

SUPREME COURT OF SEYCHELLES

Reportable

[2022] SCSC 241

MA12/2022

(Arising in CS85/2021)

In the matter between:

NORBERT BOUCHEREAU & ORS

(Present / Self-represented)

Plaintiffs

AND

CHRISTIANNE JUMEAU & ORS

(Absent / Unrepresented)

Defendants

Neutral Citation: *Bouchereau v. Jumeau* (MA12/2022, (arising in CS85/2021)

[2022] SCSC 241

(18 March 2022)

Before: B. Adeline, Judge

Summary: Notice of Motion for leave to issue and serve summons upon the defendants outside the jurisdiction.

Heard: 09 March 2022

Delivered: 18 March 2022

FINAL ORDER

On the strength of the affidavit evidence, motion is allowed, and accordingly, leave is granted to issue summons, that is, plaint with summons pursuant to Article 47 (4) of the Seychelles Code of Civil Procedure, and to serve upon the defendants at their address in Australia in accordance with Article 30 read with Article 47 (1) of the Seychelles Code of Civil Procedure.

RULING

Adeline, J

[1] By way of a plaint entered as a civil suit at the registry of this Court on the 30th September

2021 as CS85/2021, Norbert Bouchereau and Ors, all of Pascal Village, Mahe,

Seychelles (“the Plaintiffs”) commenced proceedings against one Christianne Jumeau and Ors, who as per the plaint, their address is Glacis, Mahe, Seychelles.

[2] In pursuance to Article 47 (1) of the Seychelles Code of Civil Procedure (“the Code”) the Plaintiffs now files this application by way of Notice of Motion supported by an affidavit jointly sworn by them, by which leave of this Court is being sought to issue and serve summons upon the defendants whom they now say live outside of the jurisdiction.

[3] The reasons set forth in the attached affidavit in support of the motion as deponed by the Plaintiffs jointly, are that they all reside outside the jurisdiction of Seychelles, more precisely, Australia.

[4] In their supporting affidavit, *interalia*, the deponents at the following paragraphs makes the following averments;

“4. That the 1st Respondent and 4th Respondent reside at 164, Lapool Road, Apple Cross, WA6153, Australia.

5. that the 2nd Respondent resides at 53 Cowanstreet, Armadale, WA6112, Australia.

6. that the 3rd Respondent is currently employed with Newmont Australia, Level 2, 388 Hay Street, Subiaco Western Australia, Australia 6008.

[5] To determine whether service outside the jurisdiction should be allowed or not, I have had regard to Article 48 of the code which sets out at (a) – (f) the circumstances when service outside the jurisdiction may be allowed. Having thoroughly read the plaint, I

am satisfied, that service outside the jurisdiction should be allowed, given that the
plaint falls within the ambit of Article 48 (a) in that, “the whole subject matter of the
suit is Land or immovable property situated within the jurisdiction”.

[6] I am not however satisfied, that all the averments necessary to fully meet the
requirements of Article 49 of the Code have been stated in the supporting affidavit, in
that;

(i) it fails to state that in the belief of the deponents the plaintiffs have a good
cause of action, and

(ii) whether the defendants are citizen of Seychelles or not.

[7] Being unrepresented, and having been examined on oath, I am satisfied, that the Plaintiffs
have clarified the omissions stated at paragraph 6 (1) and (11) above, in that;

(i) they have a good cause of action against the defendants, and

(ii) the defendants are citizen of Seychelles.

[8] I am therefore satisfied, that on account of the affidavit and oral evidence laid before this
Court, that this case is a proper one for service out of the jurisdiction.

[9] Therefore, on the strength of the affidavit evidence, motion is allowed, and accordingly,
leave of this Court is granted to issue summons, that is, plaint with summons pursuant
to Article 47 (4) of the code, and to serve upon the defendants at their address in
Australia as specified at paragraph [4] above, in accordance with Article 30 read with
Article 47 of the code.

Signed, dated and delivered at Ile du Port on 18th March 2022.

B. Adeline

Judge of the Supreme Court