

SUPREME COURT OF SEYCHELLES

Reportable

MC26/2025

(Arising in MC23/2023)

In the matter between:

JANE HUNT

(rep. by Wilby Lucas)

Petitioner/Applicant

and

ANTHONY HUNT

(rep. by Alexia Amesbury)

Respondent

Neutral Citation: *Jane Hunt v Anthony Hunt* (MA26/2025) (10 July 2025)

Before: Burhan J

Summary: Article 1033 of the Civil Code: Legal Limits, Procedural Fairness, and Functional Inactivity

Heard: Written Submissions

Delivered: 10 July 2025

ORDER

Application dismissed. Both parties to bear their own costs.

RULING

BURHAN J

- [1] The Applicant, Jane Hunt, who is a co-executor of the estate of the late Marie-Celine Hunt from Bel Air, Mahé, has filed this application against the Respondent Anthony Hunt who is the other co-executor of the said estate, seeking a court order under Article 1033 of the Civil Code of Seychelles, which would allow her to access and withdraw funds from the executor bank account belonging to the late Marie-Celine Hunt (Account No. [REDACTED])

[2] Article 1033 reads as follows:

‘If two or more executors have been appointed, one may act in the absence or failure to act of the other.’

[3] The reasons for this application are detailed in the supporting affidavit of the Applicant dated 4 February 2025. It is stated in her affidavit that both she and her brother, Anthony Hunt, were appointed as joint executors to the aforementioned estate. This fact is not contested. On 7 July 2020, they entered into a judgment by consent (JBC) that outlined their responsibilities, emphasizing their commitment to act diligently together, prudently, and in the best interests of the estate and its heirs (annexure “D”).

[4] It is further averred that the Applicant Jane Hunt has initiated proceedings for sale by licitation of two immovable properties namely:

- a. Parcel V4510 (which includes a two-bedroom house)
- b. Parcel V4603 (Mountain Rise Hotel)

[5] However, the Respondent Anthony Hunt has refused to participate in the proceedings for licitation but instead filed objections which the court dismissed as frivolous and vexatious.

[6] On 15 March 2024, the Court approved the hiring of an estate agent to facilitate the sale of the properties (Exhibit “E”). The estate agent, Arriva Real Estate, represented by Mr. Vivian Rassool, conducted an initial viewing (Exhibit “F”) but encountered access issues, due to the neglected condition of the Mountain Rise Hotel. The Applicant Jane Hunt enlisted MADD Maintenance (Dean Hoareau) to handle ground cleaning, interior cleaning and debris removal. This fact is supported by attached photographs 1–3. It is averred that ongoing maintenance is essential to ensure the property remains accessible and appealing to potential buyers.

[7] According to Paragraph 7(i) of the Judgment by Consent, the funds in the executor's bank account are meant for maintaining the estate properties until the sale takes place.

- [8] It is further averred that on July 2024, Anthony Hunt left Seychelles without informing Applicant or the other heirs. According to the Applicant the Respondent Anthony Hunt has since moved to Australia, reportedly sold all his local properties, and shut down his business namely Casa Tara Villas in Praslin. It is the Applicant's contention that he is no longer available to fulfill his duties as co-executor. The Applicant avers that Anthony Hunt cannot pass on his executor responsibilities to someone else, which means his absence constitutes a legal and functional failure to act. The Applicant is emphasising the urgency of the situation and is asking this Court to step in and grant her sole access to the MCB account, so that the estate can be managed and maintained without any further delays.
- [9] On this basis the Applicant is requesting that the Court order MCB, to permit her the Applicant Jane Hunt approval, to withdraw funds from executor account No. [REDACTED] in accordance with Article 1033, due to the Respondent's absence and inaction.
- [10] The Respondent's objections to the said application may be summarized as follows:
1. The Applicant Jane Hunt had previously submitted an urgent application under Article 1033 of the Civil Code to gain sole access to the funds in the estate account of the late Marie-Celine Hunt, based on the fact that Respondent Anthony Hunt was absent and not fulfilling his duties as co-executor. This same issue was brought up in an earlier case: MA 154 of 2024, which was heard and concluded by the court on January 16, 2025.
 2. The Respondent contends that the current application is merely a repeat of MA 154 of 2024. This Court has already made a decision on this matter and closed the case, referencing the judge's statement: "I will close this application formally... so MA 154 of 2024 is hereby closed." Therefore, the current application is deemed Res Judicata and an abuse of process and should be dismissed.
 3. Mr Anthony Hunt, the Respondent, insists that he has met all the requirements of Article 1033. He co-signed all the necessary bank documents for managing the estate and has not blocked access to any funds; in fact, he has worked to ensure everything is accountable.

4. Further, while he was temporarily out of the country for medical treatment, he had granted a Power of Attorney to his sister, Doreen Hunt, allowing her to act on his behalf. So, any claims suggesting he was permanently absent or failed to take action are simply untrue and misleading.
5. The Respondent further claims that the Applicant has received SR 252,099 for maintenance from the estate account. He has submitted claims totalling SR 109,115.27 for his own contributions, but the Applicant has refused to co-sign the reimbursement documents. He has attached exhibits AH1–AH5, which include invoices, bank forms, and correspondence that demonstrate his consistent compliance and her refusals. The Respondent further complains that the Applicant has emailed him payment documents (not the originals), which he signed and returned via email. Despite this, she went ahead and filed a new court application on June 18, 2024, falsely claiming he hadn't signed. The original documents were eventually provided, and he signed them again, but she still refused to process his reimbursements in respect of maintenance work done by him.
6. The Respondent further avers that the Applicant turned down the chance to sign a sole mandate agreement with Lise Church, an agent who had managed to secure a USD 2 million offer for Mountain Rise. The Respondent states that this was a solid alternative to the cumbersome sale by licitation process. He claims her refusal has held things up and kept him and his sister Doreen Hunt from getting their 1/7 shares as outlined in paragraph 7(e) of the Judgment by Consent.
7. The Respondent further refers to MC 60 of 2019, where the Applicant Jane Hunt had tried and failed to remove him as co-executor. He believes this current application is just another strategy to push him out and take full control of the executor account. He states he is concerned that if she gets sole control, the estate funds could dwindle, which would hurt the heirs not represented by the Applicant, especially him and his sister Doreen Hunt.

8. The Respondent moves that Court dismisses the said Application on the grounds that it is: Res judicata and an abuse of court process, and misleading in its factual claims. Additionally, the Respondent seeks a court order that the Applicant co-sign reimbursement documents for his own legitimate expenses related to managing the estate.
9. In conclusion, the Respondent denies any claims of inaction or absence and strongly counters with allegations of the Applicant's bad faith, obstruction, and her desire to monopolize control over the estate account. He reiterates his commitment to working together as co-executors and stresses the importance of collaboration instead of having a court impose sole authority.

Analysis and Findings.

- [11] In Estate of late Dr. Hilda Stevenson-Delhomme v Government of Seychelles & Anor (MA 03 of 2024 (Arising from CP 08 of 2023)) [2024] SCCC 3 (21 May 2024) it was held

"Executor duties are strictly personal and cannot be transferred or delegated to another person, even by power of attorney."

- [12] This principle restricts the effectiveness of any proxy arrangements, such as a power of attorney, when it comes to carrying out executor functions.
- [13] Therefore, concerning the power of attorney given to his sister Doreen Hunt, the Respondents decision to issue a power of attorney to his sister, Doreen Hunt, does not legally allow her to take on executor duties. As established in Stevenson-Delhomme, these duties are personal and can't be delegated, even if he wanted to. Furthermore, Article 1025 (3) "*The powers and duties of the executor are not transmissible*", this means that the role of an executor cannot be passed on to someone else, emphasizing that executorship is rooted in trust and confidence in the individual appointed.
- [14] In respect of the Application under Article 1033 of the Civil Code of Seychelles, Article 1033 reads as follows:

'If two or more executors have been appointed, one may act in the absence or on the failure to act of the other.'

- [15] This provision allows for substitution in specific situations. It doesn't give one executor the authority to permanently replace another but ensures that estate administration can continue smoothly when one co-executor is absent or there is a failure to act.
- [16] The Applicant Jane Hunt contends that Article 1033 applies because her co-executor, Anthony Hunt, has moved to Australia and is no longer in Seychelles, and is not actively involved in managing the estate. Although Respondent Anthony Hunt is physically absent, the evidence shows that he executed and returned signed bank forms that authorize payments from the estate account, totalling SCR 69,090.00 based on the copies found in the case file in application MA 154/2024. The Respondent submits that he also responded to Jane's emails and signed the necessary documents for payment. It was for this reason that the earlier application made by the Applicant MA 154/2024 under Article 1033 was closed.
- [17] Therefore, it cannot be said that the Respondent Anthony Hunt though currently abroad, has neglected his responsibilities. It is my considered view that just being physically absent is not enough; according to Article 1033, there should be a standard for functional failure to act. The documentation before this Court does not establish the claim that the Respondent is obstructing or abandoning his role. The Respondents own action of sending emails and signing documents are valid and show that he is actively participating though somewhat belatedly.
- [18] The Respondent further contends that this application is just a repeat of MA 154 of 2024, where the same request for sole access to the estate account was already addressed and resolved by the Court on January 16, 2025. Therefore, the necessity to issue any order under Article 1033 again does not arise.
- [19] However, this Court observes that this application is in respect of continued maintenance of the property, as the Applicant states at paragraph 12 and 13, she has to engage a contractor on a periodical basis to carry out the cleaning and the removal of debris, as the

property is in dire need of ground cleaning and hence needs access to the funds for her to engage a contractor. It appears that she cannot access the funds as the co signatory the Respondent Mr Anthony Hunt is not in Seychelles. However, there is already proof that the Respondent though abroad has performed his duties that is signed bank forms and authorised payments though belatedly.

[20] In Dugasse v Henriette & Anor (MC 33/2022) [2023] SCSC 110 (3 February 2023), the Petitioner sought removal of an executrix whose administration of the estate had been slow, with delays attributed in part to COVID-19 restrictions. The Supreme Court dismissed the petition, observing that there was no evidence of serious wrongdoing or breach of fiduciary duty—only procedural slow-down. Noting that the executrix had made tangible progress (such as clearing charges on assets) and that the absence of a statutory time-limit at her appointment weighed in her favor, the Court concluded that mere delay, without demonstrable harm to the succession or its beneficiaries, does not meet the high threshold required for removal.

[21] Giving due consideration to the facts and circumstances and case law set out above, it is recommended by this Court that when communicating with the Respondent as done earlier, valuations of pending maintenance work in respect of the properties be sent to the Respondent directly, with time limit of not more than 7 days given for approval. This is to prevent undue delay on the part of the Respondent as he chooses to stay abroad. If there is a delay in communications on the part of the Respondent, then an Application under Article 1033 may be made to Court. If Court is of the view that there is unnecessary delay on the part of the Respondent in authorising same due to his absence in Seychelles or there is a failure to act on the part of the Respondent the necessary order under Article 1033 could be given.

[22] Although there is no duty on executors to inform court every time they leave the jurisdiction, his continued stay abroad could create issues which are aggravated by the fact that there is no co-operation in this case, between the two executors jointly appointed by court. In such a situation, it would be wise for both the Applicant and the Respondent to look into the possibility of appointing a neutral executor, to ensure the estate is managed

fairly and effectively, in order to avoid unnecessary delays which application would eventually benefit both parties.

[23] It is also to be observed that in terms of Section 25 of the Curatelle Act 23 of 2021, a formal supervisory process and a clear removal mechanism of executors were established. Section 25(1) to (3) of the Act, empowered the Curator to request summary statements and impose personal liability for non-compliance, while Section 25 (4) and (5) gave judges the discretion to revoke an executor's appointment—but only if a petition supported by an affidavit was filed, with the Curator included as a party. Although the executor in this case was appointed prior to the 2020 Civil Code of Seychelles, the supervisory and removal proceedings need to be conducted under the framework of Section 25 of the Curatelle Act read with Article 1025 (2) of the Civil Code of Seychelles Act 2020.

[24] This Court notes that it is accepted by the Applicant in her submissions that in February 2023, Anthony Hunt filed a Supervision of Executors application with the Curator, Mr. Danny Lucas, alleging that the Applicant had delayed initiating the licitation process. In response, the Applicant raised a jurisdictional plea in limine litis and claimed that Anthony Hunt had failed to fulfil his own duties as co-executor. The Curator ultimately dismissed the application. Therefore, both sides are aware that the Curator must be the first forum for any complaint about an executor's administration. Any dispute "as to the diligence or conduct of the executor" must be raised before the Curator, who "may from time to time require ... a summary statement" and can order remedies or dismiss the petition. Having tested the jurisdictional limits and merits of a supervision petition before the Curator, the parties know they cannot bypass that step by immediately litigating executor-duty issues in the Supreme Court. Any further challenges to executor performance must either be re-opened with fresh evidence before the Curator or brought in court only after the Curator's supervisory remedies have been exhausted.

[25] This Court cannot make any order in respect of the sum claimed by the Respondent for maintenance work done by him, as the Respondent himself states that he has filed a separate plaint CS 55/2024 claiming the said amount which case is pending at present.

[26] The Application is therefore dismissed and this Court makes order that both parties bear their own costs.

Signed, dated and delivered at Ile du Port on 10 July 2025.



10-7-2025

M Burhan J

