

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: CS 42/2012

[2014] SCSC 58

CLAUDE THOMAS

Plaintiff

versus

CHRISTOPHER D'UNIENVILLE

Defendant

Heard: 10 February 2014

Counsel: Ms. Alton for plaintiff

defendant - Not available

Delivered: 10 February 2014

JUDGMENT

Karunakaran J

[1] This is an action for breach of contract. The Plaintiff in this matter claims the sum of Rs.362,618/- with interest and cost from the Defendant for loss and damage which the Plaintiff allegedly suffered as a result of a breach of a contract of sale by the Defendant. The Defendant who was duly served with a summons defaulted appearance. Hence the Court granted leave for the Plaintiff to proceed with an ex-parte hearing in this matter.

[2] On the strength of the uncontroverted evidence adduced ex-parte by the Plaintiff in this matter, I am satisfied of the following facts:-

- (i) On the 5th of December 2005 the Plaintiff and the Defendant into a contract of sale whereby it was agreed between the parties that subject to the completion of payment of the sum Rs.360,000/- by the Defendant, the Plaintiff will sell and transfer title of his boat called "Cashalot" to the Defendant;
- (ii) It was further agreed expressly and impliedly that the Defendant would pay the price by instalments and upon completion of the payment of the entire purchase price the Plaintiff would transfer the ownership of the boat to the Defendant;
- (iii) It was also a condition of the agreement that without the Plaintiff's permission and consent the Defendant should not sell, transfer or part with possession of the said boat;
- (iv) In breach of the said conditions the Defendant failed to pay the balance of the purchase price, as well as the Defendant parted with possession of the boat;
- (v) Furthermore, in breach of the implied condition, the Defendant also transferred the ownership of the boat to a third party;
- (vi) As a result of the breach of contract by the Defendant the Plaintiff suffered loss and damages as follows:-
 - (a) The balance of unpaid purchase price Rs.236,000/-;
 - (b) Loss in the sum of Rs.26,618/-, being interest at the legal rate from the 12th June 2006; and
 - (c) Also the Plaintiff suffered moral damages in the sum of Rs.100,000/-, which I believe is a bit exorbitant in the given circumstances of this case. Accordingly I reduce the moral damages to Rs.50,000/-.

[3] In the final analysis I find that the Defendant is liable to compensate the Plaintiff in the total sum of Rs.312,618/- with interest on the said sum at 4% per annum (the legal rate), as from the date of the plaint. Also I award costs to the Plaintiff.

[4] Judgment entered accordingly.

Signed, dated and delivered at Ile du Port on 10 February 2014

D Karunakaran
Judge of the Supreme Court