

**IN THE SUPREME COURT OF SEYCHELLES**

**Civil Side: CS 46/2017**

[2018] SCSC 87

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**THE BOARD OF TRUSTEES OF THE ROMAN CATHOLIC CHURCH IN  
SEYCHELLES**  
Plaintiff

versus

**MISSION INVESTMENT LIMITED**  
Defendant

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Heard: 25<sup>th</sup> of January 2018  
Counsel: Ms Pool standing in for Mr Lucas for plaintiff  
  
Delivered: 31<sup>st</sup> of January 2018

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**JUDGMENT**

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**Nunkoo J**

[1] By this plaint the Plaintiffs are asking the court for a judgment against the defendant for breach of a lease agreement entered sometime in May 2009, whereby the Defendant, represented by Igor Likhachev, a Russian, agreed to develop the leased land into a tourist project. The lease was for forty years. The project consisted of the construction of a main building of about 1000 sq. metres, comprising of a souvenir shop, a café, restaurant and other buildings that would serve as tourist related activities.

- [2] In May 2010 the Defendant commenced the works and in 2014 however the works were abandoned.
- [3] The Plaintiffs are claiming a judgment from the court declaring that as a result of the breaches of the terms and conditions of the lease the lease was ipso facto rescinded and the Plaintiff was entitled to cancel it.
- [4] He also claimed:
- (i) that the Plaintiff be granted full repossession of Title J3262.
  - (ii) that the Defendant pays the plaintiff the sum of Rs 605,000.00 plus interest at the commercial rate of 10 % p.a.
  - (iii) that the Defendant pays the Plaintiff's costs for this suit.
- [5] This case was called on 8 November 2017. The Defendant was not present nor represented. Counsel for Plaintiff moved for ex parte hearing. Motion was granted by the Court and the hearing fixed to 25 January 2018.
- [6] On 25 January the case was heard ex parte. The Plaintiff's main witness, Mr Gerald Joseph Pragassen, Secretary of the Board of Trustees of The Roman Catholic Church was heard.
- [7] He deponed and produced several documents and more specifically the lease agreement.
- [8] He gave evidence to the effect that rent was due since November 2015 to date at Rs 5000 per month (total Rs 135,000.00)
- [9] The Plaintiff were entitled to an initial income of 5% to be increased subsequently of the gross sales from the project once it would take off its commercial operations, as per Clause 4 of the lease agreement. As the project was not terminated the defendant, were not able to make this payment; this constitutes a breach according to the plaintiff.
- [10] However, the claim in respect of financial loss should fail as the payment was based on the sales taking place. As there were no such sales logically it cannot be entertained; there was a condition precedent. That condition had to be fulfilled.

[11] Further the Defendant failed to keep the land in a clean condition, in breach of clause 13.

[12] After hearing the unchallenged evidence of the Plaintiff, I am satisfied that there was a valid lease agreement and that the Defendants have been in breach of the said lease agreement.

[13] I therefore declare that the lease has already come to an end as a result of the breaches of the Defendant, as stipulated in clause 17 of the agreement, and that the Plaintiff are entitled to repossess their land. I therefore order the Defendants to vacate the leased parcel of land immediately.

[14] I order the Defendant to make the following payments:

Rent for period January to Date SR 135,000.00

With interests at commercial rate.

[15] That the Defendant to pay the Plaintiff's costs for this suit.

Signed, dated and delivered at Ile du Port on 31<sup>st</sup> of January 2018.



S Nunkoo  
**Judge of the Supreme Court**