

SUPREME COURT OF SEYCHELLES

Reportable
CA 14/2024

In the matter between:

SEYCHELLES TRADING COMPANY

Appellant

of

Victoria Mahe Seychelles

(rep. by Mr. Brian Julie)

and

FEDERICA GHIANNI

Respondent

of

Marie Jeanne Estate Praslin Seychelles

(rep. by Mr. Somasundaram Rajasundaram)

Neutral Citation: *STC v Ghianni* (CA 14/2024) 21 February 2025

Before: Adeline J

Summary: Appeal to the Supreme Court against the Judgment of the Employment Tribunal

Heard: By Submissions

Delivered: 21 February 2025

ORDER

The Notice of Appeal is struck out, and the Judgment of The Employment Tribunal in ET 23/2021 is upheld.

RULING ON MOTION

Adeline J

- [1] By Notice of Appeal dated 3rd June 2024, filed in Court on the 4th June 2024, Seychelles Trading Company (STC), the Appellant in these appeal proceedings, commenced legal proceedings in the Supreme Court against one Federica Ghianni, the Respondent, by which

it sought to appeal against the decision of the Employment Tribunal in a Judgment delivered in ET 23/2021, dated 14th May 2024, (“the Judgment”).

- [2] At paragraph 52 of the Judgment, the Employment Tribunal makes the following pronouncement;

“[52] Based on the above this learned Tribunal hereby enters Judgment in favour of the Applicant for a claim against the respondent in the total sum of SCR 203.337.02 as adduced above with interest at 4% and cost from the date of filing of this application”

- [3] In accordance with Rule 11 of the Rules, on the 17th September 2024, learned counsel for the Appellant filed in Court of Memorandum of Appeal replicated here under;

MEMORANDUM OF APPEAL

GROUND OF APPEAL

1. *The Employment Tribunal erred in not taking the following undisputed facts into consideration;*
 - a) *That the Respondent committed theft when she allowed other employees of the Appellant to have access to monies collected from sales;*
 - b) *That the Respondent was heavily involved in misappropriating company funds;*
 - c) *That the Respondent committed an offence involving dishonesty, breach of trust, deception or fraudulent practice during the performance of her duties;*
 - d) *That the Respondent admitted the following during cross examination*
 - (i) *Accepting orders from the Retail Manager not to bank the proceeds of sale as per established procedure and against company policy;*
 - (ii) *Failing to bank proceeds from sale on a daily basis and never reported this malpractice to management.*

2. *The Employment Tribunal erred in not taking the internal auditor's report into consideration.*

RELIEF SOUGHT FROM THE SUPREME COURT

Allow the appeal.

- [4] In an attempt to figure out, why from the perspective of the Appellant, the Judgment of the Employment Tribunal is worthy of an appeal, I have sought to be guided by the Appellant's Memorandum of Appeal only to realise, that the Memorandum of Appeal cannot assist with this exercise.
- [5] Having read the Memorandum of Appeal, I am of the opinion, that the purported grounds of appeal are not grounds of appeal that are worthy of consideration. This is because the Memorandum of Appeal has not been drafted compliant with Rule 12 of the Appeal Rules. (SI 11 of 1961) ("the Rules") that reads as follows;

"(12) The Memorandum of Appeal shall contain a concise statement in numbered paragraphs of point or points on which the Judgment is alleged to be erroneous without argument or narrative and a concise prayer for the relief claimed".
- [6] Therefore, based on the provisions of the Rules, the use of the word "shall" makes is mandatory for the Memorandum of Appeal to,
 1. "Contain a concise statement in numbered paragraph of the point or points on which the Judgment is alleged to be erroneous.
 2. Based on the provisions of the Rules, the Memorandum of Appeal should be "without argument or narrative and a concise prayer for the relief claimed"
- [7] In contravention of the Rules, the Memorandum of Appeal contains arguments and narrative purported to be grounds of appeal. In fact, it is not even known what the relief being sought for by the Appellant is, the Appellant having simply said "Allow the appeal", far from what is required by Rule 12 which states the requirement to be "a concise prayer for the relief claimed".

- [8] I am somewhat perplexed by the fact that learned counsel for the Respondent did not raise a preliminary objection to the purported appeal on the ground that the Memorandum of Appeal is not in compliance with Rule 12 of the Appeal Rules. Nonetheless, within the scope of the Court's duty to act fairly, this Court cannot ignore such a fundamental breach of the rules since to do so would mean a failure to act fairly or to err in law (see *Banane v Lefevre* [1986] SLR 110).
- [9] Furthermore, without any ground of appeal in law, this purported appeal cannot be determined.
- [10] In *Ayoud Salameh v North Island Company Limited* SCA 5/2022 (Appeal arising from CA 23/2021 SCSC 34/2021) the Court of Appeal was required to decide whether to agree or disagree with learned counsel for the Respondent who had raised a preliminary objection supported by case law authorities, to the effect that all the grounds of Appeal as drafted by the Appellant were contrary to Rule 18 (7) of the Court of Appeal Rules, 2005 in that they were vague. The Court of Appeal struck out the Notice of Appeal and upheld file Order of the Supreme Court for the reason that it found that the grounds of appeal were poorly drafted and contravened the rules.
- [11] Similarly, in the instant case, the grounds of Appeal in the Memorandum of Appeal have been poorly drafted and contravene the provisions of Rule 12 of the Appeal Rules under the Courts Act. In the circumstances, the Notice of Appeal is struck out and the Judgment of the Employment Tribunal in ET 23/2021 is upheld.

Signed, dated and delivered at Ile du Port on 21 February 2025



Adeline J