

1. I declare that the late Paul Wilby Rosalie is the biological father of Catherina, Ruth Laurence born on 21st August 1984, Eddie, Antoine Julie born on 21st October 1984, Wendy, Marie-Antoine Julie born on 17th January 1986 and Karen, Corine Jeannevol born on 26th September 1987.
2. The Chief Officer of the Civil Status is directed to rectify the Acts of Birth of the said Catherina, Ruth Laurence; Eddie, Antoine Julie; Wendy, Marie-Antoine Julie; and Karen, Corine Jeannevol, by entering therein the name Paul Wilby Rosalie as their father's name, and changing the surnames of the said Catherina, Ruth Laurence; Eddie, Antoine Julie; Wendy, Marie-Antoine Julie; and Karen, Corine Jeannevol to Rosalie.
3. A copy of this judgment is to be served on the Chief Officer of the Civil Status.

JUDGMENT

CAROLUS J

- [1] This judgment arises from an *action en recherche de paternité* filed by the plaintiffs who seek a declaration of this Court that they are the children of the late Paul Wilby Rosalie (“the deceased”) who died on 27th February 2023. The defendants to the action are the siblings of the deceased. They appeared in Court at the sitting of 28th June 2023 and admitted the plaintiff's claim and the matter was fixed for ex-parte hearing.
- [2] In their plaint, the plaintiffs aver that the deceased was unmarried and survived by defendants who are his siblings. They aver that they were born of the relationship between their respective mothers and the deceased. At the time of the 1st plaintiff's birth her mother and the deceased were in a relationship. She was born on 21st August 1984. At the time of the 2nd, 3rd and 4th plaintiffs' births their mothers were living in concubinage with the deceased. They were born on 21st October 1984, 17th January 1986 and 26th September 1987, respectively. The 2nd, 3rd and 4th plaintiffs aver that the deceased did not

acknowledge them, as a result of which his name was not recorded as the father's name on their birth certificates. The plaintiffs aver that they are known and accepted by the deceased's family including the defendants as well as the community, as the deceased's children, and that he contributed towards their livelihood, maintenance and education as best as he could up to when they reached the age of majority.

[3] The Plaintiffs therefore pray this Court to –

- 1) *Declare the plaintiffs as the children of the late Paul Wilby Rosalie;*
- 2) *Make an order directing the Chief officer of the Civil Status to amend the birth certificates of the plaintiffs and register the deceased as their father by inserting the deceased's name on their birth certificates.*

[4] All four plaintiffs testified at the hearing. They essentially confirmed the matters averred in the plaint. The 1st plaintiff produced the deceased's death certificate confirming that he had died at Baie Ste Anne, Praslin on 27th February 2023 (Exhibit P2). She also produced her birth certificate in which the name Dorothy Laurence is entered as her mother's name and the father's name was left blank (Exhibit P1). Her date of birth is entered as 21st August 1984. The 2nd and 3rd plaintiffs produced their respective birth certificates in which the name Davina Julie is entered as their mother's name and the father's name was left blank (Exhibits P3 & 4 respectively). The 2nd plaintiff's date of birth is entered as 21st October 1984 and the 3rd plaintiff's as 17th January 1986 in their respective birth certificates. The 4th plaintiff also produced her birth certificate in which the name Paule Lucie Jeannevol is entered as her mother's name and the father's name was left blank (Exhibit P5). Her date of birth is entered as 26th September 1987.

[5] Proof of the descent of a child and of parenthood is dealt with in the Civil Code of Seychelles Act. Article 373 provides as follows –

373. Proof of parenthood, maternal and paternal, may be established by all relevant facts or by possession of status (possession d'état).

[6] Article 376 further provides –

376.(1) The descent of children shall be proved by their acts (actes) of birth.

(2). In the absence of an act of birth, the possession of status (possession d'état) of the child is sufficient.

[7] Article 377 contains provisions setting out the circumstances in which possession of status (referred to in Articles 373 and 376 above) may be established. It reads as follows:

377. (1) Possession of status (possession d'état) may be established when there is a sufficient coincidence of facts indicating the relationship of descent and parenthood between a person and the family to which the person claims to belong.

(2) The principal facts are—

(a) That that person has always borne the name of the parent whose child he or she claims to be;

(b) That the parent has been treating him or her as his child and that, in his capacity as parent, he has provided for his or her education, maintenance and start in life;

(c) That he or she has always been recognised in society as a child of that parent;

(d) That he or she has been recognised as such by the family.

Emphasis is mine.

[8] Article 381(1) provides for the right to bring an action to prove parental descent as follows:

381. (1) The right to prove parental descent is for the benefit for the child alone.

[9] I have considered the testimony of the plaintiffs whom I find to be credible witnesses. I have also taken into account that the defendants have admitted the plaint. On that basis, I am satisfied on a balance of probabilities that the plaintiffs are, in accordance with Article 377, in possession of status of natural children of the late Paul Wilby Rosalie, as provided in Articles 373 and 376(2),

[10] Accordingly I declare that the late Paul Wilby Rosalie is the biological father of 1st plaintiff Catherina, Ruth Laurence born on 21st August 1984, 2nd plaintiff Eddie, Antoine Julie born on 21st October 1984, 3rd plaintiff Wendy, Marie-Antoine Julie born on 17th January 1986 and 4th plaintiff Karen, Corine Jeannevol born on 26th September 1987. Accordingly I make the following Orders –

- (a) The Chief Officer of Civil Status is directed to rectify the Acts of Birth of Catherina, Ruth Laurence; Eddie, Antoine Julie; Wendy, Marie-Antoine Julie; and Karen, Corine Jeannevol, by entering therein the name Paul Wilby Rosalie as their father's name, and changing the surnames of the said Catherina, Ruth Laurence; Eddie, Antoine Julie; Wendy, Marie-Antoine Julie; and Karen, Corine Jeannevol to Rosalie.

- (b) A copy of this judgment is to be served on the Chief Officer of the Civil Status.

Signed, dated and delivered at Ile du Port Victoria on 15th September 2023

Carolus J