

CONSTITUTIONAL COURT OF SEYCHELLES

Reportable
CP03 & CP04/2025

In the matters between:

PETER TANKOV
(rep. by Mr Elizabeth)

1st Petitioner

KARL OTTO ROBERT BLOOS
(rep. by Mr Elizabeth)

2nd Petitioner

and

**EDEN ISLAND VILLAGE MANAGEMENT
ASSOCIATION (VMA)**
(rep. by Ms Manuella Parmantier)

1st Respondent

THE ATTORNEY GENERAL
(rep. by Ms Gulmette Leste)

2nd Respondent

THE REGISTRAR GENERAL
(rep. by Ms Sophie Vel)

3rd Respondent

Neutral Citation: *Peter Tankov & Karl Otto Robert Bloos v Eden Island Village Management Association & Ors* (CP03/2025 & CP04/2025) (12 May 2026)

Before: Burhan J Presiding, B Adeline, Esparon JJ

Summary: Constitutional challenge of Eden Island Village Management Association (VMA) in respect of Constitution Clauses in its Constitution; Preliminary Objections

Heard: 15 July 2025, 28 July 2025, 22 September 2025; 23 September 2025; 9 December 2025; 13 January 2026; 27 January 2026

Delivered: 12 May 2026

RULING

BURHAN J with B Adeline J and Esparon concurring.

[1] Both Petitioners filed separate petitions under Articles 46(1) and 46(5) of the Constitution. At the request of both parties the petitions were consolidated.

[2] The Petitioner in CP 3 of 2025 Mr. Peter Tankov seeks the following reliefs:

"WHEREFORE, the Petitioner prays that this Honourable Court be pleased to grant the following relief:

- a) A DECLARATION that Clause 10.1 of the VMA Constitution, requiring prior written approval from the VMA for the sale or transfer of property on Eden Island, constitutes a contravention of the Petitioner's constitutional right under Article 26 of the Seychelles Constitution and an unreasonable restriction on the right to dispose of property and is inconsistent with Article 26 of the Constitution, and is therefore unconstitutional, null and void and/or unenforceable against the Petitioner.*
- b) A DECLARATION that Clause 17.16 of the VMA Constitution, imposing a mandatory 1% "Capital Contribution Fee" on the sale or transfer of property, constitutes a contravention and an arbitrary interference with and/or deprivation of property rights and is inconsistent with Article 26 of the Constitution, and is therefore unconstitutional, null and void and/or unenforceable against the Petitioner.*
- c) A DECLARATION that Clause 9.2.9 of the VMA Constitution, purporting to grant a right of entry onto private property for inspections or patrols without constitutionally valid consent or legal authority, is in contravention of the Petitioner's Constitutional rights as guaranteed and protected under article 19 of the Constitution and inconsistent with the right to privacy under Article 19 and is therefore unconstitutional null and void and/or unenforceable against the Petitioner.*
- d) A DECLARATION that the action of the 1st Respondent in causing a restriction to be registered against the property of VOKNAT Property Investment Ltd on Eden Island without consent or lawful order contravened Article 26 of the Constitution.*
- e) An ORDER directing the 1st Respondent forthwith to take all necessary steps to remove, cancel, or discharge the aforesaid restriction registered against the property title(s) of VOKNAT Property Investment Ltd.*
- f) A DECLARATION that the demand and collection by the 1st Respondent of the sums of USD42,000 and USD from VOKNAT Property Investment Ltd in connection with property sales contravened Article 26 of the Constitution.*
- g) An ORDER directing the 1st Respondent to make restitution to VOKNAT Property Investment Ltd (under the direction of the Petitioner as majority shareholder and director) of the sums of USD 42,000 and USD 19,500, together with interest thereon at the commercial rate of 10% from the date(s) of payment until the date of full reimbursement.*
- h) An ORDER pursuant to Article 46(7) of the Constitution awarding the Petitioner SCR 1000,000.00 compensation (moral damages) for the violation of his constitutional rights, including the emotional distress, mental anguish, and anxiety suffered as a result of the 1st Respondent's actions.*
- i) An ORDER of interim interlocutory injunction stopping, preventing and prohibiting the 3rd Respondent from registering the new amended Constitution until the final determination of this Constitutional petition by this Honourable Court.*

- j) *An ORDER for the costs of this Petition to be paid by the 1st Respondent.*
- k) *Such further or other relief as this Honourable Court may deem just and equitable in the circumstances.*

[3] The Petitioner in CP 4 of 2025 Mr. Karl Otto Robert Bloos seeks the following reliefs:

"WHEREFORE, the Petitioner prays that this Honourable Court be pleased to grant the following relief:

- a) *A DECLARATION that Clause 10.1 of the VMA Constitution, requiring prior written approval from the VMA for the sale or transfer of property on Eden Island, constitutes a contravention of the Petitioner's constitutional right under Article 26 of the Seychelles Constitution and an unreasonable restriction on the right to dispose of property, and is inconsistent with Article 26 of the Constitution, and is therefore unconstitutional, null and void and/or unenforceable against the Petitioner.*
- b) *A DECLARATION that Clause 17.16 of the VMA Constitution, imposing a mandatory 1% "Capital Contribution Fee" on the sale or transfer of property, constitutes a contravention and an arbitrary interference with and/or deprivation of property rights and is inconsistent with Article 26 of the Constitution, and is, therefore, unconstitutional null and void and/or unenforceable against the Petitioner.*
- c) *A DECLARATION that Clause 9.2.9 of the VMA Constitution, purporting to grant a right of entry onto private property for inspections or patrols without constitutionally valid consent or legal authority, is in contravention of the Petitioner's Constitutional rights as guaranteed and protected under Article 19 of the Constitution, is inconsistent with the right to privacy under Article 19, and is therefore unconstitutional null and void and/or unenforceable against the Petitioner.*
- d) *A DECLARATION that the demand and collection by the 1st Respondent of the sums of USD17,500.00 from the Petitioner in connection with the property sale contravened Article 26 of the Constitution is therefore unconstitutional null and void and/or unenforceable against the Petitioner.*
- e) *An ORDER directing the 1st Respondent to make restitution to the Petitioner of the sum of USD 17,500.00, together with interest thereon at the commercial rate of 10% from the date of payment until the date of full reimbursement.*
- f) *An ORDER pursuant to Article 46(7) of the Constitution awarding the Petitioner SCR 1,000,000.00 compensation (moral damages) for the violation of his constitutional rights, including the emotional distress, mental anguish, and anxiety suffered as a result of the 1st Respondent's actions.*
- g) *An ORDER of interim, interlocutory injunction stopping, preventing, and prohibiting the 3rd Respondent from registering the new amended Constitution until the final determination of this Constitutional petition by this Honourable Court.*
- h) *An ORDER for the costs of this Petition to be paid by the 1st Respondent.*

- i) *Such further or other relief as this Honourable Court may deem just and equitable in the circumstances.*

Background Facts

- [4] The Petitioners, Mr. Peter Tankov and Mr. Karl Otto Robert Bloos, are property owners on Eden Island and members of the Eden Island Village Management Association (hereinafter “the VMA”). The Petitioners have filed petitions against their association (the VMA) who is the 1st Respondent. The 2nd Respondent in the petitions is the Attorney General and the 3rd Respondent is the Registrar General.
- [5] The constitutional challenge arises within the context of a managed residential development at Eden Island, in which all property owners are members of the VMA. The VMA is responsible for the management and maintenance of common property and the regulation of matters affecting the development. Upon acquisition of property within the development, proprietors become bound by the VMA Constitution, which governs the relationship between the association and its members.
- [6] The Respondents contend that this relationship is contractual in nature and that the provisions challenged by the Petitioners form part of a consensual framework accepted upon purchase. The Petitioners, however, challenge the constitutional validity of these provisions, contending that private agreement cannot override or derogate from fundamental rights guaranteed by the Constitution of Seychelles.
- [7] Both petitions challenge specific provisions of the VMA Constitution. The impugned provisions are:
- a. Clause 10.1, which requires prior written approval of the VMA before a property may be sold or otherwise transferred;
 - b. Clause 17.16, which imposes a compulsory payment described as a “Capital Contribution Fee” equivalent to 1% of the sale price or market value upon transfer; and
 - c. Clause 9.2.9, which provides for entry by VMA personnel or representatives onto private property for purposes connected with maintenance and management of the development.
- [8] The Petitioners contend that these provisions infringe their fundamental rights guaranteed under the Constitution. In particular, they allege a violation of Article 26, which guarantees the right to property, including the right to acquire, own, peacefully enjoy, and dispose of property. It is argued

that Clause 10.1 constitutes an arbitrary and disproportionate restriction on the right of disposal, effectively subjecting the exercise of that right to the approval of a private body. Clause 17.16 is characterized as an unlawful exaction, akin to a tax or compulsory levy imposed without statutory authority, thereby interfering with the enjoyment and value of property. Further, the Petitioners allege a violation of the right to privacy, contending that Clause 9.2.9 authorizes entry into private dwellings without adequate safeguards or lawful justification.

- [9] Both Petitioners seek declaratory relief that the impugned clauses are unconstitutional, orders for restitution of sums paid, injunctive relief restraining enforcement of the provisions and preventing registration of any amended constitution containing them, as well as damages and costs.

Preliminary Objections

- [10] The Respondents have raised several preliminary objections, seeking dismissal of the petitions without a hearing on the merits. The parties' contentions can be summarized as follows.
- [11] The 1st Respondent contends, particularly in relation to the Tankov petition, that the Petitioner has failed to demonstrate a sufficient personal interest in the matter. It is argued that many of the alleged grievances relate to a corporate entity, VOKNAT Property Investment Ltd, and that no documentary evidence has been provided to establish ownership, directorship, or any nexus between the company and the VMA Constitution. The Respondents further contend that the allegations are vague and unsupported by evidence, and therefore insufficient to establish standing.
- [12] The 1st Respondent further argues that the VMA is a private entity and not a public authority exercising governmental functions. It is submitted that the dispute arises purely from contractual relations between private parties and does not involve any act or omission of the State. On this basis, it is contended that the petitions fall outside the ambit of Article 46 and are not amenable to constitutional adjudication.
- [13] The 1st Respondent further argues that arbitration clause provides for mandatory arbitration of disputes between the association and its members, and that the Court should therefore decline jurisdiction or stay the proceedings in favour of arbitration.
- [14] The Respondents further raise procedural objections grounded in the Constitutional Court Rules. It is contended that the petitions fail to comply with the requirements of Rule 5, in that they do not clearly identify the acts or omissions complained of, nor do they specify the dates, places, or

persons responsible for the alleged contraventions. It is also submitted that the petitions lack sufficient material facts and supporting evidence, and that there are errors in the citation of constitutional provisions, including the incorrect reference to Article 19 instead of Article 20.

- [15] The Respondents further argue that the impugned provisions have been in existence since 2014 and that the Petitioners were aware of them upon acquiring their properties. It is therefore submitted that the petitions, filed in 2025, fall outside the three-month time limit prescribed by Rule 4(1) of the Constitutional Court Rules and are accordingly time-barred.
- [16] The Respondents also contend that the Petitioners have failed to exhaust alternative remedies available. In particular, it is argued that the Petitioners could have sought to amend the VMA Constitution through internal mechanisms, including general meetings and voting procedures, and that recourse to constitutional litigation is therefore premature.
- [17] The 3rd Respondent raises additional objections specific to its role. It is contended that the petitions disclose no cause of action against it, as no specific constitutional violation is attributed to that office. The request for injunctive relief restraining the registration of an amended constitution is described as premature and speculative, given that no such amendment has been formally submitted for registration. It is further argued that the Registrar performs a statutory function and that no wrongful act has been alleged which could justify the grant of injunctive relief.
- [18] In response to the preliminary objections, the Petitioners submit that the law on locus standi in constitutional matters has evolved towards a liberal and purposive approach. They rely on jurisprudence establishing that a petitioner must demonstrate a contravention or likely contravention of the Constitution and a personal interest affected thereby. The Petitioners contend that, as property owners directly subject to the impugned provisions, they clearly meet this threshold.
- [19] The Petitioners further submit that the objection as to jurisdiction is misconceived, as the involvement of the Registrar General introduces the necessary element of State action. It is argued that the Registrar, by giving legal effect to the VMA Constitution within the statutory framework governing associations and property registration, is not a passive actor but a statutory authority whose actions or omissions may attract constitutional scrutiny.

[20] On the issue of limitation, the Petitioners invoke the doctrine of continuing violation, contending that the impugned provisions constitute ongoing infringements of their rights as long as the provisions remain in force.

[21] The Petitioners also contend that alternative remedies are inadequate, as only the Constitutional Court has jurisdiction to declare provisions unconstitutional and grant effective relief. They submit that internal mechanisms within the VMA or recourse to civil proceedings would not address the constitutional validity of the impugned provisions.

Analysis and Determination

[22] The Court has carefully considered the preliminary objections raised by the Respondents in light of the pleadings and submissions.

[23] On the issue of locus standi, this Court is satisfied that both Petitioners have demonstrated a sufficient personal interest to invoke the jurisdiction of this Court. Each Petitioner is a property owner and a member of the VMA, and is therefore directly subject to the impugned provisions. The allegations concern restrictions on the disposal of property, financial obligations imposed upon transfer, and alleged interference with privacy within the home. These are matters which, on their face, affect the Petitioners personally and directly. The Court is of the view that any deficiencies in evidentiary support are matters to be addressed at the hearing of merits and do not warrant dismissal at the preliminary stage.

[24] This Court also addresses the objection that the petitions disclose no reasonable cause of action. At this preliminary stage, the Petitioners have identified the constitutional rights allegedly infringed, and the manner in which those infringements arise. Whether those claims ultimately succeed is a matter for determination on the merits. This Court is therefore satisfied that the Petitions cannot be said to disclose no cause of action.

[25] With respect to the objection that the dispute is purely private and falls outside constitutional jurisdiction, it is the considered view of this Court that the petitions raise arguable questions as to the scope of constitutional protection in contexts where private arrangements intersect with constitutional rights. The involvement of the Registrar General, and the broader question of whether it may attract constitutional scrutiny, are issues that cannot be conclusively determined without a full examination of the merits.

- [26] The reliance on the arbitration clause does not, in the Court's view, operate to bar the present proceedings, particularly where allegations of infringement of fundamental rights are made. This Court retains the sole and ultimate authority to determine any violation of any Constitutional rights claim.
- [27] In relation to the procedural objections, whilst acknowledging that the petitions contain certain deficiencies, the essential elements in the claims are clearly outlined. The impugned clauses are specifically identified and, the constitutional rights alleged to have been violated and the nature of the alleged infringements have been sufficiently described. This Court considers that a strict or technical approach to procedural compliance would be inconsistent with its constitutional mandate to safeguard fundamental rights. The defects identified do not render the petitions incurably defective. Whether those claims, bearing in mind certain drafting deficiencies, would ultimately succeed is a matter for determination on the merits.
- [28] On the question of limitation, this Court is not persuaded that the petitions are necessarily time-barred. The impugned provisions are of a continuing nature and are capable of producing ongoing effects. The argument advanced by the Petitioners that the alleged infringements constitute continuing violations raises a substantive issue which is more appropriately determined at the hearing on the merits. It would therefore be premature to dispose of the petitions on this ground.
- [29] With regard to the objection based on the existence of alternative remedies, while internal mechanisms may exist within the framework of the VMA, the relief sought by the Petitioners includes declarations of unconstitutionality, which fall within the exclusive jurisdiction of this Court.
- [30] Finally, with regard to the objections raised by the 3rd Respondent, this Court considers that the role of the Registrar General in relation to the registration and legal effect of association constitutions raises arguable questions of law. Whether the relief sought against the Registrar is premature or whether any constitutional duty arises are matters that require consideration of the merits of the case. Similarly, the objection that the relief sought against the 3rd Respondent is premature or speculative cannot be conclusively determined at this stage. The Petitioners allege an ongoing or imminent risk arising from the operation or potential registration of the impugned provisions. Whether that risk meets the legal threshold for relief is a matter for determination on the merits. This Court is therefore not satisfied that the 3rd Respondent should be struck out at this stage.

Conclusion

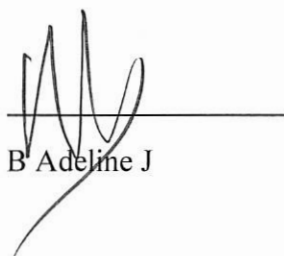
[31] For all the foregoing reasons, this Court unanimously dismisses the preliminary objections raised by the Respondents in their entirety. The consolidated petitions shall proceed to hearing on the merits. This Court further grants the relief as prayed for in prayer (i) of the petition in CP 03/2025 and prayer (g) of the petition in CP04/2025 as set down below:

'An ORDER of interim interlocutory injunction stopping, preventing and prohibiting the 3rd Respondent from registering the new amended Constitution until the final determination of this Constitutional petition by this Honorable Court.'

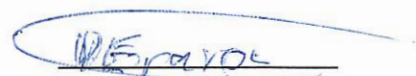
Signed, dated and delivered at Ile du Port on 12th May 2026.



M Burhan J
(Presiding)



B Adeline J



D Esparon J