

SUPREME COURT OF SEYCHELLES

Reportable
[2019] SCSC 20
XP211/2018

In the matter of:

The Companies Act (Cap 40)

And

The Insurance Act (Cap 98)

and

SACOS Group Limited, a company
Incorporated in Seychelles
(Reg No. 820521-1) of SACOS Tower,
Victoria, Mahe, Seychelles

1st Petitioner

and

SACOS Insurance Company Ltd,
A company incorporated in Seychelles
(Reg No. 845685-1) of SACOS Tower,
Victoria, Mahe, Seychelles

2nd Petitioner

and

Sun Investment (Seychelles) Ltd
A company incorporated in Seychelles
(Reg No. 840704-1) of SACOS Tower,
Victoria, Mahe, Seychelles
(*rep. by Kieran Shah SC*)

3rd Petitioner

Neutral Citation: *In the matter between: The Companies Act (Cap 40) And The Insurance Act (Cap 98) And SACOS Group Limited & Ors [2019] SCSC 20 XP211/2018*

Before: Twomey CJ,

Summary: approval of scheme and amalgamation of three companies

Heard: 23rd January 2019

Delivered: 23rd January 2019

ORDER

The amalgamation of Petitioners is granted and SACOS Insurance Company Ltd and Sun Investment Ltd are dissolved.

ORDER ON PETITION

TWOMEY CJ

Upon the Petition of SACOS Group Limited, SACOS Insurance Company Limited and Sun Investment (Seychelles) Ltd, (“the Petitioners”) praying for the approval of the Court of the Scheme and Amalgamation of the 2nd Petitioner and 3rd Petitioner into the 1st Petitioner.

And upon hearing Counsel Kieran B Shah SC for the Petitioners

And upon reading the petition and the 3 affidavits filed in support of the Petition,

And in exercise of the jurisdiction and powers conferred upon the Court under Sections 196 to 198 of the Companies Act (Cap 40)

IT IS ORDERED THAT:

1. The Scheme for the amalgamation and transfer of the business of SACOS Insurance Company Limited with and into SACOS Group Limited, having been approved by the Financial Services Authority on the 11th April 2017, pursuant to Section 53 et seq, of the Insurance Act (Cap 98). It is hereby approved by this Court pursuant to Section 198 of the Companies Act (Cap 40).

2. The transfer of the business of Sun Investment Ltd and amalgamation into SACOS Group Limited is hereby approved under Section 196 and 198 of the Companies Act (Cap 40).
3. Each and every part of the business of the SACOS Insurance Company Ltd and Sun Investment (Seychelles) Ltd shall be transferred as a going concern to and shall vest in the SACOS Group Limited and their assets and liabilities shall by virtue of this order be transferred to the SACOS Group Limited and shall cease to be assets and liabilities of SACOS Insurance Company Ltd and Sun Investment (Seychelles) Ltd, respectively.
4. The transfer of contracts, rights and obligations, properties and liabilities of SACOS Insurance Group Ltd and Sun Investment Limited to SACOS Group Ltd shall by virtue of this order be transferred to and become the contracts, rights, obligations, properties and liabilities of SACOS Group Limited and in consequence the transfer shall not:
 - a) Invalidate, discharge or result in the termination or contractual novation of any agreement, instrument, indenture, encumbrance, right, interest, benefit, power, obligation or title;
 - b) Constitute a breach of, or default, a termination event under or allow any person to terminate or take any other action to any agreement, agreements instrument, indenture, encumbrance, right, interest, benefit, obligation or title;
 - c) Require any registration, re-registration filing or amendment to any existing registration or filing in respect of any agreement, instrument, indenture, encumbrance right, interest, benefit, obligation or title;
 - d) Require any person to perform any new or additional obligation or, to take any new or additional step or action, including the giving of any notice, the obtaining of any consent, approval or determination, the accession to any agreement, the payment of any fee, cost, expense, the grounding of any new or additional encumbrance or the transfer of any asset or property;
 - e) Affect the enforceability, priority or ranking of any encumbrance against any of the Petitioners' property;

- f) Shall affect any person from bringing claim whether in contract, delict or, equity, or otherwise in relation to any part of the transferring of business.
- 5. With effect from the transfer of the assets and liabilities under the scheme and approval of the court
 - i. Each contract shall have effect as if it had been with the SACOS Group Limited instead of SACOS Insurance Company Ltd or Sun Investment (Seychelles) Ltd and shall be subject to the same terms and conditions as applicable immediately prior to the transfer, and shall have the same rights and obligations.
 - ii. Any legal proceedings which have been issued, served, are pending, current, threatened or otherwise commenced, or continuing, by or on behalf of, against, or with SACOS Insurance Company Ltd or Sun Investment (Seychelles) Ltd shall be continued by or against SACOS Group Limited and shall be entitled to all defences, claims, counterclaim, defences to counterclaims and rights of set off that were or would have been available to either of them pursuant to section 198 (1)(c) of the Companies Act.
- 6. The transfer of all the assets and liabilities as morefully described above, shall be deemed to have taken effect from 1st January 2017, being the year the scheme was approved by the Financial Services Authority acting as the Insurance Authority.
- 7. SACOS Insurance Company Ltd and Sun Investment Ltd are both dissolved without winding up pursuant to section 198 (1)(d) of the Companies Act (Cap 40).
- 8. The cost of the Transfer and amalgamation will be borne by SACOS Group Limited.

Signed, dated and delivered at Ile du Port on 23rd January 2019

Twomey CJ