

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: MA 145/2018

(arising in CS 77/2018)

[2018] SCSC

643

VAITHINATHASAMY RAMADOSS

Applicant

Versus

ANDY LABROSSE

1st Respondent

and

JERRY MORIN

2nd Respondent

Heard: 04th July, 2018
Counsel: Mr. G. Ferley for Applicant

Delivered: 6th July, 2018

INHIBITION ORDER

(Section 76 Land Registration Act)

E. Carolus, J

- [1] Casino Des Iles (Proprietary) Limited, a company registered under the Companies Act 1972, has filed a Complaint against Mr. Andy Labrosse and Mr. Jerry Morin in CS77 of 2018 (the Principal suit). The company is represented by Dr. Vaithinathasamy Ramadoss in the Principal suit in his capacity as its director. The company claims that Mr. Andy Labrosse who is one of its shareholders, assigned the leasehold interest in Parcel PR1933 which was owned by the Company, to Mr. Jerry Morin for a consideration of Rupees 10 million. It is averred that the said consideration has not been paid to the company by Mr. Morin and that Mr. Labrosse has failed to render an account to the company as to why such payment has not been made. It is further averred that Mr. Labrosse and Mr. Morin acted in collusion with one another to defraud the company of its leasehold interest in PR 1933 and that the assignment of PR1933 is null and void for reasons of fraud. In terms of the Complaint, the company is seeking a declaration of the Court that the assignment of the leasehold interest in PR 1933 to Mr. Morin is null and void, that the Court directs that the Leasehold interest is restored in the name of the company, and any other Order that the Court deems fit.
- [2] Dr. Vaithinathasamy Ramadoss has now filed the present Ex-Parte Application (MA 145 of 2018) praying the Court for an Order of inhibition of the registration of any dealings against Parcel PR1933 until the final determination of the Principal suit. The Application is made by way of Notice of motion supported by an Affidavit sworn by Dr. Vaithinathasamy Ramadoss who is stated in the Affidavit to be representing Casino Des Iles (Pty) Limited in his capacity as shareholder and director of the said Company.
- [3] I note that while in the Complaint the Plaintiff is correctly stated as Casino Des Iles (Proprietary) Limited represented by Dr. Vaithinathasamy Ramadoss its Director, the caption of the Notice of motion reads as follows –

“IN THE MATTER OF AN EX-PARTE APPLICATION UNDER SECTION 76 OF THE
LAND REGISTRATION ACT CAP 107

Dr.Vaithinathasamy RAMADOSS
Of Beau Belle, Mahe

Applicant

Versus

Andy Labrosse
Of Beau Belle, Mahe, Seychelles

1st Respondent

Jerry Morin
Of La Ciota, Mont Fleuri, Mahe”

2nd Respondent

- [4] The Applicant in the Notice of Motion should properly have been cited as Casino Des Iles (Proprietary) Limited and not Dr. Vaithinathasamy Ramadoss as this gives the impression that he is acting in his personal capacity which would render the pleadings defective. However I note that the Plaint in the Principal suit was entered in the name of Casino Des Iles (Proprietary) Limited and that the Notice of Motion arises out of that suit. I note further that the Affidavit in support of the Notice of Motion is sworn by Dr.Vaithinathasamy Ramadoss representing Casino Des Iles (Pty) Limited as shareholder and director of the said Company. In the circumstances, I am of the view that the defect in the Notice of Motion is not of such a nature as to invalidate it. Counsel should however take care while drafting pleadings to avoid making such errors.
- [5] The Affidavit in support of the Notice of Motion contains the reasons for which the company is seeking an Order of Inhibition. It is averred that it is necessary and urgent that the Court grants such Order *inter alia* because the Deponent has been informed that Mr. Morin is attempting to dispose of the leasehold interest in Parcel PR1933; that the Deponent has been legally advised by the Attorney in the present case that the Applicant has a prima facie case against the Defendants in the Principal suit; and that the Applicant

will suffer irreparable harm which would not be atoned by damages if the inhibition Order is not made.

- [6] I am satisfied on the basis of the averments in the Affidavit in support of the notice of motion and documents in support thereof, that it is necessary that disposal of the leasehold interest in PR1933 should be prevented, until final disposal of the Principal suit.
- [7] Accordingly I grant the Application and make an Order inhibiting the registration of any dealings with Parcel PR1933 until final determination of the Principal suit or any further order of this Court.
- [8] In terms of section 76(2) of the Land Registration Act, a copy of this Order is to be served on the Land Registrar who is directed to register the inhibition in the appropriate Register.
- [9] The Respondents are also to be served with a copy of this Order.
- [10] The costs of this Application is to be borne by the Applicant.

Signed, dated and delivered at Ile du Port on 6th July, 2018



E. Carolus
Judge of the Supreme Court