SUPREME COURT OF SEYCHELLES

Reportable
CS 124/2023

In the matter between

DR. SAMSON LUI **Plaintiff**
(rep. by Ms. Ephna Chang-Thiou)

and

HUOBI GLOBAL LIMITED **Defendant**
(Unrepresented)

Neutral Citation:	*Lui vs Huobi Global Limited* (CS 124/2023) (15 January 2025)
Before:	Judge Esparon
Summary:	Action by way of Plaint alleging fault against the Defendant under Article 1382 of the Civil Code of Seychelles Act, 2020
Heard:	12th July 2024
Delivered:	15th January 2025

ORDER

Action by way of plaint alleging fault against the Defendant under Article 1382 of the Civil Code of Seychelles Act, 2020 – Court found that the acts of the Defendant amounted to a fault and ordered that the Defendant transfer immediately the "stolen assets" to the Plaintiff

JUDGMENT

Introduction

[1] This is an action by way of plaint seeking the following orders from this Court;

(a) Declaring that that the Plaintiff is the sole proprietor and owner of the approximately 7,312,857.43 USDT in wallet 0x46bdfdd513e6dc2887e06ddc028e8e11ed85ea99;

(b) Declaring that that the Plaintiff is the sole proprietor and owner of the approximately 33.57 BTC in wallet 14hYLwpLqYGMz96KfSFJf4Jxo3QY11agTX;

(c) Ordering the defendant to transfer into the Plaintiff's crypto currency USDT wallet address 0x2839Bee65d286c898C4d10F7B5FaC8a3b213917B the 7,312,857 USDT mentioned at (a) above and to transfer into Plaintiff's cryptocurrency BTC wallet bc1quxasuyldkk0td8tmy7kv3sq38l2z5029wcup49 the 33.57 BTC mentioned at (b);

(d) The sum of USD 25,500 as expert report fees;

(e) Cost

The Pleadings

[2] The Plaintiff avers in his Plaint that he has made several transfers BTC from his accounts on Coinbase, Crypto.com and Kraken to the scam website called Pawnfi of which he was introduced to this by one Ying Chen. As it appeared to be making profits, the plaintiff made several attempts to withdraw his funds. However, his withdrawal request were denied each time with some form of requirement for him to deposit more funds in order to facilitate withdrawals.

[3] The Plaintiff further avers in his plaint that on July 2023, the plaintiff commissioned Cipher Blade Block Chain Investigation Agency services relating to investigation and recovery of misappropriated crypto assets, in order to investigate.

[4] The plaintiff avers that the said investigative report shows movement of a total of approximately 7,312, 857.43 UDST from the Plaintiff's accounts at Crypto.com, Coinbase and Kraken to scam addresses and subsequently the said scam addresses transferred the said USDT to the address 0x46bdfdd513e6dc2887e06ddc028e8e11ed85ea99, which has been assessed to be an address belonging to Huobi.

[5] According to the plaintiff, the investigation report shows the movement of a total of approximately 33.57 BTC from the Plaintiff's Coinbase account to a scam addresses.

Subsequently, the said scam addresses transferred the said BTC to Huobi deposit address 14hYLwpLqYGMz96KfSFJf4Jxo3QY11agTX.

[6] The plaintiff avers in his plaint that the defendant continues to be in possession and storage of the USDT and BTC amount and that as a result of the faute of the defendant (by virtue of its failure to comply with its due diligence obligations, improperly receiving and /or facilitating, the unlawful transfer by the scammers of the BTC amount into the defendant's exchange. The plaintiff has suffered loss and damages which the defendant is liable to pay and return to the plaintiff.

The Evidence

[7] In this matter the Court granted leave to the Plaintiff to proceed with the mater ex-parte in view that upon being served with summons the defendant did not appear.

[8] The only witness that testified in the present matter is the plaintiff himself, Dr Sanson Liu who gave evidence on oath that he is a dentist by profession and lives in the United States and that he is also a crypto currency investor. He testified that he had set up accounts on Coin base, Crypto.com and Kraken.

[9] He gave evidence that a person known as Ying Cheng was advising him of how to create an account, how to transfer funds, how to invest in crypto currency and also introduced him to the website online. He stated that he has never met Ying Cheng before he met her through social media platforms including Facebook and then communicated through watts app.

[10] The witness also produced the certificated of official search of the defendant Huobi Global Limited, a struck of International Business Company with its last registered agent being Appleby Global Services (Seychelles) Ltd and that the defendant operates the Huobi Exchange.

[11] The witness gave evidence to the fact that he made several transfers of BTC and USDT crypto currency assets from his account on Coinbase, Crypto.com and Kraken to the scam

website Pawnfy. He also stated that Ying Cheng was the one who introduced him to a scam website known as pawnfi and that he attempted to withdraw his funds while he thought he was making profits.

[12] He stated that each time he attempted to withdraw funds there were different forms or requirements to deposit more funds before they are going to release any more profit that he has made and so he was never able to withdraw any funds.

[13] When this happened he commissioned an investigation agency known as Cipher Blade Block Chain Investigation Agency in order to investigate of which the plaintiff produced the said investigating report dated the 6th September 2023 as exhibit of which the Court admitted the said document as exhibit and marked it as exhibit P3 of which it shows that the plaintiff's deposit was transferred by the scam website Pawnfi either directly or indirectly or through intermediary addresses to Huobi and bynance.

[14] According to the witness, the investigation report shows the movement of a total of approximately seven million three hundred and twelve thousand eight hundred and fifty seven point forty three USDT from his account at Crypto.com, Coinbase and Kraken to scam addresses 1 and 3 and thereafter transferred to address 0x46bdfdd513e6dc2887e06ddc028e8e11ed85ea99, which has been assessed to be an address belonging to Huobi Global Limited.

[15] He also stated that the investigation report also shows the movement of thirty- three point seven BTC Crypto currency assets from Coinbase to scam address 4 and that scam adsress 4 transferred the said BTC to Huobi deposit address 14hYLwpLqYGMz96KfSFJf4Jxo3QY11agTX. The defendant further stated that the defendant is in possession of his crypto currency assets namely his USDT and BTC.

[16] The witness further stated that he has suffered loss and damages since he has lost all his investment funds into Pawnfi to the equivalent of Seven Million three hundred and twelve thousand. Furthermore the plaintiff stated that apart from financial losses this put stress on his business and although he had encountered bankruptcy and all this did put a lot of emotional stress on him and his family and as a result the defendant is liable to return his

stolen USDT and BTC and expert report fees in the sum of twenty-five thousand five hundred US Dollars and produced the said invoice from Cipher Blade Proprietary Limited as exhibit of which the Court admitted the said document as exhibit and marked it as exhibit P4 amounting to thirty eight thousand and fifty Singapore dollars. The plaintiff produced to the Court a second invoice from Cypher Blade amounting to thirty-eight thousand two hundred and fifty Singapore dollars of which the court admitted the said document as exhibit and marked it as exhibit P5.

[17] He further stated that he is praying the Court for Judgment to declare that he is the sole owner of approximately seven million three hundred and twelve thousand eight hundred and fifty seven point forty three USDT in wallet 0x46bdfdd513e6dc2887e06ddc028e8e11ed85ea99 and that also he is seeking a declaration from the Court that he is the sole owner of approximately thirty three point fifty seven BTC in wallet 14hYLwpLqYGMz96KfSFJf4Jxo3QY11agTX. According to the plaintiff, he is praying for Judgment in his favour ordering the defendant to transfer into his crypto currency USD wallet bearing address`0x2839Bee65d286c898C4d10F7B5FaC8a3b213917B and also ordering the defendant to transfer his 33.57 BTC to his wallet bc1quxasuyldkk0td8tmy7kv3sq3812z5029wcup49.

[18] According to the plaintiff he is also asking the Court that the defendant reimburses him the sum of twenty-five thousand five hundred US Dollars as expert report fees.

Submissions of Counsel

[19] In his submission counsel for the plaintiff relied on article 1382 of the Civil Code of Seychelles Act and submitted to the Court that the plaintiff has been harmed under Article 1382(1) due to the scam incident, the plaintiff has lost a large amount of money which he had invested in crypto currency.

[20] Counsel for the Plaintiff submitted to the Court that the defendant is at fault under Article 1382(2) for failure to comply with its due diligence obligations and furthermore that the

defendant cannot illegally possess and store plaintiff's crypto currency. Counsel further submitted that the defendant is at fault for allowing its platform to participate, store and keep possession of the plaintiff's stolen cryptocurrency assets.

Analysis and determination

[21] This Court hereby reproduces Article 1382 of the Civil Code of Seychelles Act, 2020 which reads as follows;

1382.

(1) Every human act that causes harm (*dommage*) to another requires the person by whose fault the harm occurred to repair it.

(2) (a). Fault is an error of conduct that would not have been committed by a prudent person in the circumstances.

(b). Fault may be the result of an act or an omission.

(c). Fault may also consist of an act or an omission the dominant purpose of which is to cause harm to another, even if it appears to have been done in the exercise of a legitimate interest.

[22] In order for the plaintiff to prove liability of the defendant under Article 1382, the plaintiff has to prove the following;

a) There was a damage to the Plaintiff or to the Plaintiff's property;
b) There is a causal link between the alleged acts of the Defendants and the damage that occurred to the Plaintiff's property; and
c) The Defendant failed to take all reasonable care to ensure that the acts would not cause damage to the Plaintiff (**vide: Shani Properties V Oliaji Trading (2008), SLR 176.**

[23] As regards to the issue of damages, as a result of the uncontroverted evidence led by the Plaintiff, this Court is of the view that the plaintiff has proven on a balance of probabilities that he has incurred loss and damages in view that the plaintiff has had a total of

approximately 7,312, 857.43 UDST and 33.57 BTC as crypto currency assets stolen from him.

[24] The other pre-condition of which plaintiff needs to prove in order to establish the liability of the defendant in the present matter is that of the 'fault' of the defendant. Article 1382 of the Civil Code of Seychelles Act, 2020 defines fault as an error of conduct that would not have been committed by a prudent person in the circumstances.

[25] In the case of **Shani Properties (Pty) Ltd V/S Oliaji Trading Company Ltd (2008) SLR 176,** Karunakaran J stated;

"when the Defendants carried out 'the alleged acts' including the deep excavation of works for the foundation of OTC building on their site, obviously the Defendants did not take necessary or any precaution and reasonable care to arrest the soil movement from adjoining land, where the Plaintiff had already built a three story building consisting of several offices, shops and residential units on three floors".

[26] In the case of **Attorney General V/S Labonte SCA 24/2007,** the Court of Appeal held that;

"Fault under Article 1382-1384 of the Civil Code depends on what precautions were taken to foresee the occurrence of an event and adopt measures to prevent the consequences".

The Court further held that;

"There can be no fault where there is diligence in dealing with predictable or unpredictable events".

[27] As regards to the issue of fault, this Court finds that based on the uncontroverted evidence led by the plaintiff that the defendant is at fault under Article 1382(2) for failure to comply with its due diligence obligations under the Anti- Money Laundering Act and furthermore that the defendant cannot illegally possess and store plaintiff's crypto currency assets . This Court further finds that the defendant is also at fault for allowing its platform to participate, store and keep possession of the plaintiff's stolen crypto currency assets.

[28] As regards to the issue that the plaintiff has to prove that there is a causal link between the alleged acts of the defendant and the damage that occurred to the plaintiff, Article 1382(2)(C) provides that 'fault may also consist of an act or an omission the dominant purpose of which is to cause harm to another, even if it appears to have been done in the exercise of a legitimate interest'.

[29] In the case of **Emanuel V/S Joubert Civ Appeal 49/96**, Seychelles Court of Appeal Ayoola JA stated;

"It is clear that a claim cannot be based on article 1382(1) of the Civil Code, unless the act and injury or damage co- existed and there is a causal link between the act and the injury or damage".

[30] In the case of Shani properties (Pty) Ltd V/S Oliaji Trading Company Ltd, 2008 SLR 176, Karunakaran J stated;

"The alleged acts of the Defendants must be the sole and immediate cause for the Plaintiff's damage. The alleged acts must be the 'primary cause' and not simply a cause amongst other possibilities".

[31] As a result of the uncontroverted evidence led by the Plaintiff, this Court is of the view that as a result of the Defendant's lack of due diligence by not following established due diligence procedures established under the Anti- Money Laundering Act which would have allowed them to detect a possible fraudulent transaction when approving the said crypto currency deposits on their exchange namely the said crypto currency assets which were stolen assets belonging to the Plaintiff and by the Defendant allowing itself to participate and store, keep possession of the stolen assets that belong to the Plaintiff , this Court holds that the Plaintiff has proven on a balance of probabilities that the alleged acts of the Defendant was the sole and immediate cause or the primary cause for the Plaintiff's damage.

[32] As for The sum of USD 25,500 as expert report fees, I'm not convinced that the plaintiff has proven on a balance of probabilities that there is a causal link between such expenses and the acts or fault of the defendant in view that it is not the defendant who has stolen the

plaintiff's crypto currency assets but some other persons of which the only fault of the plaintiff was a lack of due diligence by not following the established procedures under the Anti-Money Laundering Act and allowing itself to participate, store and keep possession of the stolen assets that belong to the Plaintiff. The said acts of the scammers who stole the crypto currency assets from the plaintiff and transferred by their own volition the crypto currency assets of the plaintiff into the wallets on Huobi Global exchange resulted in the plaintiff commissioning the said Agency in order to trace the said crypto currency assets and thereby incurring such expenses. If so advised, the plaintiff can recover the said expenses from these that have stolen his crypto currency assets which then needed to be traced. As a result, I accordingly decline to grant such an expense to the plaintiff and hence I dismiss prayer (d).

[33] As a result of the above, this Court makes the following orders;

(a) I declare that the Plaintiff is the sole proprietor and owner of the approximately 7,312,857.43 USDT in wallet 0x46bdfdd513e6dc2887e06ddc028e8e11ed85ea99;

(b) I further declare that the Plaintiff is the sole proprietor and owner of the approximately 33.57 BTC in wallet 14hYLwpLqYGMz96KfSFJf4Jxo3QY11agTX;

(c) I Order the defendant to transfer into the Plaintiff's crypto currency USDT wallet address 0x2839Bee65d286c898C4d10F7B5FaC8a3b213917B the 7,312,857 USDT mentioned at (a) above and to transfer into Plaintiff's crypto currency BTC wallet bc1quxasuyldkk0td8tmy7kv3sq38l2z5029wcup49, the 33.57 BTC mentioned at (b);

(d) I accordingly award cost in favour of the plaintiff.

(e) I Order that the Registrar of the Supreme Court to serve a copy of this order on the defendant Huobi Global Limited c/o its registered agent Appleby Global Services (Seychelles) Ltd, Suite 202, 2nd Floor, Eden Plaza, Mahe, Seychelles.

Signed, dated and delivered at Ile du Port on the 15th January 2025

Esparon J