

**SUPREME COURT OF SEYCHELLES**

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**Reportable**

[2022] SCSC 97

MA 264/2021

**In the matter of:**

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

**Applicant**

And

Nichol Jean Russel Gabriel & Ors  
*(rep. by Bernard Georges)*  
Natasha Chang-Tave  
Steve Chang-Tave  
*(rep. by Clifford Andre)*

**First Respondent**

**Second Respondent**

**Third Respondent**

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Neutral Citation: *Government of Seychelles v Gabriel & Ors* (MA 264/2021 [2022] SCSC 97  
(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: 12 January 2022

Delivered: 8 February 2022

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**ORDER**

**The following orders are made:**

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- (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 Four Million Five Hundred and Ninety One Thousand (SCR 4,591,000.00/-) constituted by the following (a) Parcel Number S6399 which is the land comprised of 1031 square meters and a dwelling house situated in Cadastral district of Serbet at Anse-Aux-Pins, Mahe, valued at Four Million (SCR 4,000,000); (b) part deposit in the sum of Seychelles Rupees Two Hundred and Ninety Five Thousand, Five Hundred (SCR 295,500.00/-) for Cyan splash bitone Toyota CHR which was paid to Speed Pty Ltd by the 2nd and 3rd Respondents;

and (c) part deposit in the sum of Seychelles Rupees Two Hundred and Ninety Five Thousand and Five Hundred (SCR 295,500.00/-) for Graphite Black Lexus NX300H which was also paid to Auto Speed Pty Ltd by the 2nd and 3rd Respondents.

- (ii) I further order that notices be issued on the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents and ABSA Bank Seychelles with immediate effect.

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## RULING

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**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 Four Million Five Hundred and Ninety One Thousand (SCR 4,591,000.00/-), in denominations as set out in the table to the application outlined in Order of Her Ladyship Twomey CJ (as she then was), on 27 July 2020 in MC 114/2019 (property), be transferred to the Republic. Further, the Applicant moves for further 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 on 27 July 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] The following documents are noted in support of the application: a copy of a table disclosing the details of the property, namely, Seychelles rupees Four Million Five Hundred and Ninety One Thousand (SCR 4,591.000.00/-); Affidavit of inspector Terence Roseline dated 12 October 2021 in support of the application; Exhibit TR1 being the interlocutory and receivership order of 12 October 2021; and the Order of the former CJ in MC 114/2019 issuing an interlocutory order prohibiting the disposal of, or otherwise dealing with whole or any part of the property or diminishing the value the property) are all exhibited.
- [7] The court has scrutinised all of the documents referred above and finds that the same are in line with the application as filed.
- [8] The 1st Respondent duly represented by Counsel Mr. B. Georges is not objecting to this application and the 2nd and 3rd Respondents duly represented by Counsel C. Andre are not object to the application either (proceedings of the 12 January 2022 refers).

### **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 27 July 2021, prohibiting the Respondents from disposing the disposal of, or otherwise dealing with whole or any part of the property or diminishing the value 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 constitutes the subject matter of this application, is the sum of Seychelles rupees Four Million Five Hundred and Ninety One Thousand (SCR 4,591.000.00/-, and that the said sums of cash stand in credit in the FCIU receivership account at ABSA Bank Seychelles.
- [11] That the said interlocutory order of the 27 July 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 Four Million Five Hundred and Ninety One (SCR 4,591.000.00/- constituted by the following (a) Parcel Number S6399 which is the land comprised of 1031 square meters and a dwelling house situated in Cadastral district of Serbet at Anse-Aux-Pins, Mahe, valued at Four Million (SCR 4,000,000); (b) part deposit in the sum of Seychelles Rupees Two Hundred and Ninety Five Thousand, Five Hundred (SCR 295,500.00/-) for Cyan splash bitone Toyota CHR which was paid to Speed Pty Ltd by the 2nd and 3rd Respondents; and (c) part deposit in the sum of Seychelles Rupees Two Hundred and Ninety Five Thousand and Five Hundred (295,500.00/-) for Graphite Black Lexus NX300H which was also paid to Auto Speed Pty Ltd by the 2nd and 3rd Respondents.
- ii. I further order that notices be issued on the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents and ABSA Bank Seychelles with immediate effect.

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

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**ANDRE J**