

SUPREME COURT OF SEYCHELLES

Reportable

[2022] SCSC 98

MA 242/2021

In the matter of:

The Government of Seychelles
*(rep by Attorney General of National House, Mahe
Seychelles)*

Applicant

And

Adrian Shiva Sophola
Jessica Erin Fonseka

**First Respondents
Second Respondent**

Neutral Citation: *Government of Seychelles v Sophola & Anor* (MA 242/2021 [2022] SCSC 98
(8 February 2022))

Before: Andre J

Summary: Disposal order under s. 5 of Proceeds of (Crime Civil Confiscation) Act 2008
(POCCCA as amended) - No opposition to the application

Heard: 31 January 2022

Delivered: 8 February 2022

ORDER

The following orders are made:

- (i) Pursuant to section 5 of POCCCA, I hereby order for the disposal of the property as specified in the table attached to this application, namely, Seychelles Rupees Fifty Four Thousand Six Hundred and Ninety Nine and Cents Forty (SCR 54,699.40/-) constituted by the following: Forty three (43) Five Hundred (500) Seychelles Rupee notes in the value of Twenty One Thousand Five Hundred (SCR. 21,500.00/-); Two Hundred and Eighty (280) One Hundred (100) Seychelles Rupee notes in the value of Seychelles Rupees Twenty Eight Thousand (SCR 28,000.00/); Ninety Eight (98) Fifty (50) Seychelles Rupee notes in the value of Seychelles Rupees Four Thousand Nine Hundred (SCR 4900.00/-); Six (6) Twenty Five (25) Seychelles Rupee notes in the value of Seychelles Rupees One Hundred and Fifty (SCR 150.00/-) and One (1) Euro Ten (10)

(calculated at Euro 1=SCR 14.94) in the value of Seychelles Rupees One Hundred and Forty Nine (SCR 149.00/-)

- (i) I further order that notices be issued on the 1st and 2nd Respondents and ABSA Bank Seychelles with immediate effect.

RULING

ANDRE J

Introduction

[1] This is an application by the Government of Seychelles herein represented by the Attorney General of National House, Mahe (Applicant), for a disposal order under section 5 of the Proceeds of (Crime Civil Confiscation) Act, 2008 (POCCCA), that the whole of the sums of Seychelles rupees Fifty Four Thousand Six Hundred and Ninety Nine and Cents Forty (SCR 54,699.40/-), in denominations as set out in the table to the application and outlined in the Order of Her Ladyship Twomey CJ (as she then was), dated 7 September 2020 in MC 24/2020 (property), be transferred to the Republic. Further, the Applicant moves for further and other orders as the court shall deem just and proper.

Grounds for the application

- [2] The grounds on which the application is based are as follows.
- [3] That an interlocutory order was made by the former Chief Justice Twomey CJ on 7 September 2020 in MC 24/2020 under section 4 of POCCCA, and has been in force for not less than 12 months in relation to the property.
- [4] That there is no pending appeal before the Court of Appeal in respect of the said interlocutory Order or any other Order under section 4 of the POCCCA.
- [5] That there is no application pending, under section 4(3) of POCCCA before any court in respect of the property.

- [6] A copy of the table disclosing the details of the property is noted, namely: Seychelles rupees Fifty Four Thousand Six Hundred and Ninety Nine and Cents Forty (SCR 54,699.40/-); Affidavit of inspector Terence Roseline of 27 September 2021 in support of the application; Exhibit TR1 being the interlocutory and receivership order of 7 September 2020 in MC 24/2020; and Order of the former CJ in MC 24/2020, issuing an interlocutory order prohibiting the disposal of, or otherwise dealing with whole or any part of the property, are all exhibited.
- [7] The Court has scrutinised all the documents referred to above and finds that the same are in line with the application as filed.
- [8] The 1st and 2nd Respondents are not objecting to this application (proceedings of the 3 November 2021 and the 31 January 2022 refer).

Findings

- [9] This court is satisfied based on the grounds for the application as duly supported by the affidavit evidence of inspector Terence Roseline (supra), that there is an interlocutory and receivership order made by former Chief Justice Twomey pursuant to section 4 of POCCCA on 7 September 2020 in MC 24/2020, prohibiting the Respondents from disposing or otherwise dealing with whole or any part of the property, the subject matter of this application and appointing Mr Hein Prinsloo, who was then Superintendent in the Seychelles Police, attached to the FCIU to be the receiver of the property on the terms set out in the said Order.
- [10] Further, that the property subject to the interlocutory and receivership orders, which constitute the subject matter of this application, in the sum of Seychelles rupees Fifty Four Thousand Six Hundred and Ninety Nine and Cents Forty (SCR 54,699.40/-) stand-in credit in the FCIU receivership account at the ABSA Bank Seychelles.
- [11] That the said interlocutory order of 7 September 2020 in relation to the property has been in force for not less than 12 months as specified under section 5(1) of the POCCCA.
- [12] That there is no appeal pending before the Court of Appeal in respect of the said interlocutory order and or any other order made under section 4 of the POCCCA, nor of

any pending application made by or on behalf of the Respondents or any other person under section 4(3) of the POCCCA.

[13] It follows thus, that this court based on the foregoing findings, is satisfied that an order for the final disposal of the said property, ***less any bank charges which ABSA bank Seychelles may be entitled to deduct***, by way of transfer to the Republic as provided for in section 5 of POCCCA is to be ordered accordingly.

Conclusion

It follows that this court orders as follows:

- (i) Pursuant to section 5 of POCCCA, I hereby order for the disposal of the property as specified in the table attached to this application, namely, Seychelles Rupees Fifty Four Thousand Six Hundred and Ninety Nine and Cents Forty (SCR 54,699.40/-) constituted by the following: Forty three (43) Five Hundred (500) Seychelles Rupee Notes in the value of Twenty One Thousand Five Hundred (SCR. 21,500.00/-); Two Hundred and Eighty (280) One Hundred (100) Seychelles Rupee notes in the value of Seychelles Rupees Twenty Eight Thousand (SCR 28,000.00/-); Ninety Eight (98) Fifty (50) Seychelles Rupee notes in the value of Seychelles Rupees Four Thousand Nine Hundred (SCR 4,900.00/-); Six (6) Twenty Five (25) Seychelles Rupee notes in the value of Seychelles Rupees One Hundred and Fifty (SCR 150.00/-) and One (1) Euro Ten (10) (calculated at Euro 1=SCR 14.94) in the value of Seychelles Rupees One Hundred and Forty Nine (SCR 149.00/-)
- (ii) I further order that notices be issued on the 1st and 2nd Respondents and ABSA Bank Seychelles with immediate effect.

Signed, dated, and delivered at Ile du Port on 8 February 2022.

ANDRE J