Registrar is empowered to hold an inquiry prior to issuing a restriction order. It appears on the pleadings before court that such inquiry has now for all purposes being concluded and a restriction order issued. It appears the petitioner is aggrieved by the delay taken in such an order being issued. Considering the fact that the petitioner now seeks to withdraw his application for a writ of mandamus, the application to withdraw is granted and the petitioner's application dismissed. However considering the incidental facts to this case, no order is made for costs.

Meanwhile the 2nd respondent Daniel Pulciani (intervenor) has filed a statement of demand seeking the following reliefs;

- a) a declaration that the intervenor be solely paid the purchase price of the land.
- b) that the restriction placed by the 2nd respondent on titles T2395 and T1752 be maintained.
- c) that the purported sale between the 1st respondent and Tree Sword (Pty) Ltd be declared null and void
- d) Any other order that the court thinks just and reasonable in the circumstances.

With regard to prayers (a) and (c) it is to be observed that the instant application before court is a writ application seeking a writ of mandamus which has been withdrawn by the applicant and these issues are not issues that could be adjudicated and determined at the hearing of a writ application and therefore stand dismissed. In regard to prayer (b) mentioned above on perusal of the pleadings and documents filed on record, this court is satisfied that the Registrar of lands has followed the provisions contained in the Land Registration Act and cannot be faulted for issuing a restriction order. This court further holds that the restriction order is to continue subject to the provisions contained in section 86 of the Land Registration Act.

No order is made in respect of costs.

M.BURHAN

JUDGE

Dated this 25th day of January 2012