

**IN THE SUPREME COURT OF SEYCHELLES**

**Civil Side: CC 42/2015**

[2016] SCSC 977

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**SEYCHELLES CREDIT UNION**  
Plaintiff

versus

**SUBRAMANIAN PILLAY**  
Defendant

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Heard:

Counsel: Mr. Serge Rouillon for plaintiff

Mr. France Bonte for defendant

Delivered: 1 December 2016

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**JUDGMENT**

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**Robinson J**

[1] Background

[2] This is a breach of contract case. It is common ground that Plaintiff and Defendant entered into a loan agreement dated 25 July, 2010, (hereinafter referred to as the "Loan Agreement"), secured by a charge, that in terms of the Loan Agreement Plaintiff loaned

Seychelles rupees 3, 500, 000.00/- to Defendant with interest, and that Defendant would repay the said sum in equal instalments of Seychelles rupees 57, 672.00/-.

- [3] By this suit Plaintiff claims from Defendant the sum of Seychelles rupees 1, 068, 708. 75/- with interest of 12 per cent per annum due and owing to Plaintiff under the Loan Agreement,
- [4] Defendant denies that he is liable to Plaintiff in the sum of Seychelles rupees 1, 068, 708.75/- with interest of 12 per cent per annum and claims that the sum due to Plaintiff was paid.
- [5] Case for Plaintiff
- [6] Plaintiff claims that Defendant is in breach of its obligations to Plaintiff under the Loan Agreement, that Defendant has defaulted on the repayment of the loan, and that Defendant has a substantial amount outstanding and payable on the loan in the amount of Seychelles rupees 1, 068, 708. 75/- with interest of 12 per cent per annum.
- [7] Plaintiff is asking this court to enter judgment in favour of Plaintiff against Defendant in the sum of Seychelles rupees 1, 068, 708.75/- with interest of 12 percent per annum due from the date of filing of this suit with costs.
- [8] Case for Defendant
- [9] Except for the agreed facts, Defendant denies the claim of Plaintiff. Defendant claims that Plaintiff was paid the sum due to it evidenced by the judgment of the court in CM20/2014.
- [10] Evidence for Plaintiff and Defendant
- [11] For Plaintiff the court heard evidence from Jossy Moustache, the Securities and Recovery Manager (Witness). Witness produces the Loan Agreement as exhibit P1. Witness makes

the following points on behalf of Plaintiff. Plaintiff loaned the sum of Seychelles rupees 3, 500, 000.00/- with interest of 12 per cent to Defendant and that Defendant would repay the said sum with interest in equal instalments of Seychelles rupees 57, 672.00/-, that the total amount due and owing to Plaintiff is Seychelles rupees 1, 697, 000. 75/- as of 3 November, 2016. Witness produces a print out of a statement of account, in the name of Defendant, as exhibit P2, in support of the allegation.

- [12] Witness explains that the sum is due and owing to Plaintiff because Plaintiff incorrectly petitioned for Seychelles rupees 3, 938, 002.00/- in MA 150 of 2015 arising in CM 120 of 2014. According to Witness Plaintiff should have petitioned for Seychelles rupees 4, 949, 240.73/-.
- [13] Plaintiff prays the court for a judgment ordering Defendant to pay the sum of Seychelles rupees 1, 697, 000. 75/- to Plaintiff with costs.
- [14] In cross-examination of him Witness states that Plaintiff was paid, by the Supreme Court, the amount that it had petitioned for in the sum of Seychelles rupees 3, 936, 142.00/-.
- [15] For Defendant the court heard evidence from Defendant and Jeanine Lepathy, the Deputy Registrar, of the Supreme Court. Defendant claims that the Supreme Court has paid the claim of Plaintiff in CM 20/2014 and that Defendant is, therefore, not liable to Plaintiff in the sum claimed.
- [16] In cross-examination Defendant denies the claim of Plaintiff. According to Defendant the Supreme Court has settled the claim of Plaintiff evidenced by CM 20/2014.
- [17] Jeannine Lepathy, the Deputy Registrar, of the Supreme Court, gave evidence for Defendant. Jeanine Lepathy produces CM20/2014 and related applications as exhibit D1.
- [18] In cross-examination Jeanine Lepathy refers to documents, found in exhibit D1, which state the correct amount claimed by Plaintiff from Defendant. Jeanine Lepathy also

confirms, with reference to the documents, found in CM20/2014 that Defendant was aware about the sum being claimed by Plaintiff.

[19] Submissions of Counsel


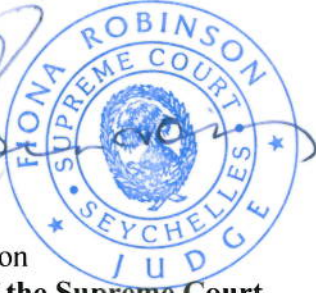
[20] The court has considered the case for Plaintiff and Defendant, the evidence and submissions of counsel.

[21] The court is satisfied that Plaintiff has proven its case on a balance of probabilities. The exhibits, produced by Plaintiff, establish that the sum of Seychelles rupees 1, 068, 708. 75/- with interest of 12 per cent per annum is owing to Plaintiff.

[22] Decision

[23] In light of the facts and circumstances of this case, the court enters judgment for Plaintiff against Defendant, ordering Defendant to pay Plaintiff the sum of Seychelles rupees 1, 068, 708. 75/- plus interest calculated at the rate of 12 per cent per annum due from 6 August, 2015, until payment in full.

Signed, dated and delivered at Ile du Port on 1 December 2016

  
  
F Robinson  
Judge of the Supreme Court