

SUPREME COURT OF SEYCHELLES

Reportable
[2022] SCSC 1034
MA183/2022
(Arising in XP20/1982)

In the matter of the estate of the late Michel Adam:

**MARGUERITE BRESSON BORN CLARISSE
OF LA LOUISE, MAHE, SEYCHELLES**
(Represented by Ms. Karine Dick)

Petitioner

and

**THE CURATOR OF
PREMIER BUILDING
FIRST FLOOR
VICTORIA
MAHE
SEYCHELLES**
(Represented by Ms. Vanessa Nicette)

Respondent

Neutral Citation: *In the matter of Marguerite Bresson* (MA183/2022, (arising in XP20/1982) [2022] SCSC 1034

(24 November 2022)

Before: Adeline, Judge

Summary: Application by petition / revocation of appointment as executrix / Section 25 (4) of the Curatelle Act, 2021

Heard: 03 November 2022

Delivered: 24 November 2022

FINAL ORDER

In exercise of the powers conferred upon this Court by virtue of Section 25 (4) of the Curatelle Act, 2021, this Court revokes the appointment of the Petitioner, Marguerite Bresson born Clarisse of La Louise, Mahe, Seychelles as executrix to the estate of the late Michel Adam made on the 23rd February 1982.

JUDGMENT

Adeline, J

INTRODUCTION

[1] This is an application, made by petition, filed in Court on the 17th August 2022 pursuant to Section 25 (4) read with Section 25 (5) of the Curatelle Act, 2021 (“the Act”), in which application, the Curator appointed under Section 3 of the Act is made Respondent to the petition. The petition is supported by an affidavit of facts and evidence sworn by the Applicant / Petitioner.

[2] In her affidavit in support of the petition, the Petitioner depones as follows;

- “1. That I am the Petitioner in this matter.
2. That I was appointed as executrix of the estate of the late Michel Adam (the deceased), exhibited herewith a copy of the Order of the Supreme Court as Doc 1.
3. The said appointment was made by this Honourable Court on the 23rd February 1982 before his Lordship, A. Sauzier.
4. That I am no longer willing to act as executrix since I have reached the age of 81 years old, and have signified my desire to the other heirs of the deceased.
5. That I am desirous of being released from my appointment as executrix of the deceased”.

[3] As per the pleadings, the Applicant / Petitioner prays this Court for an Order that relieving her in her position as executrix of the estate of the late Michel Adam.

[4] In its response (which should have been by way of an affidavit in reply but is not) the Respondent pleads, *inter alia*, as follows;

“4. The Respondent, being vested with the power to superintend the administration of executors under the Curatelle Act 2021, has no objection to the removal of the Applicant as executrix on the ground of her unwillingness due to her age subject to the Court making the Order as set out below, in accordance with Article 835 of the Civil Code of Seychelles Act 2020 as amended by the Statute Law Revision (Miscellaneous Amendments) (No 2) Act 2022”.

[5] Giving her oral deposition in Court, the Applicant / Petitioner testified, that on the 23rd February 1982, by virtue of a Court Order, she was appointed as executrix to the estate of her late father, Michel Adam, exhibit P1.

[6] The Applicant / Petitioner also testified, that because of her age, having turned 81 years old, she can no longer act as executrix to the estate of her late father, and is desirous to be released as executrix.

[7] The Applicant further testified that, the estate of her late father comprises, amongst other things, of an immovable property registered as V5222 measuring 677 square metres which has since been registered on the name of heirs Michel Adam, exhibit P2.

[8] The Applicant / Petitioner testified that, in 2020, she started the procedure to allocate all the heirs with their respective shares by way of an affidavit of transmission by death, but has not completed the procedures because one of her sisters passed away. The Applicant / Petitioner also testified that, she has prepared a summary statement (an inventory) of what she has accomplish as executrix, exhibit P3.

[9] The Applicant also testified, that as per the summary statement, exhibit P3, there are 17 surviving heirs of the estate of the late Michel Adam.

[10] Learned Counsel for the Respondent opted not to cross examine the Petitioner and proceeded to address the Court as per the transcript at page 8 of the proceedings, that reads;

“My Lord, in view that we did not object to the application that she be released from her duties subject to her producing a summary statement / inventory. We are satisfied, that the document tendered as exhibit P3 satisfies our non-objection in fact. So I will have no questions for the witness”.

FINDINGS AND CONCLUSION

[11] The Petitioner in this matter, is an 81 year old who was appointed executrix of the estate of her late father, Michel Adam who passed away on the 23rd February 1982. By this petition, she seeks to be relieved of her duties as executrix by asking the Court to revoke her appointment. She has tendered in evidence a summary statement (taken to be an inventory) to the satisfaction of Learned Counsel for the Respondent. It is clear, based on her testimony, that she has not completed everything she had to do as executrix to enable her to wind up the succession given that the distribution process to the heirs, is not completed.

[12] Therefore, in exercise of the powers conferred upon this Court by virtue of Section 25 (4) of the Curatelle Act, 2021, this Court revokes the appointment of the Petitioner, Marguerite, Bresson born Clarisse of La Louise, Mahe, Seychelles as executrix to the estate of the late Michel Adam made on the 23rd February 1982.

[13] No Order is made as to cost.

[14] A copy of this Order is to be served on the Curator.

Signed, dated and delivered at Ile du Port on 24th November 2022.


B. Adeline
Judge of the Supreme Court

