

IN THE SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC 513
CS109/2020

:

KASI TRADING

Plaintiff

Represented by its Director R Kasinathan
(rep. by S. Rajasundaram)

and

UNITED AFRICA FEEDER LINE

1st Defendant

(unrep.)

BENELUX FREIGHT & LOGISTICS LLC DABAI

2nd Defendant

(unrep.)

CMA GGM SHIPPING LINE

3rd Defendant

(rep. by Edith Wong)

SOCIETE SEYCHELLOISE NAVIGATION

4th Defendant

(rep. by Edith Wong)

SEYCHELLES PORT AUTHORITY

5th Defendant

(rep. by Joel Camille)

Neutral Citation *Kasi Trading v United Africa Feeder Line & Ors* CS109 2020 [2020] SCSC 513... (delivered on 30 July 2021)

Before: Vidot J

Summary Prescription; Article 2271(1) of the Civil Code

Heard: counsels filed written submissions

Delivered: 30 July 2021

RULING

VIDOT J

- [1] The Plaintiff sues the Defendants in delict. The case arise out of a fire that broke out at the port which damaged a container holding goods for the Plaintiff. It is averred that goods belonging to the Plaintiff, who is a registered trading company involved in the imports, wholesale and distribution of all general goods in Seychelles, were damaged beyond salvation. As a result of the damage the Plaintiff claims AED80,089.50 SR264,593.88.
- [2] The 1st Defendant is said to be a shipping line that is locally represented at all material times by its agent, the 2nd Defendant. The 2nd Defendant also acts as agent of various shipping lines.
- [3] The Plaintiff avers that 3rd Defendant is also an international shipping line represented locally by its agent, the 4th Defendant. The 5th Defendant is a statutory body in charge of sea ports in the Seychelles, having control over all other agencies working within the vicinity and defined zone in sea ports.
- [4] The Plaintiff alleges that it had received a consignment of merchandise from the Port of Dubai delivered to the Plaintiff through the 2nd Defendant. The consignment arrived in Seychelles in May 2015. They had completed all formal import formalities and waiting for clearance to take delivery of the container which contained the goods from Port Victoria.
- [5] It is averred that the 4th Defendant on behalf of the 3rd Defendant at all material times were having their own containers in Port Victoria including a container that was placed next to the Plaintiff's container. Their containers is said to have contained hazardous and inflammable material that when a wild fire broke out in the port, the container caught fire and released dense smoke and affected many other containers, including the Plaintiff's container. As a result, the Plaintiff's merchandise was completely destroyed.
- [6] The Plaintiff now sues the Defendants jointly and severally for damages for his lost consignment.

Defendant acknowledge receipt of the Plaintiff's claim but went on to state in bold that "[T]hat this message is sent without prejudice and shall not be construed as an acknowledgement of liability anyhow."

[15] Counsel for the 3rd Defendant referred to Encyclopedie Dalloz Verbo Prescription paragraph 184, which states in relation to reconnaissance volontaire du possesseur (article 2248) that "*La reconnaissance express n'est soumise à aucune forme special. Elle peut résulter d'écrites quelconques: les lettres missives, pouvu q'elles ne laisse aucune doute sur l'intention de celui qui l'a écrite.*"

[16] It is clear from Dalloz that the document which the Plaintiff wishes interrupt prescription must leave no doubt in the mind of the reader that the other party has accepted circumstances so as to interrupt prescription. The emails do not establish that. The 3rd Defendant has clearly stated in the email that liability is not being accepted. In fact what the emails state is that the Defendants are trying to close the case. The fact that the 3rd Defendant, in the email acknowledges receipt of the claim that cannot translate into meaning that liability is admitted. The 3rd Defendant it is to be reminded as pleaded in the Plaintiff was the agent for the 4th Defendant.

[17] In the circumstances I find that the action of the Plaintiff is prescribed by virtue of Article 2272(1) of the Civil Code therefore dismiss the Plaintiff.

Signed, dated and delivered at Ile du Port on 30 July 2021


M-Vidot J