

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: MA3/2017

Arising out of Cs35/2012

[2017] SCSC 42

CIVIL CONSTRUCTION COMPANY LIMITED

Petitioner

versus

FREDERICK LEON

Respondent

Heard:

Counsel: Mr. Chang Sam for Petitioner

Mr. Derjacques for Respondent

Delivered: 27 January 2017

RULING

Renaud J

Order under S 230 of the SCCP

[1] This matter arises out of a Notice of Motion in the matter of an Application for Stay of Execution of the judgment of this Court delivered on 30th November, 2016 in suit CS

35/12 between the parties. I take note of a Notice of Appeal whereby the Defendant in that suit has lodged an appeal against that judgment, in substance, raising a point of law.

- [2] This Court awarded the Plaintiffs monetary damages and costs in the suit which was originally entered over 4 years ago. The appeal may not be disposed of before the end of the present year in view of the known calendar of the Court of Appeal. The Plaintiffs will therefore reap the benefit of that judgment only after over 5 years of waiting if the stay of execution is granted and the Court of Appeal determined the appeal in the favour of the Respondent.
- [3] On the other hand if the stay of execution is not granted and the Defendant is ordered to settle the judgment awards in favour of the Plaintiffs before the appeal is heard, and if the Court of Appeal determined the appeal in favour of the Defendant, the Plaintiffs will have to refund any sum obtained by virtue of the original judgment. I believe that this would be a great disappointment to the Plaintiffs and moreover if they have dissipated some or all of the awards, it could turn out that they will find themselves in a very unfortunate situation.
- [4] The Plaintiffs have waited for over 4 years for the judgment in the original suit, albeit a very long time, I believe however, that in the circumstances, it will be more reasonable and just for the parties to await the final outcome of the determination of the appeal before any money is disbursed.
- [5] Learned Counsel for the Respondent (Plaintiffs) stated that he does not object to the granting of the stay of execution.
- [6] In the circumstances, and for reasons discussed above, I believe that a stay of execution is the more appropriate equitable remedy and in the interest of justice after considering competing interests of the parties. I therefore exercise my discretion and grant a stay of execution of the judgment in CS 35/12 delivered on 30th November, 2016 on the condition that the Defendant in that suit gives security in the form of a written Undertaking by the Defendant Company that it has sufficient assets to meet any damages ultimately awarded. Such Undertaking by the Defendant Company shall remain valid

until the final determination of the Appeal and/or final payment of any award. The said Undertaking shall be deposited with the Registrar of this Court before the appeal is heard.

[7] I so order.

Signed, dated and delivered at Ile du Port on 27 January 2017

B. RENAUD
Judge of the Supreme Court