

**IN THE SUPREME COURT OF SEYCHELLES**

**Civil Side: CS 17/2012**

**[2013] SCSC 88**

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**CREOLE TRAVEL SERVICES**

Plaintiff versus

**ALKE VIAGGI TURISMO SRL**

Defendant

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Heard: 16 October 2013

Counsel: France Bonte for plaintiff

Defendant absent

Delivered: 15 November 2013

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**JUDGMENT**

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Egonda-Ntende CJ

**[1]** The plaintiff is a travel and destination management company engaged in the tourism and travel business in Seychelles. The defendant is a tour operator based in Roma, Italy. The plaintiff's claim against the defendant is for the sum of SR 2, 213,150.05 [equivalent to €128,052.10] for services rendered on account of the defendant between July 2009 to October 2010. The plaintiff contends services rendered to the defendant amounted to €157,000 of which the outstanding sum now is €128,052.10.

- [2] The defendant in its written statement of defence denied the claim putting the plaintiff to strict proof. In the alternative it contended that if the defendant owed any money to the plaintiff such sum due was less than had been claimed in the plaint.
- [3] I took the view that the defendant's written statement of defence was contrary to the law and in particular section 75 of the Seychelles Code of Civil Procedure, hereinafter referred to as SCCP, as it failed to state 'a clear and distinct statement of material facts on which the defendant relies to meet the claim.' It was merely a denial of the averments in the plaint, putting the plaintiff to strict proof. In the alternative it alleged that a lesser sum may be due without stating the amount. This was not sufficient. It ought to have specified what lesser sum it accepted as due and owing from it. The written statement of defence is scandalous.
- [4] Section 75 of SCCP provides,
- 'The statement of defence must contain a clear and distinct statement of the material facts on which the defendant relies to meet the claim. A mere general denial of the plaintiff's claim is not sufficient. Material facts alleged in the plaint must be distinctly denied or they will be taken to be admitted.'
- [5] No objection was raised by the plaintiff to the scandalous pleading in the form of the written statement of defence in this matter. Notwithstanding that I do not think the court's hands are tied in light of the clear provisions of section 92 of SCCP which permits the court to strike out pleadings that *inter alia* do not disclose a reasonable answer to a claim.
- [6] When this case was called for trial the defendant's counsel opted to withdraw from the case alleging a lack of instructions and the hearing proceeded in the absence of the defendant. The plaintiff called one witness, Mr David Nicole, the Chief Financial Officer of the plaintiff. He testified that they had an agreement with the defendant under which they received tourists from the defendant and provided local transport, accommodation, tours, excursions and other activities and they would bill the defendant for those services. As of now the sum of €128,052.10 was outstanding and this was equivalent to SR 2, 213,150.05. A statement of account and other documentary evidence was exhibited to support this claim.

[7] I am satisfied on the basis of the uncontroverted evidence of PW1 that the plaintiff has proved that SR 2, 213,150.05 is due and owing from the defendant to the plaintiff and it remains unpaid to this day. I enter judgment for the plaintiff in the said sum plus interest from today at the legal rate till payment in full and costs of the suit.

Signed, dated and delivered at Ile du Port on this 19<sup>th</sup> day of November 2013.

F M S Egonda-Ntende  
Chief Justice