

SUPREME COURT OF SEYCHELLES

Reportable

[2019] SCSC 1006

MC 63/2019

MC 78/2019

Consolidated

In the matter between

THE GOVERNMENT OF SEYCHELLES

(rep .by David Esparon)

Applicant

and

STEVE CHANG TAVE

NATASHA CHANG TAVE

NORTHERN STAR PTY LTD

(rep. by Joel Camille initially)

Respondents

Neutral Citation: *Government of Seychelles v Chang Tave and anor* (MC 63/2019) [2019] SCSC 1006 (18 November 2019).

Before: Twomey CJ

Summary: interlocutory application under s. 4 of POCA - personal knowledge, information and belief evidence in affidavit - prima facie case by Applicant - shift of onus of proof on balance of probability on Respondents – unexplained wealth

Heard: 23 October 2019

Delivered: 18 November 2019

ORDER

Pursuant to section 4 of POCA, the Respondents or any other person are prohibited from disposing or otherwise dealing with whole or any part of the property specified in the annexure. Superintendent Hein Prinsloo is appointed as Receiver over all of the said property to manage, keep possession or dispose of, or otherwise deal with the property in respect of which he is appointed pursuant to section 8 of POCA. otherwise deal with the property in respect of which he is appointed. These orders are to be served on the Chief Executive of the Seychelles Licensing Authority and the Registrar General and they are not to effect any transfer of any of the vehicles or property contained in the Annexure attached to this order.

JUDGMENT

TWOMEY CJ

1. These applications for freezing orders are brought by the Government of Seychelles by way of a notice of motion and supported by affidavits sworn by Hein Prinsloo, Superintendent of Police attached to the Financial Crime Investigative Unit (hereinafter the FCIU). The Respondents are self-employed business persons and a proprietary company respectively.
2. In particular, the Applicant is seeking two interlocutory orders pursuant to section 4 of the Proceeds of Crime (Civil Confiscation) Act (hereinafter POCA) as amended, prohibiting the Respondents or any person who has notice of the orders from disposing of or otherwise dealing with whole or any part of the properties, namely Parcel J493 comprising of 727 square meters and a dwelling house situated in the cadastral district of Jasmin, Le Niol, Beau Vallon, Mahe (hereinafter referred to as the specified property) and several vehicles and items of jewellery as appended in the Annexure attached to these orders. The two applications have been consolidated for the purposes of the hearing.
3. The Applicant seeks a further order under section 8 of POCA, that is, the appointment of Superintendent Hein Prinsloo as a Receiver of the specified property to hold the same until further orders of this court.
4. The court is satisfied that notice was given to the Respondents and that they were legally represented. When the matters of MC 63/2019 and MC 78/2019 were first called on 25 September 2019, Counsel for the Respondents stated that the First and Second Respondents were in prison and that he had difficulty taking instructions. Time was granted by this court for him to visit and take instructions from the Respondents and to comply with the provisions of the POCA and Rules.
5. On 9 October 2019, an objection to the applications for freezing orders was taken by the Respondents on the grounds that the application for the interlocutory order was

not supported by Affidavit in respect of MC 63/2019. It was pointed out by the court that the record of proceedings and pleadings on file showed otherwise. An affidavit had been sworn by Superintendent Prinsloo on 5 August 2019 supporting the application and served on the Respondents.

6. A notice of appearance was then filed tardily and in breach of the POCA and the Rules thereunder. Moreover, at the sitting of the court on 16 October 2019, Counsel for the Respondents sought and was granted leave to withdraw from the matter. Reasons for this will become clear later in this decision.
7. The Respondents were warned by the court that it was in their best interest to seek alternative counsel but in any case to comply with the provisions of POCA and the Rules by filing necessary responses by the 23 October 2019.
8. The First and Second Respondents complied and have both filed Affidavits in response to that of Superintendent Prinsloo for the applications. I therefore proceed to make a decision based on the evidence before the court.
9. The applications by the Applicant are based on the belief evidence of Superintendent Prinsloo. The main ground for these applications is that the Respondents are in possession or control of specified property that constitutes directly or indirectly, benefit from criminal conduct, or was acquired in whole or in part with or in connection with property that is directly or indirectly, constitutes benefit from criminal conduct. And that such property is in excess of R50, 000.00. In essence the averments are to the effect that the First and Second Respondents did not have the earning capacity to obtain and own the properties sought to be frozen.
10. Superintendent Prinsloo has averred that during the search of a house at Ile Perseverance occupied by Jude Brizilia and Samantha Celestine, members of the Anti-Narcotics Bureau discovered 2569 grams of heroin. They indicated that the drugs belonged to the First and Second Respondents. A follow-up search was conducted at an apartment in which the first two Respondents reside and a black

digital scale together with traces of heroin were found therein. They have both since been charged with drug trafficking offences.

11. Further, the first two Respondents have a number of businesses for which no tax returns have been filed. Only the sums of SR 1,888 for the months of January and February 2013 were lodged to the Revenue Commission in respect of one of the First Respondent's businesses, namely BLADE 2000. No other tax returns were ever lodged. In respect of the Second Respondent's business, namely "Baby Starter", returns from 2015 to 2016 specified a nil turnover and the sum of SR 72,000 turnover for 2017. More of this later.
12. The Second Respondent joined Air Seychelles on 23 December 2012 as a trainee cabin crew with an allowance of SR 3,640. On 16 March 2013 she was employed as a cabin crew on a two-year contract with a basic monthly salary of SR 4,140 and an allowance of SR 1,176.00. From March 2013 to April 2013 she earned a further USD 695.05 as a layover and productivity allowance. From May 2013 she was grounded due to her pregnancy and only earned her basic salary and her allowance. From November 2013 to January 2014 she proceeded on unpaid leave.
13. She held bank accounts in the Mauritius Commercial Bank (hereinafter MCB) in which her salaries and allowances were paid. The First Respondent did not have a personal bank account. He was however a signatory to a bank account for Northern Star Car Hire (Pty) Ltd (The Third Respondent) in which both he and the Second Respondents purchased shares in August 2013. That account had a debit of SR 53,667 in September 2013 and a balance of SR 117,223.24 in October 2013. The company obtained a loan from the Development Bank of Seychelles (hereinafter DBS) in March 2012 in the sum of SR1, 400,000 which is now in arrears together with accrued interest amounting to SR 1,503,430.
14. On 10 October 2013, the Respondents purchased a house and land at Le Niol, namely Parcel J943 from one Richard Sims for SR 950, 000.

15. The First Respondent has previously been convicted and imprisoned for trafficking in controlled drugs.
16. With respect to the Third Respondent, Superintendent Prinsloo avers that it was incorporated in 2007 with the original directors being Nicholas and Lorna Lautee. Shares in the company were allegedly transferred to Mr. Stephane Banane in September 2010 although there is no documentation to substantiate the transfer at the Company Registry. Similarly, it appears that the company was then sold to Mr. Jean Mellie, the Second Respondent's father although there is also no substantiating documentation to that effect.
17. The loan from the DBS seems to have been secured on the basis that Mr. Mellie owned 95 shares in the Third Respondent and the Second Respondent 5 shares but no documentation at the Company Registry substantiates the facts as stated to the DBS.
18. Subsequently, with Mr. Mellie and the Second Respondent as alleged shareholders of the Third Respondent, the latter applied for a loan from the DBS on 13 December 2010. This despite the fact that no documents for the sale of the shares in the Third Respondent to either Mr. Banane, Mr. Mellie or the Second Respondent was provided. Moreover, although the DBS application shows a share transfer of 95 shares from Mr. Banane to Mr. Mellie, previous documentation shows Mr. Banane only held 90 shares and could not therefore have transferred 95 shares. The lack of documentation and the speed at which the alleged transfer of shares took place from Mr. Lautee to Mr. Mellie via Mr. Banane is strongly indicative of the fact that Mr. Banane acted as a facilitator to obtain ownership of the Third Respondent without the knowledge of Nicholas Lautee.
19. Other inconsistencies are contained in the application for the DBS loan, namely that on 19 June 2009 Stephane and Sylvie Banane were purported directors of the Third Respondent but the latter's annual return dated 13 July 2009 is signed by Nicholas and Lorna Lautee as directors. The letter from Mr. Nicholas Lautee dated 29 September 2010 to Seychelles Investment Board for permission to sell the company

indicates that he was still the Third Respondent's owner then and that therefore the documentation sent to DBS by Mr. Mellie was false and/or forged. This is corroborated by a handwritten note (HP7) from a DBS employee during the loan processing period advising that no supporting documentation for the share transfer was on file.

20. Moreover, the share transfer from Mr. Banane to Mr. Mellie was done illegally as Mr. Lautee had never transferred shares to Mr. Banane. Similarly, the share increase resolution on 31 March 2010 by Mr. Mellie and the Second Respondent and the subsequent purchase of Mr. Mellie of 900 new shares in the Third Respondent for SR 90,000 is not documented and in any case pursuant to section 24 (5) b of the Companies Ordinance would have resulted in the Third Respondent ceasing to be a proprietary company.
21. Subsequently, on 11 April 2011 Mr. Mellie and the Second Respondent were purportedly appointed as directors of the company but again with no supporting documentation of any share transfer from the Lautees. The 'transfer of shares' documentation, dated 14 August 2013 but date stamped 23 September 2013, in which Mr. Mellie transferred 50 shares to the Second Respondent for a substantial sum of money and is not reflected in any bank statements. It is clear therefore, that that the increase in share capital was raised artificially on paper but not in reality.
22. Further, in the DBS loan application of 13 December 2010, Mr. Mellie indicates that he is in the farming business and his income is SR 8000 monthly and that the Second Respondent is a Passenger Services Officer. Subsequently, on the comment in the promotor's section of the application form, Mr. Mellie is stated as being a businessman and the Second Respondent again as a Passenger Services Officer. This was false information as the Second Respondent was not employed with Air Seychelles until 23 December 2012, and then only as a trainee.
23. Moreover, the DBS loan when granted was subject to conditions which were not respected. The agreement was signed by Mr. Mellie and the Second Respondent when they were not even directors of the company. Further, in terms of a registered

floating charge on the Third Respondent's assets, the Seychelles Licencing Authority in communication with the DBS stated that their interest had been noted on a fleet of vehicles including a vehicle with registration number S16918 when this could not be the case as that vehicle was not in the name of the Third Respondent but rather in the name of Mr Banane.

24. It must also be noted that no annual returns for the Third Respondent were sent to the Company Registrar since 2011. Further, although it is not legally established that the Second Respondent was a director or shareholder of the Third Respondent, tax returns for the Third Respondent lodged between 2013 and 2017 show under declarations of substantial incomes by the company in 2013, 2014, 2015, 2016 and an over declaration of income in 2017.
25. Meanwhile, the combined incomes of the First and Second Respondent based on bank accounts, cash deposits at dealers for vehicles, properties and the purchase of jewellery show a gross combined income of SR 2,600,871.79 in 2013, SR 606,372.19 in 2014, SR 879,372.93 in 2015, SR 1,532, 844.00 in 2016, SR 690,207.01 in 2017 and SR 7,123,000.00 in 2018 with no tax returns for four of those years and a gross under declaration for two of those years. This is clearly not supported by any evidence of the Respondents' personal legitimate income.
26. The bank accounts relating to the Third Respondent (MCB Accounts 1545002, 291412, 291428, and 415618) are also irregular in that in general the cash deposits therein are made in round numbers with no reference to the origins of the funds lodged.
27. The bank account (367737) relating to the Second Respondent, namely to the business "Baby Starter" also showed deposits made in round numbers, with no reference to the origins of the money lodged. In January 2016, after significant inactivity in the year 2015, SR 185,125 in cash was deposited into the account and on 1 June the same amount transferred out to a joint account of the First and Second Respondent to "clear off personal loan" (sic) with no details of such a loan provided.

Subsequently, cash deposits made into the account were then withdrawn for life insurance, rental and shipping cost payments.

28. With regard to a USD MCB joint account (MCB 719547200) held by the First and Second Respondents, small transfers were made from Air Seychelles relating to the lay-over and productivity allowances for the Second Respondent.
29. With regard to three other joint savings accounts (MCB 719547200, 719547202, 19631) between the First and Second Respondents held with MCB in 2014, ‘smurfing’ was involved to avoid the bank filing suspicious transaction reports. Transactions are also not properly explained or supported; namely a cash deposit of SR 60,000 for the purchase of a car, another large deposit referenced “business” with SR 300,000 then paid out to Crown Motors for the purchase of a Honda Vezel and the purchased car registered in the name of the First Respondent.
30. In the further affidavit of Superintendent Prinsloo sworn on 23 August 2019, it is averred that Account 719547202 received total transfers of USD 2,222.91 from 15 March 2013 to 13 August 2013 being the “layover and productivity allowance” paid by Air Seychelles with respect to the Second Respondent’s employment. Large cash deposits were also made in that time period in round amounts without any reference. These deposits could only represent the proceeds from crime.
31. In 2016, Account 19631 altogether received SR 630 231 with SR 668,430 transferred out from the account which had an initial balance of SR 61,853.41. Other large cash deposits followed with the reference “to clear off personal loan”. Other payments are referenced as “debit car payment” or “sale and/ or purchase of vehicles” with no records of sale or purchase of such vehicles. Other money for the sale of vehicles registered to the Third Respondent was deposited into the First and Second Respondents’ bank account. These include sums of SR 904,450 referenced “cash deposit”, SR 100,000 referenced “Sharon Mellie purchase of vehicle S22043”, four cash deposits amounting to SR 567,000 in total, referenced “sale of vehicle”, SR 75,000 from a foreign account referenced “purchase of vehicle”, SR 315,000 for the sale of vehicle S2003, and a payment of SR 258,888 to PMC Auto for vehicle

S31959 registered in the Third Respondents' name after several cash deposits were made into the account.

32. Similarly, several cash deposits were made into these joint accounts following which payments were made for vehicles S32307, S32187, S32416 and S460 all registered in the name of the Third Respondent. Further, payments for car rental payments were made into the First Two Respondents' joint accounts instead of the Third Respondent's business account. These irregularities are examples of the use of the Third Respondent to conceal illicit drug trafficking operations.
33. With respect to the First Respondent's MCB savings bank account 432245, in 2016 SR 575,100.00 was received into the account and SR 572,577.57 transferred out of the account. A loan was obtained from the bank for SR 412,000 to purchase a vehicle with registration number S1938. Six transfers of SR 10,000 each were made from the First and Second Respondent's joint account (19631) towards the repayment of the loan after deposits in round figures were first deposited into the joint account. A further seven transfers from the 19631 account were made in 2016, ostensibly for the repayment of the loan. No other transactions took place on this account in 2016. It is clear therefore that Account number 432245 was opened with the sole purpose of concealing the origin of the cash, which is drugs money.
34. Further in 2017, 2018 and 2019, the transactions on the account again reveal less of the nature of a savings account but rather a device used to receive transfers from the First and Second Respondent's joint account with no particular references for them apart from "cash deposits".
35. With respect to the car hire vehicles, S8836, a Hyundai Eon purchased from a Mr. Jayasingha by the Second Respondent, no proof of the provenance of the payment amount is provided. The vehicle was then transferred to the Third Respondent with again no proof of payment. None of the accounts available to the Second or Third Respondents reflect any payment for the vehicle and it can be safely concluded that the money used for the purchase of the vehicle was from the proceeds of crime.

36. Great Wall Motors vehicles S20826, S21923, S 21927 were purchased on 14 August 2013 from Crown Motors for SR 225,652.17, SR 225,652.17 and SR 260,434.79 respectively and registered in the name of the Third Respondent. Similarly, cash deposits were made for the purchase of these cars and instalments of SR 53,667 made from MCB account 719547202 held by the First and Second Respondents. Other instalments were made from the Third Respondent's account. It is irregular to make payments of a company asset from a personal account. Moreover, the cash deposits would appear to have been obtained from drug trafficking as the company tax return that was lodged for the year 2013 did not reflect the true income of the Third Respondent.
37. Vehicle S14462, a Hyundai i10 was purchased on 16 November 2017 from PMC Auto for SR 240,708 and registered in the name of the Third Respondent. The money was transferred from the Third Respondent's account number 291428 after the sum of SR160, 000 from H. Savy Insurance had been transferred to it with three cash deposits in round numbers amounting to SR 86,000 from the company's 291428 account. The origin of these cash payments are not disclosed. Again the only safe conclusion that can be made is that the purchase of the vehicle was acquired in part with the proceeds of drug trafficking.
38. On the whole, the purchase of other vehicles, namely S31959, S32185, S32186, S32187, S32307, S32416, S460, S6080, S10840 and S1938 were made from transfers from the first two Respondents' personal joint accounts (19631) and registered in the name of the Third Respondent or in the name of the First Respondent after cash deposits in round amounts were made into the company's or the First and Second Respondents' joint accounts. As with previous purchases of vehicles, it is highly irregular to pay for a company asset from a personal account. In the case of vehicle S319590, it was already registered in the Third Respondent's name before it had even been purchased from PMC. No references were made for these cash deposits and it can also be safely assumed that these were in whole or in part from proceeds of crime.

39. After the arrest of the first two Respondents and a day after the Applicant had filed a section 3 POCA interim order in respect of the specified property in the Annexure, the court on 20 August issued the section 3 freezing order in respect of the specified property, which order was served on Counsel Mr. Joel Camille and the first two Respondents. It was discovered that the First Respondent had signed a general power of attorney on 19 August 2019 (to date unregistered) in favour of Mike Balthide. Mr. Camille also wrote to the Licensing Authority on 19 August 2019 stating that no court order had been issued in respect of the First Respondent and that vehicle could be transferred. In breach of the court order, the Licensing Authority transferred Hyundai Tucson S6080 on 20 August in the name of Mr. Balthide without a registered power of attorney or any financial transaction supporting the transfer showing in the Respondents' accounts.
40. When the car was found, Mr. Balthide was using it for his own car hire business, namely "Milou Cars," and explained that he had no contract with the First Respondent but that he was paying for the First Respondent's legal fees and expenses in the sum of between SR 150,000-SR 160,000. The power of attorney appears to be misunderstood by Mr. Balthide who has used it solely to register the vehicle in his own name so as to deprive the FCIU of its duty to seize the asset under the section 3 order.
41. Similarly, the Second Respondent signed a power of attorney in favour of her father, Mr. Mellie on 19 August 2019 signed by Counsel Mr. Joel Camille and also sent to the Licensing Authority informing them that five damaged vehicles namely S8836, S20826, S 21923, S32185, S32186 together with one pick-up truck namely vehicle S460 were to be transferred to provide "welcoming revenue for the company" (sic) and that the company owed money to Mr. Mellie.
42. The vehicles were duly transferred on 19 August 2019 to Mr. Mellie. Again no financial transaction is shown supporting the transfer showing in the Respondents' accounts. On the same day Mr. Mellie transferred vehicles S32185, S32186 to one Patrick Walter of Anse Boileau. Mr. Walter claimed that he was contacted by Mr.

Mellie who offered him the vehicles for sale and for which he paid him Euro 9000. Again, this is a clear attempt to deprive the FCIU of its duty to seize the assets under the section 3 order.

43. Mr. Camille was essential in facilitating these transfers which breached the section 3 process.
44. Vehicle S32416, a Hyundai Grand i10 was found in the possession of attorney Joel Camille who claimed that the first two Respondents owed him SR400, 000 for his services and that he had a verbal agreement that he could use the vehicle at a rate of SR500,00 per day. Vehicle S14462, also a Hyundai Grand i10 was found in the possession of Yannick Bill of Glacis, the First Respondent's cousin who claimed that he ran errands for the Second Respondent. A third Hyundai Grand i10 was found in the possession of Ali Padayachy of Brilliant who claimed he got the vehicle from another cousin of the First Respondent. The vehicle was being used as a *taxi pirat*. These vehicles are now in the possession of the Receiver.
45. Vehicle S1938, a Kia Carnival was found in possession of Selwyn Chang Tave, the First Respondent's little brother and was seized by the FCIU. Similarly, vehicle S10840 a Kia Oro, was found in the possession of one Ikrama, a cousin of the First Respondent. These vehicles are also in the possession of the Receiver.
46. It would therefore appear that out of a total of sixteen vehicles which were the subject of the section 3 freezing order of 19 August 2019, only seven are in the possession of the Receiver.
47. With respect to the Kreolor jewellery, the receipts indicate that they were purchased by cash totalling SR 128,314.00. There is no indication that these pieces of jewellery were purchased with legally obtained funds and that instead they were obtained from cash that was obtained from proceeds of crime.
48. With respect to the land and dwelling house at Le Niol, namely Title J943 purchased on 10 October 2013 by the first two respondents for SR 950,000, the transferor,

Richard Sims, admitted that he did not have a bank account at the time of the purchase and SR 1 million rupees was paid to him cash by the First Respondent. The First Respondent admitted that he had no bank account in 2013, the money available to him through his joint accounts with his wife or obtained through his businesses does not show that he would have legitimate income to access SR 1 million in cash for the purchase of the property.

49. With regard to the Third Respondent based on the averments in the affidavit it is clear that it was not operated as a car hire company and that it is in the interests of justice to pierce the corporate veil to reveal that it was not run by legitimate directors and or shareholders and that the inflated assets were disseminated at free will and paid into private accounts and false returns made.
50. It is Superintendent Prinsloo's belief therefore, that the two Respondents were engaged in the money laundering of proceeds from crime, namely drug trafficking as neither of them has been able to show any legal form of income for the purchase of the properties sought to be frozen.
51. In response to the averments by Superintendent Prinsloo, the First Respondent has admitted that he is facing trial later this month on drug trafficking charges but that the case is based entirely on the hearsay evidence of Jude Brigilia and Samantha Celestine. On this basis he avers, the current applications are therefore not grounded in law as he has no association with the two said persons.
52. He further avers that none of the specified property listed in the annexure to the applications has been obtained through drug trafficking or criminal conduct.
53. In relation to the company BLADE 2000 he avers that "the business was set up but for various reasons did not turn out to be profitable." The workers were employed on a daily basis, hence the lack of payroll documents submitted on their behalf. This, he depones, does not prove money laundering.
54. With respect to the company Northern Car Hire (Pty) Ltd, the business was purchased by his father in law, Jean Mellie for the sum of SR900, 000 from a loan

secured from the Development Bank in the sum of SR1, 400,000. One share in the company was transferred to him, and 99 shares to Jean Mellie. In the same regard a floating charge was registered in favour of the bank in respect of the loan. The loan was used for the purchase of the company and for the purchase of four new cars to add to the ageing fleet.

55. It is also his averment that the car operated a legitimate business and that it was not involved in any illegal activities. In support of his affidavit, he has attached documentation of the bank loans and charges.
56. The Second Respondent has sworn an affidavit in which the First Respondent's averments are repeated almost verbatim.
57. Mr. Jean Mellie has also sworn an affidavit in which he confirms the First Respondent's narrative verbatim save for adding that in 2013 he transferred 45 shares in the Third Respondent to the Second Respondent and 50 shares to the First Respondent because of difficulties he was encountering in the business.
58. Section 4 applications are decided on the belief evidence of the Applicant as explained in Section 9 of POCA. In *Financial Intelligence Unit v Contact Lenses Ltd & Ors* (MC 95/2016) [2018] SCSC 564 (19 June 2018) the Court summarised the approach to the law in this respect. It stated:

In respect of the applicable legal provisions and jurisprudence to the present matter the courts in Seychelles have established in previous cases, namely FIU v Mares (2011) SLR 405, Financial Intelligence Unit v Sentry Global Securities Ltd & Ors (2012) SLR 331, and Financial Intelligence Unit v Cyber Space Ltd (2013) SLR 97 that the provisions of POCA should be interpreted to mean:

"...that once the applicant provides the Court with prima facie evidence that is, reasonable grounds for his belief in compliance with section 9(1) in terms of his application under section 4(1) of POCCCA, the evidential burden shifts to the respondent to show on a balance of probability that the property is not the proceeds of crime..." (Mares supra)

"...All that is necessary is "a reasonable belief" that the property has been obtained or derived from criminal conduct by the designated officer of the FIU. That belief pertains to the designated officer and hence involves a subjective

element. It is therefore only prima facie evidence or belief evidence. No criminal offence need be proved, nor mens rea be shown...If the FIU relies on belief evidence under section 9 the court has to examine the grounds for the belief and if it is satisfied that there are reasonable grounds for the belief it should grant the order. There are appropriate and serious protections for the respondents as at different stages they are permitted to adduce evidence to show the Court that the property does not constitute benefit from criminal conduct. Their burden in this endeavour is that "on a balance of probabilities." In other words, once the applicant establishes his belief that the property is the proceeds of crime, the burden of proof shifts to the respondent to show that it is not. Hence, unless the court doubts the belief of the officer of the FIU, which is reasonably made, it cannot refuse the order (Sentry supra).

59. On this basis I have examined the documentary evidence annexed to Superintendent's Prinsloo's affidavit. I am satisfied on this information, together with his belief evidence that there are reasonable grounds at this stage to suspect that the specified property constitutes directly or indirectly, benefit from criminal conduct, or was acquired in whole or in part with or in connection with property that is directly or indirectly benefit from criminal conduct. That is prima facie evidence against the Respondents.
60. The burden of proof then shifted to the Respondents to show on a balance of probabilities that the properties retained were not from illegitimate sources. In other words, they have to explain the wealth which has permitted them to purchase the properties sought to be seized by the present applications.
61. In their affidavits, they claim in summary that they had businesses that failed and that they borrowed money from the Development Bank to purchase the car business and other cars. They have averred that this does not prove money laundering. With respect to this evidence, I have to be convinced on a balance of probabilities that the specified property is from legitimate sources.
62. It would appear that the Respondents have missed the point completely as demonstrated in the averments of their affidavit. What the court seeks from them is an explanation of how they were able to have in their possession a substantive

property at Le Niol officially purchased for SR 990,000 and sixteen cars and items of jewellery of considerable value when their income from the businesses do not support this unexplained wealth.

63. I find the averments of the Respondents and their supporting documentation not to be compelling. They have failed to explain their interest in the specified property and the source of wealth used for their purchase. I therefore find that the interlocutory order sought should issue on the belief evidence of Superintendent Prinsloo as I am satisfied that there are reasonable grounds for his belief as is obvious from the formidable evidence amassed against the Respondents.

64. I am also satisfied that there is no risk of injustice to the Respondents or any person if I make the orders sought as they may at any stage while the order is in operation cause it to be discharged or varied by satisfying the court that the property does not constitute directly or indirectly benefit from criminal conduct or was acquired or constitutes benefit from criminal conduct.

65. I therefore grant the application and issue an interlocutory order prohibiting the disposal of, dealing with or diminishing in value of the specified property. I further appoint Superintendent Prinsloo to be the Receiver of the said specified property to manage, keep possession or dispose of the same or otherwise deal with any property in respect of which he is appointed.

66. I am particularly concerned about the fact that the DBS granted a loan to the Third Respondent when clearly Mr. Mellie and the Second Respondent possessed no official documentation as to their directorship or shareholding of the company. I am therefore duty bound to report this matter to the Anti-Corruption Commission for investigation. Similarly, the Seychelles Licensing Authority allowed transfers of vehicles some after the court freezing order of the 20 August 2019 and some on unregistered powers of attorney provided by attorney Joel Camille. These acts ought to be investigated.

67. In the circumstances, I also make the following orders:

1. Pursuant to section 4 of POCA I prohibit the Respondents or any other person from disposing or otherwise dealing with whole or any part of the property specified in the annexe to this Order.
2. Superintendent Hein Prinsloo is appointed as Receiver over all of the said property to manage, keep possession or dispose of, or otherwise deal with the property in respect of which he is appointed.
3. These orders are to be served on the Chief Executive of the Seychelles Licensing Authority and the Registrar General and they are not to effect any transfer of any of the vehicles or property contained in the Annexure attached to this order.
4. Costs of these proceedings will abide the final outcome of the case in relation to the specified property in this matter.

Signed, dated and delivered at Ile du Port on 18 November 2019.

M. Twomey
Chief Justice