

SUPREME COURT OF SEYCHELLES

Reportable
MC 74/2022

In the matter between:

KEVEN GONZAGUE HOAREAU
Of
Anse La Mouche
Mahe
Seychelles
(Represented by Mr Guy Ferley)

Petitioner

Versus

GREGORY JEREMY CHARLES
Of
Anse La Mouche
Mahe
Seychelles
(Represented by Mr Joel Camille)

1st Respondent

And

THE CURATOR
Of
National House
(Represented by Mr Alvine Marie)

2nd Respondent

Neutral Citation: *Keven Hoareau vs Gregory Charles & Or* (MC 74/2022) (11 December 2025)
Before: Adeline J
Summary: Revocation of appointment as executor – Section 25 (4) of the Curatelle Act, 2021
Heard: Submissions
Delivered: 11th December 2025

FINAL ORDER

The petition is allowed, and accordingly, in exercise of its powers under Section 25 (4) of the Act, the appointment of the 1st Respondent as executor to the estate of the late Marguerite Paquerette Esparon is hereby revoked.

JUDGMENT

Adeline, J

Factual and Procedural Background

[1] By way of an amended petition dated 15th February 2023, one Keven Gonzague Hoareau (“the Petitioner”), applies to this court for an order to remove the 1st Respondent, one Gregory Jeremy Charles, (“the 1st Respondent”) as executor to the estate of the late Marguerite Paquerette Esparon. The Petitioner supports its petition with an affidavit of facts deposed by herself.

[2] In its amended petition for the removal of the 1st Respondent as the executor to the estate of the late Marguerite Paquerette Esparon, *inter alia*, the Petitioner makes the following averments;

“1. The Petitioner was the common-law husband of the late Marguerite Paquerette Esparon, herein after referred to as the “Deceased”, and an heir to her Last Will and Testament.

2. The 1st Respondent is the son of the Deceased and also an heir of the Deceased.

3. The 1st Respondent misled the court into appointing him as the Executor of the Estate of the Deceased by averring in his petition before the court, that the deceased died intestate.

4. The 1st Respondent was aware of the Last Will and Testament of the deceased and that in the said Last Will and Testament the deceased had appointed the Petitioner as the Executor of the Estate of the deceased.

5. As a result of not making known to the court the existence of the Last Will and Testament of the Deceased, nor of the appointment contained therein, on the 21st June 2022, the court appointed the 1st Respondent as executor to the Estate of the Deceased”.

Parties’ reply to application

[3] Responding to the petition, learned counsel for the 1st Respondent filed into court a reply tantamount to a “Statement of Defence” instead of tendering affidavit evidence. In other

words, learned counsel for the 1st Respondent's answer to the petition is by way of pleadings instead of tendering evidence for consideration in determining whether or not the relief sought for should be granted.

- [4] The 2nd Respondent, being the Curator appointed under Section 3 (1) of the Curatelle Act, 2021 ("the Act") having been made a party to this petition by virtue of Section 25 (8) of the Act, did file an amended reply to the amended petition. *Inter alia*, in reply to the amended petition, learned counsel for the 2nd Respondent makes the following averments;

"4. Having considered the Amended Petition dated 15th February 2023, and the 1st Respondent's reply dated 29th March 2023, the 2nd Respondent notes, that there are factual contentions between the parties as to whether or not the 1st Respondent was aware of the existence of the Last Will and Testament of the deceased at the time that the 1st Respondent applied to the court to be appointed as the executor of the estate of the deceased.

5. To the extent that it is established in these proceedings that the Petitioner should be appointed as executor of the estate of the deceased, the 2nd Respondent has no objection to the court ordering the revocation of the appointment of the 1st Respondent as executor pursuant to Section 25 (4) of the Act".

- [5] On account of the affidavit evidence tendered before this court, in sum, the basis for the order sought for is that, the 1st Respondent who is the son and a heir of the late Marguerite Paquerette Esparon, was appointed executor to the latter's estate on the 21st June 2022 while fully aware of the latter's Last Will and Testament, in which the late Marguerite, Paquerette Esparon had appointed the Petitioner as executor to her estate.

- [6] It is the contention of learned counsel for the Petitioner, that by failing to make known to the court of the existence of the Last Will and Testament in which the late Paquerette Esparon had appointed the 1st Petitioner as the executor to her estate, the 1st Respondent misled the court into appointing him executor to the estate of the late Marguerite, Paquerette Esparon.

Court's discussion of the law, reasoning and analysis.

[7] Under Section 23 (2) of the Act, any person with a “*lawful interest*” in the estate to which it seeks to be appointed its executor, may apply to the court to be so appointed.

[8] An application for revocation of the appointment of a person as executor by a Judge is made pursuant to Section 25 (4) and 5 of the Act. The application has to be by petition and supported by an affidavit of facts and evidence. Sections 25 (4) and (5) are couched in the following terms;

“25 (4) A Judge may revoke the appointment of an executor

(5) An application under subsection 4 shall be made by petition supported by an affidavit of facts, and unless the curator is the Petitioner, the curator shall be made a party thereto”.

[9] In the case of Patricia Mathiot vs Judette Maria [2023] (18 December 2023) Robinson JA, did make references to the Court of Appeal case of Suttie & Anor v David SCA 25/2015 [7 December 2017] and commented as follows;

“... According to the judgment of Fernando then JA and that of Twomey JA, the appointment of an executor of the estate of a deceased person based on inaccurate information is still effective unless it can be argued that the order of the court is perverse. I have carefully considered the judgment of Fernando JA and Twomey JA, and I hold the view that Fernando and Twomey JJA did not ... for an executor to be removed at the appointment stage only if the order of the court appointing the executor is unlawful and contrary to law. I hold the view that an executor may also be removed if the court would not have appointed the executor had it been provided with all the relevant documents and information”.

[10] My reading of the case of Patricia Mathiot (supra) instructs me, that in this case, the Court of Appeal gives other reasons that would render an executor liable to be removed besides the executor's failure to carry out its executorship duties. The other reasons seem to include where the appointment was unlawful and contrary to the law, and where the court would

not have appointed a person as an executor had the court been provided with all the relevant documents and information in making such a determination.

[11] As was the case in Patricia Mathiot (*supra*), in the instant case, the Will and Testament of the late Marguerite Paquerette Esparon was not disclosed to the court at the time the 1st Respondent was appointed as executor, although he was well aware of the existence of the Last Will and Testament of the late Marguerite Paquerette Esparon. Robinson's JA reasoning in Patricia Mathiot (*supra*) is that, the court made the order appointing the Petitioner as executrix based on information and documents tendered before it, and that had the Will and Testament been tendered before the court, the executrix would not have been appointed. However, in Patricia Mathiot (*supra*) the appeal was allowed and the executrix re-instated.

[12] In the instant case, clearly the 1st Respondent was appointed executor to the estate of his late mother Marguerite Paquerette Esparon without him making full and frank disclosure of all the facts known to him to the court. He knew that at the time of her death, his late mother had left a Will and Testament and that in the said Will and Testament the Petitioner had been appointed executor. He withheld that crucial information which had it been disclosed and made known to the court, the 1st Respondent would not have been appointed executor to the estate of his late mother, Marguerite Paquerette Esparon.

Holding and Implications

[13] In the circumstances, the petition is allowed, and accordingly, in exercise of its powers under Section 25 (4) of the Act, the appointment of the 1st Respondent as executor to the estate of the late Marguerite Paquerette Esparon is hereby revoked.

Signed, dated and delivered at Ile du Port 11th December 2025.

