

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: MC 110/2014

[2015] SCSC 140

MARIE AMINA MOREL

Beau Vallon

Mahe

Petitioner

versus

SONNY SOPHOLA

Beau Vallon

Mahe

1st Respondent

HUGETTE SOPHOLA

Beau Vallon

Mahe

2nd Respondent

Heard: 20th March 2015.
Counsel: Mr Frank Elizabeth for applicant
Mr Divino Sabino for respondent

Delivered: 1st June 2015

RULING

McKee J

- [1] The Applicant seeks an Order from this Court requiring the Respondents to vacate the plot of ground and house erected thereon which property is known as Title Number V12077 [hereinafter referred to as “the property”]. She relies on her appointment as Executrix in the estate of her late husband, Mr France Morel dated 22nd January 1991 and the Notice of First Registration of the property in her favour in the Land Register dated 22nd September 2004. This Application first came before the Court on 14th January 2015. The Application is resisted by the Respondents who state that they are rightfully in occupation and possession of the property following its sale to them by the Applicant in 2010, the consideration being partly by way of an exchange of properties and partly by a payment of cash.
- [2] Counsel for the Respondents has brought to my attention Case Number CS 184 of 2011 [hereinafter called “the earlier case”], Simon Mark Alcindor and Dorothy Hall [as Plaintiffs] versus the Maria Amina Moore [the present Applicant], Sonny Sophola [the First Respondent in the present matter] and Charlesmagne Mellon, as First, Second and Third Defendants. Without touching on the merits of this earlier plaint it contains an allegation that, without full legal capacity, Maria Amina Morel sold the property to Sonny Sophola on a date unknown, but now known to be during the year of 2010. The case is strenuously defended. It is the legality or otherwise of this transaction which is to be considered in Case Number CS 184 of 2011.
- [3] It is submitted by Mr Sabino for the Respondents in the present matter that since the whole circumstances and legality of this earlier sale transaction have still to be explored in a pending trial the current proceedings involving an allegation of illegal occupation by Mrs Marie Amina Morel against Sonny Sophola and Hugette Sophola should be stayed.
- [4] As I understand Mr Elizabeth’s position he submits that this court need look no further than the Land Register which show that the Applicant, Mrs Marie Amina Morel the executor in the estate of Mr France Morel, as at 4th December 2014, namely the date that this application was lodged with the Supreme Court, was the proprietor of the property. Even by 15th January 2015, according to a Certificate of Search, there is no registration of title in favour of Mr Sophola. It would follow, according to Mr Elizabeth, that Marie

Amina Morel is entitled to apply for the removal of Sonny Sophola and Hugette Sophola from the property. Mr Elizabeth submits that the earlier case has no direct bearing on the current Application, which should continue.

[5] In the earlier case, in essence, the Court will be deciding whether or not the sale of the property from Mrs Morel, as executor, to Sonny Sophola in 2010 was a *bona fide* transaction. If this is found to be the case it would follow that Mrs Marie Amina Morel had earlier divested herself of the property and is not entitled to the redress she seeks in the present matter.. If an opposite view is taken then it may be argued that Mrs Marie Amina Morel is entitled to raise the action for a Writ of Habere Facias Possessionam against Sonny Sophola and Hugette Sophola. However there is uncertainty at present. I am of the view that if this Application was to proceed now the earlier case may be prejudiced. I find that the earlier case should take precedence and be determined before this present case is considered.

[6] The Submission by Mr Sabino on behalf of Sonny Sophola and Hugette Sophola has merit. Accordingly I grant his application that the present proceedings are STAYED pending the outcome of the earlier case.

Signed, dated and delivered at Ile du Port on 1st June 2015.

C McKee
Judge of the Supreme Court