

**IN THE SEYCHELLES COURT OF APPEAL**

**ANGOR CHANG LAI SENG**

APPELLANT

versus

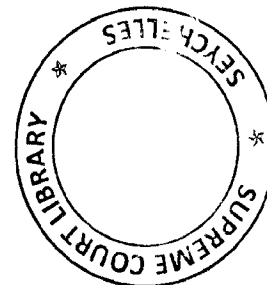
**GOVERNMENT OF SEYCHELLES  
THE ATTORNEY GENERAL  
DEMOCRATIC PARTY**

1<sup>ST</sup> RESPONDENT  
2<sup>ND</sup> RESPONDENT  
3<sup>RD</sup> RESPONDENT

Civil Appeal No: 14 of 2000

*[Before: Ayoola, P., Silungwe & Pillay, JJ.A]*

.....  
Mr. P. Boule for the Appellant  
Ms. C. Hoareau for the 1<sup>st</sup> & 2<sup>nd</sup> Respondents  
Mr. P. Pardiwalla for the 3<sup>rd</sup> Respondent



**JUDGMENT OF THE COURT**

*(Delivered by Pillay, JA.)*

This is an appeal from a unanimous decision of the Constitutional Court refusing leave to the appellant to file out of time her second petition concerning an alleged contravention of a provision of the Constitution on the ground that no sufficient reason had been adduced by the appellant for so doing.

Rule 4(1) and (4) of the Constitutional Court (Application, Contravention, Enforcement or Interpretation of the Constitution) Rules states as follows:-

“(1) Where the petition under rule 3 alleges a contravention or a likely contravention of a provision of the Constitution, the petition shall be filed in the Registry of the Supreme Court –

(a) in a case of an alleged contravention, within 30 days of the contravention;

.....

(4) The Constitutional Court may, for sufficient reason, extend the time for filing a petition under rule 3.” (the underlining is ours)

It is not in dispute that:-

- (1) The appellant had filed her first petition on 19<sup>th</sup> November 1997 against the first and second respondents, claiming in substance that, after the coming into force of the Constitution, she had applied under Section 14(1) of Part III of Schedule 7 to the Constitution, in respect of her property which was compulsorily acquired by the first respondent in 1987. In October 1997, the Minister of Community Development had written to her that the property was not to be returned. The alleged contravention of the Constitution was that as a result of the failure of the Minister to negotiate in good faith and give reasons, the appellant's right under Section 14 of Part III of Schedule 7 to the Constitution had been violated.
- (2) The property claimed by the appellant had been sold to the third respondent by deed dated 17<sup>th</sup> October 1997 and registered on 30<sup>th</sup> October 1997.
- (3) The appellant had sought to amend her original petition by including a third party, namely the third respondent, which was allowed by the Constitutional Court but disallowed on appeal, by the Court of Appeal on 4 December 1998 – vide: **Seychelles Government & Attorney General v/s Mrs Angor Chang Lai Seng**, Civil Appeal No. 39 of 1998.
- (4) The appellant's first petition was subsequently heard on the preliminary objections taken by the first and second respondents and on 13 July 1999 the Constitutional Court dismissed those objections.
- (5) On 4 August 1999, the appellant filed a second petition which contained the same averments as her first one, but adding the third respondent as a party and praying for a declaration that the sale and transfer of the property to the third respondent was null and void and for an order that the third respondent should transfer the property back to her.

It is trite law that in order to question the discretion of the learned Judges of the Constitutional Court, it is incumbent on the appellant to show that they wrongly applied

the law, misapprehended the facts or used their discretion in an arbitrary or unreasonable manner.

This the appellant has significantly failed to do. We consider that the Constitutional Court was right in its unanimous decision to find that no sufficient reason had been advanced by the appellant to file her second petition some 20 months later, i.e. on 4<sup>th</sup> August 1999 when she knew or is deemed to have known for the first time that her property had already been sold to the third respondent on 30<sup>th</sup> October 1997.

But there is more. As rightly observed by Juddoo, J., in his ruling, instead of making her second petition soon after the decision of the Court of Appeal on 4<sup>th</sup> December 1998, the appellant chose to fight her case on the first petition and wait until 4<sup>th</sup> August 1999 i.e some 9 months later before doing so, knowing fully well that she was well out of time.

All in all we take the view, just as the Constitutional Court did, that the appellant had not accounted satisfactorily for the inordinate delay taken in the circumstances in presenting her second petition, as indicated already.

For all the reasons given, the appeal is dismissed with costs.



**E. O AYoola**  
**PRESIDENT**



**A. M. SILUNGWE**  
**JUSTICE OF APPEAL**



**A. G. PILLAY**  
**JUSTICE OF APPEAL**

Dated at Victoria, Mahe this 10<sup>th</sup> day of April 2001.