

**IN THE SEYCHELLES COURT OF APPEAL**

**[Coram: A. Fernando (J.A), F. Robinson (J.A) G. Dodin (J.A)]**

**Criminal Appeal SCA 56/2016**

**(Appeal from Sentence Review Tribunal Nos. SRV 82/2016)**

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Geoffrey Antat

Appellant

Versus

The Republic

Respondent

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Heard: 03 May 2018

Counsel: Mr. B. Hoareau for the Appellant

Mr. A. Subramaniam for the Respondent

Delivered: 11 May 2018

**JUDGMENT**

**F. Robinson (J.A)**

1. I had the advantage of reading in draft the judgment prepared by my learned Brother, Justice Fernando who has set out the facts in the judgment. I hold the view that the appeal should be dismissed. I give my reasons.
2. The issue in question is whether or not the Sentence Review Tribunal (hereinafter referred to as the "*Tribunal*") established under section 51 (1) of the Misuse of Drugs Act, 2016, has the jurisdiction, under section 51 (2) of the said Act, to review the outstanding portion of the Appellant's sentence passed by the Supreme Court on 26 January, 2016. I have considered this jurisdiction issue in question in the case of *Eric Njue v The Republic SCA15/2016*, delivered on 7 December, 2017, after having considered learned Counsel's

oral arguments. I held the view that the Tribunal had no jurisdiction to review the outstanding portion of the sentence being served by Eric Njue, the Appellant, which sentence was maintained by the Court of Appeal of Seychelles, in the exercise of its appellate jurisdiction, and gave my reasons for that view. It stands to reason that the Tribunal, being a subordinate tribunal, under the Constitution of the Republic of Seychelles, (hereinafter referred to as the "*Constitution*"), is subjected to the jurisdiction of the Court of Appeal of Seychelles and the Supreme Court, under the relevant provisions of the Constitution. In the judgment, I made reference to *Attorney General v Tan Boon Pou* (1 of 2005) [2005] SCCA 21 (24 November 2005). There it was said by the Court of Appeal of Seychelles, in paragraph 23, that the "*Supreme Court is not an inferior court. Nor is it a court of limited jurisdiction...*". I also considered material to the question in issue the following extract from Halsbury's Laws of England (5th Edn) (2010) para 623), which may aptly be reproduced —

"Where a court takes it upon itself to exercise a jurisdiction which it does not possess, its decision amounts to nothing... Jurisdiction must be acquired before judgment is given *Thompson v Shiel* (1840) 3 Ir Eq R 135."

It had been held in the case of *Attorney-General v Lord Hotham* (1823) 3 Russ 415, 37 ER 1077, [1814-23] AA ER Rep 448 Judgment Date: 12/06/1823), that where a limited tribunal takes it upon itself to exercise a jurisdiction which it does not possess; if it decides upon matters with respect to which it has no authority, its decision is a nullity and does not create any necessity for an appeal.

3. Having considered the English authorities in the light of the relevant constitutional provisions, I concluded that where a subordinate tribunal or a subordinate court exercises a jurisdiction by virtue of a written law, which is unconstitutional and consequently void, its decision is a nullity. I declared section 51 of the Misuse of Drugs Act unconstitutional and dismissed the appeal.

