

SUPREME COURT OF SEYCHELLES

Reportable
XP 36/23

In the ex parte matter between

Paul Michael Hortence

1st Petitioner

Josianne Margaret Hortence

2nd Petitioner

Jones Alex Hortence
(rep. by Wilby Lucas)

3rd Petitioner

and

Paul Reverra

1st Respondent

Aubrey Reverra

2nd Respondent

Ricky Reverra

3rd Respondent

Helen Vidot nee Reverra

4th Respondent

Sheila Reverra

5th Respondent

Wakeford Reverra
(unrepresented)

6th Respondent

Neutral Citation: *Paul Micheal Hortence and ors vs Paul Revera* [2024] SCSC Exp 26/2023
Before: Govinden CJ
Summary: Declaration of Paternity “ En Recherche de paternite naturelle” Article 374 of the Civil Code of Seychelles Act
Heard: 12 January 24
Delivered: 27 May 2024

ORDER

JUDGMENT

GOVINDEN CJ

Introduction

- [1] By a jointly amended petition dated 27th of July 2023, the Petitioners had filed for an action *en recherche de paternite naturelle* seeking an order declaring that they are the biological children of one Wilhem John Reverra herein the “Deceased”.
- [2] The six Respondents are the siblings of the Deceased and were summoned to appear in Court to respond to the petition. Whilst the Court ordered an *ex parte* hearing against the 1st, 2nd and 4th Respondents who failed to appear, the 3rd, 5th and 6th Respondents put up an appearance and raised no objection to the declaration prayed for.

Petitioners’ case

- [3] This is an action of ‘recherche de paternite naturelle’ brought under Article 374 of the Civil Code of Seychelles Act, 2020.
- [4] The Petitioners’ names are registered as Josianne Margaret Hortence, Paul Michael Hortence, and Jones Alex Hortence with only the name of their mother one Rita Hortence appearing on the birth certificates (Exhibit P2, P3, and P4 respectively).
- [5] The Petitioners aver in the petition that the Deceased and their mother Rita Hortence have been living together in a qualifying relationship for more than 40 years but that they have not been recognized by their biological father. The death certificate of Mr Wilhem John Reverra is provided as Exhibit P1.
- [6] The Petitioners aver that the Deceased took care of all them and contributed towards their education, wellbeing and welfare and they called him daddy. Further, at the time of his death on the 16th of December 2022, the Deceased was living together with the Petitioners and their mother as a family.

- [7] The Petitioners aver that it is necessary in the interest of justice to obtain a Court order and to declare them as the biological children of the Deceased so that they can benefit towards the Deceased's succession.
- [8] The Petitioners therefore pray this Honourable Court to make the following orders;
- (a) To grant the petition and declare the petitioners are the biological children of the late Wilhem John Reverra;
 - (b) To direct the Chief Officer of Civil Status to amend the register of the Act of Birth to give effect to this order;
 - (c) Any other the court deems reasonable and necessary in the circumstances.

Evidence

- [9] Rita Hortence testified that she is the mother of the Petitioners. She stated that she was in a stable and continuous relationship with the Deceased during which she gave birth to the Petitioners and that he was the only person she was in a relationship with until he died intestate, and that she is certain that the Deceased is the Petitioners' father. She stated that she, the deceased and their three children had been living together as a family whereby the Deceased was the one who provided everything for the family be it financial, a home and other supports.
- [10] The second Petitioner, Josianne Hortence testified that she was raised along with her two brothers by the said Wilhem John Reverra whom they called Daddy and who has taken care of them by giving them a home and by contributing towards their education, welfare and wellbeing. She further testified that her daddy has always been self employed and that despite her father not leaving a testament, he had pronounced on how his assets would be distributed.
- [11] The first Petitioner, Paul Michael Hortence confirmed on oath that he adopted the testimony given by his sister Josianne Hortence.
- [12] The third Petitioner, Jones Alex Hortence, also testified that the Deceased is his father and that he raised him along with his siblings. They have always been living together as a family

and that the Deceased never separated from his mother, Rita Hortence until the date of his death.

Law

[13] The instant application concerns the paternity of three children.

[14] Article 374 of the Civil Code provides that:

“Where a child is conceived during a qualifying relationship, the partners in the qualifying relationship are presumed to be the parents of the child.”

[15] Article 377 provides that:

“(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.”

[16] Article 373 provides that;

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

Determination

- [17] I have considered the testimony of the Petitioners and that of their mother. I have also taken into account that this is a non contentious petition whereby the Respondents, for those who have appeared in court, gave their approval for a declaration that the Petitioners are the biological children of their brother Wilhem John Reverra.
- [18] On that basis, I am satisfied on a balance of probabilities that the Petitioners, in accordance with Article 374 of the Civil Code of Seychelles Act, are the biological children of the Deceased by possession of status of a natural child as provided in Article 377 (referred to in Article 373).
- [19] Accordingly, I grant the Petition and declare the Petitioners as the biological children of the late Wilhem John Reverra and make the following Orders –
- a. The Chief Officer of Civil Status is directed to amend the register of the Act of birth to give effect to this Order.
 - 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 on *27* of *may* 2024



Govinden CJ