

SUPREME COURT OF SEYCHELLES

Reportable
[2022] SCSC
MA 214/2021
(Arising in MC 101/2019)

In the matter between:

STEPHAN RENATO PETRESCU
(rep. by Serge Rouillon)

Petitioner

and

STEFAN ADRIAN ILIESCU
(rep. by Frank Elizabeth)

Respondent

Neutral Citation: *Petrescu v Iliescu* (MA 214/2021 (Arising in MC 101/2019)) [2022] SCSC
(14th March 2022).

Before: Burhan J

Heard: 14th January 2022 and 28th February 2022

Delivered: 14th March 2022

ORDER

BURHAN J

[1] On the 30th of August 2021 learned Counsel for the Applicant (Respondent in the main case) Mr. Rouillon filed this application seeking a stay of execution of the judgment given by this Court on the 25th of August 2021 as being aggrieved by the judgment he had filed a notice of appeal in the Seychelles Court of Appeal dated 30th August 2021 which was annexed to the application.

[2] Both parties tendered written submissions and thereafter oral submissions in support. On the 14th January 2022, when oral submissions were being made, learned Counsel Mr. Elizabeth submitted inter-alia that learned Counsel Mr. Rouillon had moved to amend his

notice of appeal in the Seychelles Court of Appeal. As such application had been made by the Applicant there was no notice of appeal before this Court to consider the issue of a stay of execution pending appeal.

- [3] Having heard both counsel the matter was fixed for Order for the 28th of February 2022 at 2.00 pm. Thereafter on the 27th of January 2022, an email from Mr Elizabeth addressed to the Registrar was forwarded to me by the Registrar stating that the Seychelles Court of Appeal was due to give a Ruling on the application to amend the notice of appeal on the 31st of January 2022. Prior to delivering its Order on the 28th of February 2022, as this court had been made aware of a ruling being given by the Seychelles Court of Appeal on the notice of appeal which was before this court and on which a stay of execution was being sought, this Court called through its Orderly for a copy of the said Order given by the Court of Appeal as it was relevant and this Court wished to take Judicial Notice of it. Thereafter on the 24th of February 2022, this Court received an email from Mr. Elizabeth annexing the said Order given by Robinson JA.
- [4] The Order by Robinsons JA indicated that application to amend the Notice of Appeal was dismissed as the affidavit in support was defective and could not be accepted. In order to verify this matter prior to making any Order, on the 28th February 2022 this Court brought it to the notice of Mr. Rouillon that the Court had received the Order. This Court inquired whether Mr Rouillon was aware of the Ruling. Mr. Rouillon informed the Court that he had been told to refile his application and he had done so. He further admitted that his initial application to amend the notice of appeal had been dismissed and that he had filed a fresh application adducing further evidence.
- [5] At this stage the Court suggested that before making an Order regarding this Application, the Court will wait for decision of the Seychelles Court of Appeal. Mr. Rouillon was in agreement but Mr. Elizabeth insisted that Court makes an Order. Accordingly the case was fixed for Order for the 14th of March 2022.
- [6] Meanwhile Mr. Rouillon by email dated 3rd of March 2022 forwarded documentation in respect of his fresh application via the Registrar by email to Court.

- [7] Having thus addressed my mind to all the facts before this Court I am of the view that the notice of appeal, which the Court has to consider in making an order for stay of execution, is now before the Court of Appeal, the highest judicial forum in Seychelles, pending a final decision. Therefore, this Court is of the view that no order in respect of stay of execution can be given by this Court, until the Court of Appeal makes a final determination in respect of the fresh motion for leave to amend the grounds of appeal.
- [8] For the aforementioned reasons no order is made at present in respect of the application for stay of execution.
- [9] In passing, I would like to mention that it appears to be a habit of both Mr. Elizabeth and Mr. Rouillon to send/copy emails to court or through the Registrar without the emails being copied to learned Counsel for the opposing party as was done in the above mentioned email exchanges. This Court makes an order that in the future if emails are received from counsel without being copied to the other party/parties the emails will not be taken cognisance of by court.

Signed, dated and delivered at Ile du Port on 14th March 2022.

M Burhan J