SUPREME COURT OF SEYCHELLES

Reportable
[2023] .....

CS 20/2022

In the matter between:

TROPICOLOR LIMITED **Plaintiff**

(herein represented by George Michaud)
(rep. by Frank Elizabeth)

and

GOVERNMENT OF SEYCHELLES **First Defendant**

Represented by the Attorney General

(rep. by Corinne Rose)

THE ATTORNEY GENERAL **Second Defendant**
(rep. by Corinne Rose)

Neutral Citation:	*Tropicolour Limited v The Government of Seychelles and Anor (CS20/2022) [2023] ..... November 2023*
Before:	Pillay J
Summary:	Plea in limine litis – section 90 – 93 of the SCCP – section 71 of the SCCP – Prescription under Article 1304 of the Civil Code - duress
Heard:	By way of submissions
Delivered:	... November 2023

ORDER

[1] The plea in limine succeed on the plea of prescription. The Plaint is accordingly dismissed.

[2] No order is made as to costs.

RULING

PILLAY J:

[1] The Plaintiff seeks an order that:

(1) The contract entered into by the Plaintiff and the Defendant is null and void ab initio as the Plaintiff acted under duress and intimidation throughout.

(2) The contract is frustrated in law and that the parties should be put in the same position they were in before they entered into the contract.

(3) The first Defendant transfer back to the Plaintiff the road, the factory, parcels V1048 and V1051, together with rights to receive rent from the lessees thereof.

(4) The first Defendant pay the Plaintiff the sum of SCR 5000.00 per month from the date the first Defendant entered into the lease agreement with Kreol'Or to date.

[2] In the alternative the Plaintiff seeks the following orders:

(1) The first Defendant to pay compensation to the Plaintiff in the sum of SCR 934, 220.00 and compensation for years of loss of financial income to be calculated by a professional accountant.

(2) Appoint Mr. Egbert Moustache of Moustache & Associates to carry out an audit of the finances of the Plaintiff and determine the annual average financial losses caused to the Plaintiff by the actions of the first Defendant.

(3) The first Defendant to pay compensation to the Plaintiff for financial losses suffered by the Plaintiff as determined by Mr. Egbert Moustache.

(4) Costs against the Defendants.

(5) Any further and other orders that the Court deems fit in all the circumstances of the case.

[3] Learned counsel for the Defendant raised preliminary objections which this Court understands to be to the effect that:

(1) The Court should strike out the claim under section 92 of the Seychelles Code of Civil Procedure or dismiss the Plaint under sections 90 and 91 of the Seychelles Code of Civil Procedure.

(2) The Government of Seychelles is not a party to the contract between Tropicolour and PENLAC Ltd notwithstanding the fact that the Government may have shares in PENLAC Ltd, the claim against the Defendant should be dismissed on the basis that it does not raise a reasonable cause of action against the Government.

(3) The Plaint should be dismissed as it is frivolous, vexatious and unsustainable in that it does not provide the material facts in the pleadings that disclose why the period of prescription for an action in nullity does not apply in this case.

(4) The case should be struck out on the basis that it is prescribed given that Tropicolour Ltd is claiming that it entered into the contract in 1985 with PENLAC Company Ltd due to duress.

(5) The Plaint is not in compliance with section 71 (d) of the Seychelles Code of Civil Procedure in that it not structured and fails to set out a plain and concise statement of the circumstances constituting the cause of action.

[4] On 25th April 2023, Learned counsel for the Defendants filed their written submissions in support of the plea in limine litis raised. On 21st June 2023 when the case was called for Ruling the Learned counsel intimated to the Court that he had not filed his submissions as the Defendant's counsel had filed none. Learned counsel for the Defendant indicated that the assertion by the Plaintiff's counsel was wrong. Time was further given to Learned counsel for the Plaintiff for submissions to be filed by 4pm latest 13th October 2023 which he complied with.

[5] Learned counsel for the Defendant submits that the Plaintiff and PENLAC Company Ltd entered into an agreement in 1985. The Plaintiff agreed to be shareholder of PENLAC Company Ltd and that the Plaintiff would surrender its land, factory and paint manufacturing machinery to join PENLAC Company Ltd as a 30% shareholder at no capital cost with PENLAC Company Ltd purchasing any usable raw materials and PENLAC Company Ltd would engage Mr. George Seeger as a joint product manager on a contract basis.

[6] She submits that the Plaintiff transferred parcels V1048 and V1051 free of encumbrances and comprising of road and the factory to PENLAC Company Ltd. PENLAC Company Ltd was not in the absolute control of the Government. There is no contract between the Plaintiff and the Defendant. The Plaintiff is in its prayers asking the Supreme Court to deem the contract between the Plaintiff and PENLAC Company Ltd void due to stress. Learned counsel submits that the claim against the Defendant should therefore be dismissed on the basis that it raises no reasonable cause of action against the Government. She relies on the case of ***Anne Lise Church v Wendy Pierre (CS 58/2022) [2022] SCSCC*** in support of her argument.

[7] Learned counsel for the Defendant further submits that the Plaintiff filed a Plaint containing 10 pages. It is her submission that the Plaint is drafted in a frivolous and vexatious manner alleging amongst other things:

a) Fraud and malfeasance on the part of public officer.
b) That the contract between the Plaintiff and PENLAC Company Ltd was null and void due to stress.
c) Victimisation on the directors of Tropicolour Ltd.

[8] It is her submission, in reliance on ***Boake Allen Ltd el al v HMRC [2006] EWCA Civ 25,*** wherein Mummery LJ stated:

> *"while it is good sense not to be pernickety about pleadings, the basic requirement that material facts should be pleaded is there for good reason – so that the other side can respond to the pleaded case by way of admission or denial of facts, thereby defining the issues for the benefit of the parties and the Court. Proper pleading of the material facts is essential for the orderly progress of the case and for its sound determination."*

that material facts must be pleaded in an effort for the opposing side to adequately respond to the Plaint.

[9] Learned counsel further refers to section 71 (d) of the Seychelles Code of Civil Procedure and submits that "one of the purpose of section 70 of the Seychelles Code of Civil Procedure is to promote at the earliest stage of the proceedings a clear and concise

exposition of the facts of the Plaint so that the Defendant is aware of the case [it] has to meet."

[10] It is her submission that the Plaint does not convey the thrust of the Plaint in conformity with the requirements under section 71 (d) of the Seychelles Code of Civil Procedure. She submits that "the Plaintiff needs to narrow down and identify the central facts that would establish and sustain the Plaintiff's cause of action in order for the Plaintiff to set out properly detailed particulars in the plaint establishing its case as per Blackstone's Civil Practice (2009) which reiterates that:

> *Good drafting involves the concise and clear identification of the subject matter of the claim, the issues in the case, the parties' respective positions in respect of those issues."*

[11] She further submits that "the Plaintiff is claiming that it entered into a contract in 1985 with PENLAC Company Ltd due to duress but nowhere in the pleadings does the Plaintiff even show ... that the period of prescription for an action for nullity under Article 1304 of the Civil Code of Seychelles does not apply in this case." On the basis of her arguments she submits that the Plaint should be struck out.

[12] Learned counsel for the Plaintiff submits that "as per section 90, the general rule is that any party can raise a point of law, which shall be dealt with at trial." He submits that it was "incumbent on the Defendants to file an application under section 90 for the court to hear the plea in limine litis before the trial, something which they fail to do since there was no consent of the parties that the plea in limine litits is dealt with before the trial."

[13] Learned counsel for the Plaintiff submits that the claim of the Defendants that the Plaintiff's action is frivolous and vexatious, merits an investigation at the hearing and cannot be decided at this preliminary stage. It is his submission that the Plaintiffs have a genuine and real grievance against the Defendants. He submitted that the Plaintiff's action is "a far cry from the definition of the words frivolous and vexatious as described in the case of ***Frank Elizabeth v The President of the Court Appeal (2010) 382".***

[14] In conclusion, Learned counsel for the Plaintiff submits that the Defendants have not raised a plea of prescription in their pleadings and cannot argue the point in their submissions, relying on the case of ***The estate of the late Andre Delhomme v Attorney General SCA 15/2021.*** He further submits that in the event his submissions do not find favour with the Court the Plaintiff should be allowed to amend its Plaint.

[15] Indeed, pursuant to section 90 of the Seychelles Code of Civil Procedure "*any party shall be entitled to raise by his pleadings any point of law…*". The Defendant is therefore entitled to raise any point of law in its Defence or by way of notice of motion after pleadings are closed.

[16] Section 90 further provides that "*…any point so raised shall be disposed of at the trial, provided that by consent of the parties, or by order of the court, on the application of either party, the same may be set down for hearing and disposed of at any time before the trial.*"

[17] The default position in accordance with the above section is that the point of law raised shall be disposed of at the trial. However, if the parties agree, the point of law may be disposed of before the trial. It further provides that in the event, presumably, that one side disagrees, the other party can apply to the court for the point of law to be heard before the trial at which point the Court will make such order for hearing prior to the trial.

[18] In the case at hand, during the sitting of 1st March 2023 the following exchange took place:

Miss Rose:	*On the last occasion, I have indicated to the court that I will file fresh defence, I have done so and I have served a copy on my learned friend. If the court can disregard the defence that was filed by Mr. Knight and take into account the fresh one that I have just filed.*
Court:	*You want to hear the preliminary first?*
Miss Rose:	*Yes, my lady.*
Mr. Elizabeth:	*I am suggesting to my friend that she files written submissions on the point of law and then I will also response to those submissions.*

[19] I am at a loss to understand how it is that counsel for the Plaintiff suggests that both sides file submissions on the plea in limine raised, quite clearly indicating his acceptance that the matter be heard prior to the trial, and then turns around and submits that "there was no consent of the parties that the plea in limine litis is dealt with before the trial." On my reading of section 90, there is no provision for filing of an application for the point of law to be heard prior to the trial unless the other party had refused to consent to the point of law being heard prior to the trial. The record shows beyond a shadow of a doubt that there was no objection raised nor refusal by the Learned counsel for the Plaintiff to the point of law being taken up prior to the trial. In my view, the suggestion by Learned counsel for the Plaintiff that submissions be filed on the point of law amounts to a tacit acceptance for the points of law to be heard and disposed of prior to the hearing.

[20] Following on from that, when such a point of law is raised "*if in the opinion of the court the decision of such point of law substantially disposes of the whole cause of action, ground of defence, set-off or counterclaim, the court may thereupon dismiss the action, or make such other order therein as may be just*" in accordance with section 91 of the same Act.

[21] Section 92 of the Seychelles Code of Civil Procedure in turn, allows the court to strike out a pleading that discloses no reasonable cause of action or answer and to dismiss the action providing as follows:

> *The Court may order any pleading to be struck out, on the ground that it discloses no reasonable cause of action or answer, and in such case, or in case of the action or defence being shown by the pleading to be frivolous or vexatious, the court may order the action to be stayed or dismissed, or may give judgment on such terms as may be just.'*

[22] In the case of ***Joubert v Philoe & Ors (CS 75/2014) [2016] SCSC 243 (05 April 2016)*** the Court held that "a Motion for striking out pleadings which disclose no reasonable cause of action under Section 92 of the Code of Civil Procedure (hereinafter referred to as "Code") is to be decided solely on the pleadings". It has been further decided that "where the non-existence of a reasonable cause of action is not beyond doubt *ex-facie* the pleadings, the pleading ought not to be struck out.

[23] So what is the cause of action?

[24] Paragraph 33 and 34 of the Plaint reads as follows:

33. *The Plaintiff avers that the violations of its rights described above amounts to a "faute" in law for which the 1st Defendant is liable to make good to the Plaintiff.*

34. *The Plaintiff avers that the acts of the 1st Defendant acted fraudulently throughout and that the contract is null and void as the Plaintiff did not enter into the contract voluntarily but was compelled by the Defendant to do so through duress and intimidation.*

[25] The Plaintiff pleads "faute" and an action in contract seeking remedies in each in the alternative. This is in line with ***Machinery and Equipment Limited v Cousine Island Co. Ltd (SCA 18 of 2021) [2023] SCCA 13 (26 April 2023).***

[26] However, paragraph 34 refers to "the contract" being "null and void" while paragraph 19 reads as follows:

> *The Plaintiff avers that on or around the 25th January 1985, pursuant to paragraph 6 above, and in a climate of repression, fear and intimidation, Mr Seeger and Mr. Soundy, acting under duress and for and on behalf of the Plaintiff, signed an agreement.*

[27] Paragraph 6 reads as follows:

> *The Plaintiff avers that from 1st January 1983 until 21st December 1984, the Plaintiff avers that it had the sum of SCR1, 160, 410.00 (One Million One Hundred and Sixty Thousand Four Hundred and Ten Seychelles Rupees Only) available for distribution.*

[28] I fail to see the correlation between paragraph 6 and 19. Furthermore, the Plaintiff conveniently fails to state with whom "an agreement" was signed.

[29] However, at paragraph 8 the Plaintiff pleads as follows:

> *The Plaintiff avers that on the 7th January 1985, Mr. George Payet, acting in his capacity as the Principal Secretary of the Ministry of National Development, wrote to Mr. Seeger with an offer of a joint venture with the 1st Defendant and Mauvilax Co. Ltd. to set up a company by the name of PENLAC Company Limited in the Republic of Seychelles.*

and at paragraph 29 the Plaintiff pleads that:

> *The Plaintiff avers that it had no intention to enter into a joint venture with the 1st Defendant nor cease or desist from manufacturing paints and varnish in the Republic of Seychelles but felt pressured, intimidated and compelled to do so due to the prevailing political atmosphere at the time. The Plaintiff felt that if it did not enter into the joint venture agreement with the 1st Defendant then the Plaintiff was going to be nationalised without compensation, as was the prevailing practice at the time.*

[30] From a reading of the above "an agreement" and "the contract" referred to in the above mentioned paragraphs is the joint venture agreement between the Plaintiff and the Government of Seychelles.

[31] Section 71 of the Seychelles Code of Civil Procedure reads as follows:

> *The plaint must contain the following particulars:-*
>
> *a) the name of the court in which the suit is brought;*
> *b) the name, description and place of residence of the plaintiff;*
> *c) the name, description and place of residence of the defendant, so far as they can be ascertained;*
> *d)* ***a plain and concise statement of the circumstances constituting the cause of action and where and when it arose and of the material facts which is necessary to sustain the action;***
> *e) a demand of the relief which the plaintiff claims;*
> *f) if the plaintiff has allowed a set-off or has relinquished a portion of his claim, the amount so allowed or relinquished.*

[32] The function of pleadings was explained in **Gallante v Hoareau** ***[1988] SLR 122*** the Supreme Court, presided by G.G.D. de Silva Ag. J, at p 123, at para (g), as necessary —

> *"... to give fair notice of the case which has to be met and to define the issues on which the Court will have to adjudicate in order to determine the matters in dispute between the parties. It is for this reason that section 71 of the Seychelles Code of Civil Procedure requires a plaint to contain a plain and concise statement of the circumstances constituting the cause of action and where and when it arose and of the material facts which are necessary to sustain the action".*

This position was reiterated by Robinson JA in ***Hermitte v Attorney General and Anor (SCA 48/2017) [2020] SCCA 19 (21 August 2020)*** at paragraph 33.

[33] On a perusal of the Plaint, it cannot be said to be an example of "a plain and concise statement of the circumstances constituting the cause of action". The drafting leaves a lot to be desired. Should it proceed amendments will be necessary to bring it in line with section 71 of the Seychelles Code of Civil Procedure. However, it cannot be said that it discloses no cause of action against the Defendants.

[34] Is the Plaint frivolous and vexatious for failing to disclose why the period of prescription for an action in nullity does not apply in this case? Should the case be struck out on the basis that it is prescribed?

[35] The Constitutional Court in ***Elizabeth v President Court of Appeal & Anor (2 of 2009) [2010] SCCC 2 (29 July 2010)*** finding no "legislative interpretation of the words though the words are used in legislation in many jurisdictions" looked to the Oxford Dictionary and Thesaurus in order to define "frivolous and vexatious":

> *According to the Oxford Dictionary and Thesaurus (at page 600) frivolous is defined as 'adj. 1 paltry, trifling, trumpery. 2 lacking seriousness; given to trifling; silly.' We take it that this word in relation to a claim or petition means that the claim or petition has no reasonable chances of success.*
>
> *Vexatious is defined at page 1750 of the Oxford Dictionary (supra) as 'adj. 1 such as to cause vexation. 2 Law not having sufficient grounds for action and seeking only to annoy the defendant.' Vexatious therefore relates to the effect on a defendant. It is vexatious if an adverse party is made to defend something that would not succeed.*

[36] Both words were defined in relation to the chances of success of an action.

[37] In the case of ***Lesperance & Ors v Elizabeth (CS 151/2018) [2022] SCSC 1070 (8 February 2022)*** this Court held that *"On a consideration of the facts on record I do not find that the Plaintiffs were being frivolous or vexatious. Simply because the Defendant*

labours to defend a matter, ... it does not automatically follow that the matter is frivolous and vexatious."

[38] I still hold the same view, however, I am beyond baffled by the submissions of the Learned counsel for the Plaintiff on the issue of prescription. One has to wonder if Learned counsel for the Plaintiff is aware of the pleadings in the case at hand. I would direct the attention of Learned counsel for the Plaintiff straight to the preliminary issues raised by the Defendant in their Defence filed 27th February 2023, more specifically Part A (2) (b) (i)

> *A. Preliminary Issues*
> *1.....*
> *a...*
> *b....*
>
> *2.....*
> *a...*
> *b. The Plaint falls to be dismissed on a point of at this stage as it is:*
>
> *i. frivolous, vexatious and unsustainable in that it does not provide the material facts in the pleadings that disclose why the period of prescription for an action in nullity does not apply in this case. The case should be struck out on the basis that it is prescribed given that Tropicolour Ltd is claiming that it entered into the contract in 1985 with PENLAC Company Ltd due to duress; and/or*
> *ii...*

[39] It would seem though, that whatever contagion the Defendant believes has infected the Plaint seems to have also infected the preliminary objections, in that they are just as repetitive and laborious.

[40] In any event I do not see the application of the case of ***The Estate of the late Andre Delhomme and Others v The Attorney- General (SCA 15 of 2020) [2023] SCCA 16 (26 April 2023)*** that Learned counsel for the Plaintiff referred to, to the current matter. In the stated case, the Court of Appeal substituted the order of the Supreme Court allowing the plea in limine litis for one dismissing the plea and remitting the matter back to the Supreme Court for hearing on the merits. The basis of the decision was that "*the learned Judge was*

wrong to take judicial notice of the twenty-year extinctive prescription, which had not been pleaded to dismiss the Appellant's action in limine litis." In coming to such a conclusion the Court of Appeal had considered Article 2223 and Article 2224 of the Civil Code which provides as follows:

> *Article 2223*
>
> *The Court cannot, on its own, take judicial notice of prescription in respect of a claim.*
>
> *Article 2224*
>
> *A right of prescription may be pleaded at all stages of legal proceedings, even on appeal, unless the party who has not pleaded it can be presumed to have waived it.*

It was never an issue that the Defendant in the ***Delhomme*** case had not pleaded prescription. The Defendant had in fact pleaded the five-year extinctive prescription under Article 2271 of the Civil Code of Seychelles. As per the decision of her Ladyship Robinson JA, "*there [was] only one point for consideration, and that is whether or not the learned Judge was correct in law to raise ex proprio motu the twenty-year extinctive prescription*". In the matter at hand the Defendant specifically pleaded extinctive prescription on the basis of article 1304 of the Civil Code of Seychelles.

[41] Moreover, in the case of ***Prosper & Anor v Fred (SCA 35 of 2016) [2018] SCCA 41 (13 December 2018)***, which the Court in ***Delhomme*** relied on, the Court of Appeal noted that at paragraph 6 and 7 of its judgment that:

> *... generally prescription must be pleaded and cannot be raised by the court itself (see Article 2223 of the Civil Code and Gayon v Collie (2004-2005) SLR 66. In this respect, Article 2224 of the Civil Code provides:*
>
> *"A right of prescription may be pleaded at all stages of legal proceedings, even on appeal, unless the party who has not pleaded it can be presumed to have waived it."*
>
> *The provisions of Article 2224 do not propose how the right to prescription should be pleaded. In our view they may be specifically pleaded or they may be pleaded*

by inference. In the present case the right of prescription was raised by counsel for the Appellants in their statement of defence (in paragraph 5 by specific pleading), in the course of examination-in-chief of Nadege Fred (page 106 of the transcript) in the court a quo, in the cross examination of the Respondent (pages 28 and 32 of the transcript) and in the appeal (in ground 1 by inference). These are "all stages of the legal proceedings" envisaged in Article 2224 (supra).

It follows therefore that even if the Defendant had not raised the plea of prescription in their pleadings they would not be in error by raising it in their submissions, which they did, as it would still be within "all stages of legal proceedings."

[42] The Learned counsel for the Plaintiff submits that even if the plea of prescription were raised, evidence would need to be heard in order for the Plaintiff to establish the facts stated in its Plaint. It is trite that the parties are bound by their pleadings. If the Plaintiff alleges that a contract is voidable as a result of duress, it has to allege the date of the contract, as it would in any contractual dispute. Otherwise how does the Defendant answer the allegation? Granted one may need evidence in a case where there is an allegation of mistake or fraud in order to ascertain when the mistake or fraud was discovered. But in the case of an allegation of duress, as in the current matter as will become clear, there is no need for evidence. Moreover, Learned counsel wrote a whole soliloquy in his Plaint doing away with the need for evidence.

[43] The Plaintiff prays in the first part for a "declaration that the contract is null and void ab initio as the Plaintiff acted under duress and intimidation throughout."

[44] Article 1117 of the Civil Code provides that:

> *(1) A contract entered into by mistake, duress, or fraud is not null as of right (de plein droit).*
>
> *(2) A contract entered into by mistake, duress, or fraud gives rise to an action for nullity or rescission only as provided in articles 1304 to 1314.*

[45] The applicable period for an action for nullity of a contract pursuant to Article 1304 is 5 years. Article 1304 of the Civil Code of Seychelles 2020 reads as follows:

1. *The period of prescription for an action for nullity or rescission of a contract is five years.*

2. *In the case of duress, the prescription period runs from the day the duress ended, and in the case of mistake or fraud, from the day the mistake or fraud was discovered.*

3. a) *in respect of transactions of a minor, the prescription runs from the date of that person's majority.*

   b) *in respect of the transaction of an adult under guardianship, the prescription period runs from the day the person acquires knowledge of the transactions and is in a position to conclude them again validly.*

   c) *in respect of the heirs of a person subject to an incapacity, the prescription period runs from the date of the death unless it has already started running for some other reason.*

[46] The question then, pursuant to Article 1304 (2) above, is when did the duress that the Plaintiff was allegedly subjected to end?

[47] In the case of ***Gemma Contoret v. The Government of Seychelles, SHDC & Or (S.C.A. 2 of 1993) (Judgment 31 March 1994)*** the ruling of Perera J was upheld by the Court of Appeal with Ayoola JA stating thus-

> *"Duress vitiates consent because the will of the victim of duress has been so prevailed upon, by force or threat to make the victim's consent involuntary. Duress, in my view, comes to an end when the subject of the duress successfully resists it, when the force or threat is withdrawn, or by the victim yielding to the force of threat and obeying the wish of the other party. Where a person has entered into a contract under duress, such duress should normally be deemed to have ended upon the contract been entered into."*

[48] In the case of ***Attorney-General v Robert (CS 428/1995) [1997] SCSC 17 (29 October 1997)*** the Court noted that:

> *The defendant in his pleadings contended that the transaction between the parties was a disguised compulsory acquisition of parcel S 365 by the plaintiff as the offer*

amounted to a fraud as it was accompanied by a threat of compulsory acquisition and that the acceptance of the offer was under duress. It is further averred by the defendant that the purchase price offered and accepted on the threat of compulsory acquisition was out of proportion to its real worth.

And found that:

As the alleged duress and fraud relates to the offer there cannot be a continuation of either after the acceptance of the offer.

[49] The Plaintiff in the instant case avers that 7th January 1985 Mr. George Payet, acting in his capacity as the Principal Secretary of the Ministry of National Development, wrote to Mr. Seeger with an offer of a joint venture. The Plaintiff's representatives attempted to negotiate mutually agreeable terms for the joint venture agreement. On 18th January 1985 Mr. Payet revoke the offer of a joint venture. On 24th January 1985 the Plaintiff's representative wrote to Mr. Payet proposing new conditions. On 25th January 1985 Mr. Payet accepted the terms and proposed additional terms. On or around 25th January 1985 an agreement was signed by the Plaintiff's representative. Therefore, the duress ended on 25th January 1985 when the agreement was signed. That being 2 years short of 40 years, the claim is prescribed, being well over the prescribed 5 years.

[50] On the basis of the above discussion the plea in limine succeeds on the plea of prescription. The Plaint is accordingly dismissed.

[51] No order is made as to costs.

Signed, dated and delivered at Ile du Port on ..... 22nd November 2023

Pillay J