SUPREME COURT OF SEYCHELLES

Reportable
MA 297/2024
(Arising in XP170/2017)

In the matter between:

COMMISSIONER GENERAL **Petitioner**
(SEYCHELLES REVENUE COMMISSION)
(rep. by Adam Afif)

and

PETER ROSELIE **Respondent**
(self-represented)

Neutral Citation:	*Commissioner General (Seychelles Revenue Commission) v Peter Roselie* (MA279/2024) (June 2026)
Before:	Burhan J
Summary:	Petition for removal of the Respondent as a Liquidator in the winding up of Isle Security Agency Co. Ltd.
Heard:	Written submissions
Delivered:	25 June 2026

ORDER

For the aforementioned reasons this Court makes order as follows:

a) The liquidator may continue as liquidator but should complete the liquidation procedure by the 31 December 2026. Extension of time to be granted only with Court approval.

b) He is to file a progression report every 3 months providing up to date information of the progress made up to date in Court.

c) The liquidator shall take all the necessary steps required by law in accordance with the Insolvency Act of 2013, in order to complete the liquidation process in this matter.

JUDGMENT

BURHAN J

[1] This is an application filed by the Commissioner General, Seychelles Revenue Commission against the Respondent, Peter Roselie, seeking the following reliefs;

a. that the Respondent be removed as the liquidator of the Company; and

b. that the Court appoints a new liquidator for the winding up of the Company.

[2] The Petitioner avers in the petition and affidavit filed that the Seychelles Revenue Commission (SRC) is a creditor of Isle Agency Co Ltd. (hereinafter the Company). By virtue of an order of this Court dated 17 August 2018, Mr. Peter Roselie (Respondent) was appointed as the liquidator of the Company in winding up application XP 17/2017 filed by the said Company.

[3] It is alleged by the Petitioner that the Respondent has failed to sufficiently take the necessary steps to discharge his obligations, being to distribute the assets or the proceeds of the realisation of the assets of the Company to its creditors. The Petition and the annexed affidavit aver that the Respondent has failed to take the necessary steps to discharge his obligations and duties despite several letters and reminders being sent to him. The Petitioner therefore moves this Court that the Respondent be removed as liquidator and a new liquidator be appointed. The petition asserts that Mr. Roselie has committed serious errors of law and has failed to perform his duties through prolonged inaction, thereby prejudicing the rights of creditors.

[4] Further, the liquidator's failure to finalize the liquidation process over an extended period and his alleged misinterpretation of the statutory priority of payments have placed the SRC's claims at a disadvantage.

[5] The Petitioner's primary contention in the submissions filed is that the liquidator breached his fundamental duties as prescribed by the Insolvency Act, 2013. The Act imposes a clear standard of conduct on liquidators. The liquidator has violated his main statutory obligation under Section 117 of the Insolvency Act. This section mandates that a liquidator must act with diligence and efficiency. This inaction directly contravenes the liquidator's primary function and prejudices all creditors awaiting settlement. Furthermore, the liquidator appears to have failed to comply with foundational duties such as submitting a timely Statement of Affairs to the Official Receiver, a requirement under Section 106 of the Act. This failure denies creditors and other interested parties a factual basis from which to assess the company's financial position and the liquidation's progress.

[6] In reply, the Respondent appeared in person and submitted that the delay was not due to neglect but caused by external obstacles beyond his control. He states he has done his duties by contacting all the banks and liaising with the previous auditor who passed away during the period of dissolution. One debtor had paid a sum of SCR 22,770. However, he admits the cheque had become out dated as he has failed to open an "In liquidation" bank account. He does not mention why. He states that as the liquidator, he has been summoned before the Employment Tribunal and he had brought to the notice of the Tribunal that the Company was in liquidation. He states he had served the Petitioner (SRC) with a notice of request of payment and he states in his submissions the Petitioner has "denied that the creditor had a contract with them". He also states that on numerous occasions, he discussed the matter with Tax Officers as well as the Attorney who filed this application. He admits in his submissions that he has not been able to collect all the money due but SRC still insists that he settles the Company's debts with them.

[7] Finally, the Respondent submits that he is following the Insolvency Act 2013 and the Schedule of Distribution and he believes that the employees should be paid before the Petitioner and moves that the Petition be dismissed.

The Law

[8] Section 117(1) of the Insolvency Act (the Act) 2013 states:

Subject to section 118, the main duty of the liquidator is to act in a reasonable and efficient manner so as to—

(a) take possession of, protect, realise, and distribute the assets, or the proceeds of the realisation of the assets, of the company to its creditors in accordance with this Act; and

(b) where there are surplus assets remaining, distribute them, or the proceeds of the realisation of the surplus assets, in accordance with sections 347 to 348.

[9] Section 106 of the Act, states:

Statement of affairs

(1) Where the Court has made a winding up order or appointed a provisional liquidator, the persons referred to under subsection (2) shall, unless the Court otherwise orders prepare and submit to the Official Receiver a statement of affairs of the company showing the particulars of its assets, debts and liabilities, the names, residences, and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given, the privileges to which they are respectively entitled, and such other information as the Official Receiver may require.

(2) The statement under subsection (1) shall be made and supported by affidavit by one or more persons who are at the relevant date directors and by the secretary of the company, or by such of the following persons as the Official Receiver may, subject to the direction of the Court, require, being a person who—

(a) is or has been an officer of the company;

(b) has taken part in the formation of the company at any time within 1 year prior to the relevant date;

(c) is or has been in the employment of the company, or has been in the employment of the company within the said period, and is in the opinion of the Official Receiver capable of giving the information required; or

(d) is or has been within the said period an officer of or in the employment of a company, which is, or within the said period was, an officer of the company to which the statement relates.

(3) The statement under subsection (1) shall be submitted within 14 days from the relevant date, or within such time as the Official Receiver or the Court may for special reasons appoint.

(4) The Official Receiver shall cause a copy of the statement referred to in subsection (1) to be delivered to the liquidator, if one has been appointed.

(5) Any person making or concurring in making the statement and declaration required by this section shall be allowed, and shall be paid by the Official Receiver, liquidator or provisional liquidator, as the case may be, out of the assets of the company, such costs and expenses incurred in and about the preparation and making of the statement and declaration as the Official Receiver may consider reasonable, subject to an appeal to the Court.

(6) Any person stating himself or herself, in writing, to be a creditor, shareholder, contributory or debenture holder of the company shall be entitled by himself or herself or by his or her agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section and to obtain a copy thereof or extract therefrom.

(7) In this section the expression "the relevant date" means in a case where a provisional liquidator is appointed, the date of his or her appointment, and, in a case where no such appointment is made, the date of the winding up order.

[10] Section 160(2) of the Act, sets out the power of Court to remove a liquidator "on cause shown" and appoint another.

(1) Where there is no liquidator acting in a voluntary winding up, the Court may appoint a liquidator.

(2) The Court may, on cause shown, remove a liquidator and appoint another liquidator.

(3) A shareholder, creditor or the liquidator may at any time before the dissolution of a company apply to the Court to review the amount of the liquidator's remuneration.

[11] Section 339 (1) and 340 of the Insolvency Act deal with the priority of payments to be made from the assets of the debtor:

Section 339 reads as follows

(1) All costs, charges and expenses properly incurred in the bankruptcy or the winding up, including the remuneration of the liquidator or the Official Receiver, shall be payable out of the assets of the debtor in priority to all other claims.

[12] Section 340 of the Act establishes the hierarchy for other debts (preferential payments) and reads as follows:

(1) In a bankruptcy or a winding up there shall be paid in priority to all other debts or claims against the company—

(a) all income tax and other taxes assessed on the bankrupt or the company up to the 31st day of December next preceding the date on which the bankruptcy or winding up order was made or the winding up resolution was passed, whichever is the earlier, but not exceeding in the whole one year's assessment, the year for which priority is claimed being selected by the Revenue Commissioner;

(b) all wages or salary, whether or not earned wholly or in part by way of commission, of any clerk or servant in respect of services rendered to the bankrupt or the company during 4 months next prior to the date on which the bankruptcy or winding up order was made or the winding up resolution was passed, whichever is the earlier, and all wages, whether payable for time or for piece work of any workman or labourer in respect of services rendered, being a sum which in the case of any one claimant does not exceed the prescribed minimum wage;

(2) Any remuneration in respect of a period of holiday or of absence from work through sickness or other good cause, or in respect of a period for which notice of dismissal has or should have been given under the Employment Act, shall be deemed to be wages in respect of services rendered to the bankrupt or the company during that period.

(3)Any person who—

(a) lends money to a bankrupt or a company to enable the bankrupt or the company to satisfy, in whole or in part, a debt or claim which is, or which if not so satisfied will be, a debt or claim to which priority is given by subsection (1); or

(b) guarantees or gives security for the payment of any such debt or claim, and prior to or after a bankruptcy or winding up order is made or a winding up resolution is passed in respect of a company, satisfies the debt or claim, in whole or in part, by paying it himself or herself or by the security given by him or her being realised,

shall, in the bankruptcy of the bankrupt or winding up of a company, be entitled to priority under subsection (1) for the amount of the loan made by him or her, or for an indemnity in respect of the guarantee or security given by him or her, to the extent that the amount of the debt or claim which was satisfied out of the loan, or by the person, or out of the security given by him or her, has been diminished.

(4) For the purpose of subsection (4)—

(a) a loan shall include any form of advance and an overdraft at a bank;

(b) a person shall be deemed to have given a guarantee or security if—

(i) he or she is personally liable to satisfy a debt or claim by a rule of law or an enactment;

(ii) any of his or her assets may be seized, distrained upon or sold in order to satisfy the debt or claim;

(iii) any of his or her assets are charged with the debt or claim or are ordered to be sold by order of any Court in order to satisfy it;

(c) a person who lends money to a bankrupt or a company to enable it to pay any of its debts, or who gives a guarantee or security in respect of all its debts, or all its debts of a particular class, shall be deemed to have made a loan to enable it to satisfy debts or claims to which priority is or will be given by subsection (1), or to have guaranteed or given security for such debts or claims, to the extent that the loan is actually used to satisfy such debts or claims, or to the extent that the guarantor or the person giving the security satisfies them, or to the extent that they are satisfied by the realisation of the security, whether the contract of loan or guarantee or the instrument creating the security expressly refers to such debts or claims; and

(d) a security shall be deemed to be realised if any of the assets subject to it are sold or are ordered by a Court to be sold, or if a receiver is appointed in respect of any of the assets, or if the person entitled to the security takes possession of any of the assets.

(5) The debts and claims to which priority is given by subsections (1) and (4) shall—

(a) rank equally among themselves and be paid in full, unless the assets of the bankrupt or the company are insufficient to meet them, in which case they shall abate in equal proportions; and

(b) so far as the assets of the company available for payment of all its debts and liabilities are insufficient to meet them, have priority over the claims of creditors and debenture holders secured by general floating charges created by the company, and be paid accordingly out of any property comprised in or subject to such charges.

(6) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the debts and claims to which priority is given by subsections (1) and (4) shall be discharged forthwith so far as the assets of the bankrupt or the company are sufficient to meet them:

Provided that nothing contained in this subsection shall give any priority to the costs and expenses of the winding up over the amounts secured by a general floating charge created by the company.

(7) In the event of a landlord or other person having distrained or enforced a privilege under article 2102 of the Civil Code on any goods or effects of the company within 3 months next prior to the date of a bankruptcy or winding up order or winding up resolution, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on or over which the privilege is exercised or the proceeds of the sale thereof:

Provided that, in respect of any money paid under any such charge, the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

Analysis and Findings

[13] When one considers the facts and submissions filed by the Petitioner and the Respondent before Court, it is clear that the Petitioner asserts that the delay in finalizing the liquidation and failure to realize and distribute the assets, constitutes a failure to act in a "*reasonable and efficient manner*." This inaction directly contravenes the liquidator's primary function and prejudices all creditors awaiting settlement. Furthermore, the liquidator appears to have failed to comply with foundational duties such as submitting a timely Statement of Affairs to the Official Receiver, a requirement under Section 106 of the Act.

[14] The Respondent's submissions revolve round obstacles which include unresolved employment claims and a lack of sufficient funds within the estate to pursue necessary

legal actions and lack of funds to cover administrative costs and pay debtors. He contends that he has acted diligently within the constraints presented by the estate's financial position and pending legal disputes.

[15] The legal standard for a liquidator's conduct is high. As established in the case of Lincoln v EODC (XP 27/2008) [2019] SCSC 1302 (15 October 2019)], a liquidator has fiduciary duties to the company and must act with care and diligence. The court in Petroships Investment Pte Ltd v Wealthplus Pte Ltd [2017] SGHC 122 reinforces this, stating that a liquidator is duty-bound to exercise powers "competently and impartially, without fear or favour".

[16] This Court also observes that certain documents tendered to Court i.e. the letter dated 9 November 2018 written to the Respondent by the Petitioner indicate that the SRC was in receipt of a demand letter dated 8 October 2018 from the Respondent. It is clear from the letter that the Company's revenue liability far exceeds the refund/rebate of tax credit owed to the Respondent. There are several letters from the Revenue Department to Mr Roselie calling for payment of the outstanding tax amounting to SCR 15,544,357.40. The Respondent's contention that the SRC denied that the creditor had an account with them is therefore incorrect as the SRC accepts in the said letter dated 9 November 2018 that a sum of SCR 19,240.00 is owing to Company but the Company owes outstanding taxes to the Revenue Department SCR 15,544,357.40 which far exceeds this amount.

[17] This Court observed filed in the case record, a Certification of Accounts dated 15 May 2018 by the Auditors with the application to wind up the Company and even before the appointment of the Respondent as liquidator which sets out the State of Affairs of the Company as at 31 December 2017. The first page of the document is titled the Statement of Affairs of the Company as at 2017. I therefore see no reason for the delay in the filing of the Statement of Affairs by the Liquidator.

[18] I also observe an email dated 20 September 2021 from one Mr Ralph Volcere acknowledging the appointment of the Seychelles Labour Union as debt collector for the Company by the Respondent. It appears from the Respondent's submissions and it is not in dispute that at present the Respondent represents the Company in the Employment

Tribunal, in respect of a case filed by the employees of the Company for employment benefits due to them. Giving due consideration to this fact, it is the considered view of this Court that to change the liquidator at this stage would affect and cause delays in the proceedings before the Employment Tribunal. Therefore, it is the view of this Court the liquidator Mr Peter Roselie should not be removed as appointing of a new liquidator would delay the pending Employment Tribunal proceedings.

[19] However, considering the complaint made in respect of delays by the Petitioner, this Court is of the view that the liquidator be supervised by Court to ensure that no unnecessary delays occur. In addition, Mr Roselie is to be given a fixed time limit to complete the liquidation. He is also herewith ordered to comply with the law as set out above and in the Insolvency Act 2013.

[20] In respect of the hierarchy for the payments of debts (preferential payments) this Court has already in its winding up order dated 17 August 2018 in Isle Security Agency Ltd, explained the Revenue Commissioner's status as a creditor. The liquidator's specific duties towards the Revenue Commissioner under the Revenue Administration Act, including the duty to set aside assets for revenue dues. His attention is further drawn to Section 340 of the Act as set out in [12] herein.

[21] In Ailee Development Corporation & Anor v Lincoln [2020] SCSC 608, the creditor sought to have the liquidation declared unlawful, the liquidator's appointment annulled, all his acts declared void, and damages of SCR 44 million awarded, mainly because he had failed to provide the mandatory security bond before acting. The court rejected the application and allowed the liquidator to remain in office. It held that the failure to lodge the bond was a curable procedural irregularity, not a defect so serious as to invalidate the entire liquidation, especially since the bond had later been paid. The court also considered that, after many years of litigation, setting everything aside would be contrary to commercial morality and the public interest. Complaints about stamp duty and fees were left to the Commission of Inquiry and the Official Receiver, and the court directed the Official Receiver to tax the outstanding fees and costs so that the remaining matters would be supervised properly.

[22] In Lincoln v EODC [2019] SCSC 1302, the liquidator himself applied to be released from his duties after final distribution and dissolution, but EODC opposed the request on the basis of his misconduct. The court refused to release him and instead required him to remain in place until he corrected the problems identified. He was ordered to provide detailed accounts and explanations to the satisfaction of the Official Receiver, including in relation to fees, untaxed legal expenses, and other financial irregularities. As a sanction for his inadequate performance, the court ordered the forfeiture of his SCR 1 million security bond.

[23] Taken together, both cases show that the court preferred remedial supervision over outright removal. Even where the liquidator's conduct was seriously criticised, the court considered it more practical and consistent with the public interest to keep him in office temporarily, compel him to correct the defects, and place him under the close oversight of the Official Receiver and the court.

[24] For the aforementioned reasons this Court makes order as follows:

d) The liquidator may continue as liquidator but should complete the liquidation procedure by the 31 December 2026. Extension of time to be granted only with court approval.

e) He is to file a progression report every 3 months providing up to date information of the progress made up to date in Court.

f) The liquidator shall take all the necessary steps required by law in accordance with the Insolvency Act of 2013, in order to complete the liquidation process in this matter.

Signed, dated and delivered at Ile du Port on this 25th day of June 2026.

M. Burhan J