

SUPREME COURT OF SEYCHELLES

Reportable
CS77/2020

In the matter between:

FLEURANGE WILLIANA

PELLEGRI LABOUDALLON
(rep. by Ms. Chang Thiou)

Plaintiff

and

CATHERINE TANG
*(rep. by a minor herein represented
by her mother Junling Tang)*

1st Defendant

JUNLING TANG
(rep. by Mr. Julie)

2nd Defendant

LESLIE BONIFACE
(self-represented)

3rd Defendant

Neutral Citation: *Laboudallon v Tang & Ors (CS77/2020) 30 September 2025*

Before: M. Burhan J

Summary: Rescission of agreement

Heard: 23.05.2020, 06.07.2023, 25.09.2023, 26.09.2023, 31.10.2023, 24.06.2024

Delivered: 30 September 2025

ORDER

Judgment is given in favour of the Plaintiff and this Court grants the following reliefs peculiar to this case as prayed for by the Plaintiff: This Court makes order:

- A* That the “Permission to Build” agreement contained in document P2 and dated 27 October 2017 be rescinded on the ground of mistake.
- B* That the Plaintiff refunds to the 2nd Defendant the sum of Seychelles Rupees Five Hundred and Forty Thousand (SR 540,000) together with legal interest thereon accruing from 27 October 2017 until full payment.
- C* That the 3rd Defendant refunds to the 2nd Defendant the total sum of Seychelles Rupees One Million and Fifty-Five Thousand (SR 1,055,000), being the aggregate of SR 660,000 and SR 395,000 paid by the 2nd Defendant to the 3rd Defendant as consideration for the said ‘Permission to Build’ agreement and related expenses,

together with legal interest thereon accruing from 27 October 2017 until full payment.

- D* That such orders are made so as to restore the parties, as far as money and law will allow, to the position they were in, prior to the execution of the rescinded 'Permission to Build' agreement of 27 October 2017.
- E* That each party shall bear their own costs of these proceedings.
- F* That upon confirmation by the 2nd Defendant that she has been refunded in accordance with Orders B and C above, I direct the Registrar of Lands to rectify the Land Register in respect of Title C9697 by removing the entry relating to the rescinded 'Permission to Build'.

JUDGMENT

BURHAN J

[1] The Plaintiff filed amended plaint on the 7 December 2021 against the aforementioned 1st, 2nd and 3rd Defendants seeking the following reliefs:

- A. An order rescinding the permission to build granted by the Plaintiff to the 1st Defendant on the grounds of mistake;*
- B. An order that the Plaintiff refunds the 2nd Defendant the sum of SR 540,000;*
- C. An order that the 3rd Defendant refunds the 2nd Defendant any sums paid to him which he was supposed to remit to the Plaintiff in relation to this agreement so that the parties may be placed in the position they were in prior to the agreement dated the 27th October 2017;*
- D. In the alternative to prayers to A, B and C above, the Plaintiff prays for*
 - i. An order appointing 3 experts to value the 280 square meters and the house standing thereon, referred to as Plot 2 in the permission to build on Title C9697, at the time that the permission to build was signed by the Plaintiff and the 2nd Defendant;*
 - ii. An order rescinding the permission to build on Plot 2 of Title C9697 as it has been granted for less than half of its value in the circumstances of the case;*

- iii. *An order that the Plaintiff refunds the 2nd Defendant the sum of SR 540,000;*
- iv. *An order that the 3rd Defendant refunds the 2nd Defendant any funds paid to him which he was supposed to remit to the Plaintiff in relation to this agreement so that the parties may be placed in the position they were in prior to the agreement dated 27th October 2017;*

E. *Any orders that the Court deems fit and reasonable in all the circumstances of the case.*

- [2] The Plaintiff in her plaint states that she is the owner of a parcel of land, registered as Title C9697, on which there are two houses. She further avers that the 1st Defendant is a minor and she is herein represented by her mother and guardian, the 2nd Defendant. The 3rd Defendant was the legal representative of both the 1st and 2nd Defendants and the Plaintiff.
- [3] On the 27th October 2017, the Plaintiff signed a permission to build in favour of the 1st Defendant represented by the 2nd Defendant. The Plaintiff is illiterate and believed that;
 - a. The permission to build was a lease agreement;
 - b. The permission to build was for a limited period of time, namely 10 years; and
 - c. The permission to build was for a consideration of SR 1,200,000 for the 10 year period.
- [4] A couple of months after the Plaintiff signed the permission to build, the 2nd Defendant came to the Plaintiff's property to measure part of the property and told the Plaintiff that she was going to demolish one of the houses of the Plaintiff in order to start building on the Plaintiff's property.
- [5] The Plaintiff was taken aback and requested the 2nd Defendant to leave her property whereupon the 2nd Defendant told the Plaintiff that she had a right in perpetuity on the Plaintiff's property.
- [6] It was only after the above incident, which was a couple of months after the Plaintiff had signed the permission to build, that the Plaintiff discovered she had signed a permission to build rather than a lease agreement.
- [7] The Plaintiff admits in her plaint that thus far she has received the sum of SR 540,000 from the 3rd Defendant which the 2nd Defendant states she has paid through the 3rd Defendant to be remitted to the Plaintiff.

- [8] The Plaintiff has approached the 2nd Defendant in order to request that the 2nd Defendant cancels the permission to build but the 2nd Defendant has refused to do so until she is refunded the totality of the sum of money that she claims that she has paid to the 3rd Defendant which was or is to be remitted to the Plaintiff.
- [9] The Plaintiff pleads that she has never been given any money by the 1st or 2nd Defendants but that she was given the sum of SR 540,000 by the 3rd Defendant which the 3rd Defendant states was given to him by the 2nd Defendant to be given to the Plaintiff.
- [10] The Plaintiff is willing to refund the sum of SR 540,000 to the 2nd Defendant on condition that the 2nd Defendant agrees to cancel the permission to build. In addition the Plaintiff pleads that if there has been any excess paid by the 2nd Defendant to the 3rd Defendant, the 3rd Defendant should refund this excess to the 2nd Defendant so that the parties may be placed in the position they were in, prior to entering the agreement dated the 27th October 2017.
- [11] The Plaintiff avers that she was misled into signing the permission to build as:
- a. She believed she was signing a lease agreement and thus her consent was obtained equivocally;
 - b. She would never have accepted that the house she has invested in with the intention of renting out be demolished or granted to the Defendants in perpetuity;
 - c. She would never have signed a permission to build in favour of the Defendants or anyone else in perpetuity for a mere sum of SR 1,200,000 which is less than half of the value of the 280 square meters on which stands a new storey house.
- [12] The Plaintiff is desirous of rescinding the permission to build granted to the 1st Defendant as the Plaintiff was misled and she signed the permission to build in the mistaken belief that it was a lease.
- [13] In the alternative the Plaintiff avers that the price to be paid for the permission to build is less than half of the value of the 280 square meters on which stands a new storey house and the Plaintiff pleads that permission to build be rescinded on the basis of lesion.
- [14] The Plaintiff is ready to refund the 2nd Defendant the sum of SR 540,000 and is desirous that the 3rd Defendant refunds the 2nd Defendant any monies paid to him in relation to this Agreement.
- [15] The 1st and 2nd Defendants in their defence raised the following *pleas in limine*:

- i. The Plaintiff does not disclose any cause of action against the 1st and 2nd Defendants and the same is frivolous and vexatious and without merit.
- ii. The 1st and 2nd Defendants pray for dismissal.

- [16] On the merits of the Plaintiff the 1st and 2nd Defendants in their amended defence dated 9 December 2021 admit that the Plaintiff is the owner of the parcel of land registered as Title C9697 and that the 1st Defendant is a minor and is legally represented by her mother the 2nd Defendant. The Defendants further state they were unaware that the permission to build that was signed was a lease agreement. The Plaintiff was advised and counselled by the 3rd Defendant whom the Plaintiff appointed as her true and lawful attorney with special power and authority to execute any transaction in respect of the Parcel C1897 (which is a subdivision of Parcel C9697). They further aver that the signed document does not specify any period of time and that the Plaintiff was fully aware of the details of the permission to build. They admit that the permission to build was signed by all parties and was duly registered. The Defendants further aver in their defence that the Plaintiff was fully aware of the contents of the documents she signed. The Defendants further state in their defence that they have paid a sum of SR 1,670,000 to the legal representative of the Plaintiff, the 3rd Defendant who had been authorised by the Plaintiff to receive the money.
- [17] The 1st and 2nd Defendants state that the Plaintiff is well aware of the amount paid to the 3rd Defendant as he is both her legal advisor and a relative. They further aver that they do not wish to interfere with any dispute between the Plaintiff and the 3rd Defendant and wishes to implement her building project on Parcel C1987. They deny and disagree with all other averments in the Plaintiff.
- [18] The 3rd Defendant in his defence 21 June 2022 refers to three houses and not two being on the parcel C9697. The 3rd Defendant states he was acting as an attorney of the Plaintiff through a Power of Attorney issued by the Plaintiff. The 3rd Defendant admits in his defence that he is also a member of the family of the Plaintiff by virtue of the fact that he was in a relationship with a niece of the Plaintiff and has rendered many assistances to the Plaintiff since 1996. He further states in his defence that on the same property that the Plaintiff gave permission to build C9697, the 3rd Respondent had requested him to build a second house for the Plaintiff with the money from the proceeds of the permission to build. The 3rd Defendant accepts the fact that the Plaintiff is illiterate. He however states that the Plaintiff did not believe that the permission to build was a lease agreement as she personally showed the 2nd Defendant the extent of the property she was allocating to the 1st and 2nd Defendants. Furthermore, the property cannot be leased as there is an abandoned iron structure of an incomplete building standing in the middle of the area the Plaintiff claims she was leasing. The Plaintiff had no money to complete the building which had been

standing on T9697 (*sic*) and hence, her reason to dispense with that part of the property which she gave permission to the 3rd Defendant to build on.

- [19] The 3rd Defendant further states in his defence as the holder of the Power of Attorney the whole matter was explained to the Plaintiff. She was visited at her home by the 3rd Defendant with a witness on more than 2 occasions regarding the permission to build and she was in full agreement. Therefore there was no mistaking the permission to build with a lease of agreement.
- [20] It is further stated in the 3rd Defendants defence that the Plaintiff's statement that she agreed for only for a lease agreement for a period of 10 years is not sustainable as there is an iron structure of an incomplete building and for the 1st Defendant to even use the land as an area for lease major works would have to be done in terms of either pulling down the iron structure or completing it. It is not reasonable to assume that such a major investment in the property the 1st Defendant would take only a 10 year lease. This gives credence to the fact that the intention of the Plaintiff was to depart with the part of the land by way of the permission to build. He further avers in his defence that the SR 1,200,000.00 was accepted in consideration for the permission to build and that there was no time period of 10 years agreed by the parties. He further states that the Plaintiff has received more than SR 540,000.00.
- [21] The 3rd Defendant further states that the Plaintiff instructed him to build a house on her property with part of the proceeds of the permission to build and the same was done. A contractor was procured and contract drawn for the construction of the house. The house was constructed but at finishing stage works had to be stopped as there was disagreement with the Plaintiff. Finally she started asking for her land back and she was advised to return the money the work stopped and the court case ensued.
- [22] The 3rd Defendant was acting under the Power of Attorney given to the Plaintiff and instructions of the Plaintiff. The 3rd Defendant denies owing the Plaintiff any money as she is not taking into account the cost incurred in building the two bedroom house on her property with proceeds of the money received from the 2nd Respondent and other works performed under her instruction.
- [23] The 3rd Defendant further avers in the defence that the averment of the Plaintiff that she be put by court in the position she was before signing the agreement is unfair as even if she returns SR 540,000.00 she will walk out with a brand new 2-bedroom house sitting on her property, which has been built with proceeds of the money from the permission and therefore justice would not be done. The 3rd Defendant further states that on the parcel of land on which permission to build has been granted, there exists a iron structure almost in ruins which is unfurnished and basically could not be leased out.

- [24] It is denied further denied by the 3rd Defendant that the property is less than half of the value of the land. The Plaintiff is put to strict proof in respect of a claim based on Lesion. There is no house standing on the portion of land which was subject to the permission to build. The Plaintiff is put to strict proof of this averment. The 3rd Defendant in defence further avers that the Plaintiff has no ground to rescind the permission to build, she was not misled and she did not mistake the permission to build for a lease agreement. Furthermore there is no evidence of fraud, mutual errors, lack of legal or mental capacity, duress and undue influence, or one party not fulfilling its obligation which can lead to rescission.
- [25] Finally the 3rd Defendant states that all the while he was acting as the attorney and as a member of the family, he received only a commission on the transaction and the proceeds of the permission to sell he received went on construction works on the house of the Plaintiff built thereafter.

Evidence of the Plaintiff

- [26] When one considers the evidence of the Plaintiff Fleurange Laboudallon, 81 years of age and a pensioner, she testified that she was the owner of parcel bearing Title C9697. In her evidence she states there is the main house where she lives in and a house next to it. On the same land further down there is another big house. She produced document P1 to prove she was the owner of the said property C9697 situated at Point Aux Sel. Witness further testified that apart from living in the Seychelles she has lived and worked in Italy for 40 years. With her funds earned in Italy, she built her house and whilst she was away her sister took care of her house.
- [27] According to the evidence of the Plaintiff the 2nd Defendant Junling Tang visited her property and informed her that she would be demolishing one of her houses to enable her to build on the said land. She had queried from her who had given her permission to do so and she had replied that it was the 3rd Defendant Mr. Leslie Boniface. The Plaintiff stated that the 3rd Defendant Leslie Boniface had been with her niece for the past 20 years and on hearing this she had gone to meet him with one Mrs. Bernadette Adonis.
- [28] It is clear from her evidence that she admits she has placed her signature on the document P2 which is a 'Permission to Build' given by her to the 1st and 2nd Defendant. According to her evidence the land on which the permission to build has been given has a building on it and it was this building that she intended to lease out for 10 years. It is this structure which the Plaintiff is complaining the 2nd Defendant wishes to demolish and build based on the 'Permission to Build' signed by her.
- [29] The main ground urged by the Plaintiff as per the evidence led is that she is illiterate and the permission to build was not explained to her by the 3rd Defendant Mr. Boniface her Power of Attorney holder and the Attorney who prepared the Permission to Build and

further a person closely connected as he had been living with her niece for the past 20 years. She was under the impression he had drafted a lease agreement. She further stated that prior to this Mr. Leslie Boniface had met her and suggested that they could make papers to rent out the premises. She admits she agreed to do it but states she specifically stated she was not going to sell it. She further explained that she was an illiterate person and at that time she knew Mr. Boniface for twenty years as he was living with her niece and was friendly with him and trusted him as he was like a family member.

- [30] Witness was shown Exhibit P2 a document dated 27 October 2017 granting permission to build to the 1st Defendant, the child of the 2nd Defendant on her property C9697. Witness admitted she signed the document but at the time of signing the 2nd Defendant was not present and Mr. Leslie Boniface had brought the document to her home in Point Aux Sel when the 1st and 2nd Defendant were not present. He had not explained what the document was. It is her contention in her evidence that she states she was unaware of what the document was and thought it was a rent agreement she was signing and not a permission to build.
- [31] The Plaintiff further stated that the first time she met with the 2nd Defendant was at Mr. Leslie Boniface's office. Even at that time or thereafter she did not communicate with the 2nd Defendant at all. She states that when she was inside with Mr. Boniface, he did not want the 2nd Defendant to be inside with her in the office and when the 2nd Defendant was inside he did not want witness to be present inside. She stated there was never a situation where Mr. Leslie Boniface, Ms. Junling Tang and witness were all present in the same room at the office. The second time, witness met the 2nd Defendant was when she came to her home and wanted to demolish her house to build. The Plaintiff testified that it is not correct, she did not give him any permission or power with regards to her home.
- [32] The Plaintiff stated she did not know what she was signing as she does not know how to read or write. Mr Boniface had told her *"aunty, you don't know how to read, you don't know how to write. Your papers are safe with me."* She stated she can only sign her name as Laboudallon. When shown the signature, she accepted she had signed it when she was alone with Mr Boniface. She further stated that Mr Leslie Boniface did not advise her to put her thumbprint or fingerprint as a mark on her document instead of signing her name and signature. At that time when Mr Leslie Boniface brought the document there was no signature from Ms. Junling Tang. When she signed the 'Permission to Build', she did not know that she was signing a permission to build, granting Catherine Tang, Junling Tang's daughter legal rights over her land.
- [33] After the Plaintiff was confronted by the 2nd Defendant she had gone to the office of Mr Boniface with Bernadette Adonis. There were a lot of people in his office and he told witness that she cannot come in as he had a lot of clients. She was angry and told him,

“Leslie, the agreement we had was to lease the property and not to sell it.” When she said this he took his glasses, threw it and broke it against the window and said that she does not know how to read and write and that she is an old fool.

- [34] The Plaintiff further denies she ever received a sum of one million six hundred and seventy thousand (SR1,670,000.00) which the 2nd Defendant states she paid Mr Leslie Boniface for the building for the permission to build given to her daughter Catherine Tang. The Plaintiff states that she never saw the full sum paid and the only money received from Mr Boniface on the first occasion was a sum of five hundred thousand (SR 500,000.00). The second occasion, twenty thousand and then on another two occasions ten thousand rupee payments. In all she only received a total sum of five hundred and forty thousand (SR540,000.00). The Plaintiff further states that 3rd Defendant Leslie Boniface misled her into signing the ‘Permission to Build’. She had nothing to do with Ms Junling Tang and nothing to do with any documentation. She further states although she asked for the document he never gave it to her.
- [35] The Plaintiff further states she never gave Mr Leslie Boniface permission to build houses on her property. The house at the bottom of the property was built by her Italian husband with some of his Italian friends and the one at the upper part of the property, was built by Mr. Andre Bristol, a contractor. With regards to the house built by her Italian husband, witness explained that the materials were shipped from Italy as Seychelles does not have the same materials. She had the intention to rent this house but admits that at the time she was not ready. She never intended to sell that house or ever give a permission to build to anyone else in future.
- [36] The Plaintiff further stated that she signed a ‘Permission to Build’ under a mistaken belief that she was signing a lease agreement since she was misled by Mr Leslie Boniface. She is willing to cancel the permission to build which she gave the 1st Defendant Catherine Tang who is a minor because she did not give permission to build but to lease it out. She further stated that if the 2nd Defendant Junling Tang agrees to cancel the permission to build, she is ready to refund Junling Tang the amount of SR 540,000.00 which she received from Mr Leslie Boniface by instalments. She believes that Mr Leslie Boniface should refund the rest of the money as she has not received it.
- [37] In regards to the house built by Mr Andre Bristol her contractor she had taken a loan from Credit Union Bank for SR 100,000.00 twice. She was shown a document and confirmed that it is an invoice by Mr Andre Bristol and also a quotation from Mr Andre Bristol the contractor.
- [38] In her plaint, the Plaintiff also makes an alternative request that stated that the ‘Permission to Build’ should be rescinded on the grounds of lesion on the basis that the permission to build on Plot 2 of title C9697 has been granted for less than half of its value. She sought

the services of a quantity surveyor to estimate the value of her property. She was shown a document and confirmed the valuation report produced by her quantity surveyor Mr Valentin was marked as P3.

- [39] When questioned she stated she came to the conclusion the land had been sold, as the 2nd Defendant was intending to demolish the building on it and rebuild and stated that she has received permission from Mr Leslie Boniface to do so and if that is the case, she believed that the property has been sold. She reiterated she had not got any of the balance money from Mr Leslie Boniface. She admitted she knows the 3rd Defendant for a period of 20 years since he got friendly when he met her niece. She admitted that the 3rd Defendant had done work for her before. In her evidence she mentioned the paper work done by him for her. She denied she was divorced from her husband. She admitted that there are three houses on her property.
- [40] Witness testified that the third defendant has been to her property before. He has slept over in the main house, attended parties there and he knows the property but has never been inside the store and does not know what is in there. Regarding her building operation, she admitted she had asked the 3rd Defendant for a contractor and he told her about Daniel Portlouis. She had told him that she did not want Daniel Portlouis for the house. Witness stated that Daniel Portlouis did not build any house but it was Mr Bristol that built the house. She denied knowledge of the Power of Attorney produced by the 3rd Defendant. She stated on several occasions the 3rd Defendant came alone and one time he came with Fiona. They had got her to sign documents and did not tell her what was written on it. The papers were not read to her.
- [41] The Plaintiff admitted remembered that she, together with the 3rd Defendant and Ms Junling Tang, opening the steel structure down by the roadside to show Ms Tang the property. She stated that she remembered they came for a visit and left. She admits that the unfinished steel structure on the property was for renting. She has been living in Italy for 40 years and have been travelling back and forth for 25 years. She admitted she had used the money. She disagreed that she had received millions for it. She admitted that from the money given by Ms Tang she had asked him to transfer SR10,000.00 to Italy because she needed the money. Witness stated she took the 3rd Defendant as a family member because she was really close to her niece. She admitted she had some issues with one Jemmy Laboudallon and she had sought advice from the 3rd Defendant. She stated in re-examination that she had signed without knowing what the documents were including the Power of Attorney.
- [42] Mr Nigel Stanley Valentin stated he is a qualified licensed quantity surveyor for the past 20 years. He gave evidence in Court stating he had done quantity surveying works on title C9697 for Mrs Laboudallon. Witness confirmed that Item 3 which was marked as P3 was

his report; Witness was shown P3 and showed the Court the last page, the GIS photo, the area and on page 9, he has demarked the area he has used. He surveyed only part of the property as he was instructed by the client to give the correct market value of that portion of property for the Court's purposes. He described how he arrived at its value and the procedure adopted by him in arriving at his valuation in respect of the bare land around the building and the building on it. In his report P3 he values the building a two storey structure at SR 962,608. He stated the value of all the development work including the building structure to be one million one hundred and eighty-eight thousand nine hundred and forty-seven Seychelles Rupees (SR 1,188,947.00). This together with the surrounding land valued at SR 802,162.00 comes to one million nine hundred and ninety-one thousand one hundred and eight Seychelles rupees (SR 1, 991,108.00). He stated the amount of Five hundred and forty thousand Seychelles rupees is not a fair amount for such a property.

- [43] When asked whether S1.670 million rupees would be enough for a permission to build. Witness Mr Valentin stated that 1.6 million can be equivalent or plus or minus to the market value of the property then he will say that it may be considered, as no valuator or QS will give the same figure. A 15 percent plus or minus range is used. Witness was shown P2 and read point 1, The guarantee shall use the part of the land more fully, delineated as Plot 2 in the attached sketch 280 square meters and the house construction thereon *en bon pere de famille*. According to the permission to build 280 square meters is the extent of the property in question. According to his report on page 2, 324 square metre of that property was evaluated. He stated this did not make a big difference. When he was asked whether the building he visited would be considered as a place for someone to live in he stated that presently no, as it is not completed. He further stated that there is no space there to build a new building. One has to demolish what is there or improve it.
- [44] Witness Bernadette Adonis stated that the Plaintiff was like a mother to her. They would travel together when she was working in the UAE. She confirmed the Plaintiff was illiterate. She corroborated the evidence of the Plaintiff in respect of their meeting with the 3rd Defendant after Ms Tang had come to meet the Plaintiff and how the 3rd Defendant reacted on being confronted by the Plaintiff. Mr Boniface had thrown his glasses and dropped his coffee on his shirt and table.
- [45] Mr Andre Bristol self-employed as a contractor namely AFB Constructions stated he knew the Plaintiff because as a constructor he had constructed a house for her. He was renting part of her house for his workers to live in. Witness was shown a document and stated that these are the quotations he made in respect of the construction of the Plaintiff's house. He described the work he had done. He did the partitioning of the house, roofing, the ceiling, the blocks and plastering, the panel door, the electrical and sanitary works, plumbing, drainage, finishing, painting and also tile fixing. When he had completed the quotation cost

was SR 326,800.00 it was marked as Exhibit P4. He described the details therein and payments received from the Plaintiff. It is clear he worked between the period 22 October 2020 and September 2021. He said he has received all his money from the Plaintiff to date. The document Exhibit P5 shows the final payment.

- [46] Witness Bristol stated he did these jobs for Mrs Laboudallon because his workers were living at her place she told him there was a foundation to build a house on it and that could be given on rent. He admitted that the Plaintiff had contacted him to do the work around March or February 2020. He stated there was a partially built house, a foundation and it was this house that the Plaintiff wanted him to build and complete. On the foundations a few blocks had been installed. He broke down two to three blocks that had already been installed to start anew. The steel foundation was there already. Witness stated that when he came over there, the structure was already there. When he spoke to the lady she informed him that her nephew was trying to build the house.
- [47] Witness was asked whether he knows if Mrs Laboudallon can read or write. Witness stated he thinks she understands a little. She asked for assistance because one time she phoned her niece and was discussing the documents. But in the presence of witness she was not assisted with anyone. She understood everything because they made discussions in Creole. Witness stated he did not know who had worked on the unfinished structure. Witness testified that his workers stayed in a house on that property of the Plaintiff like a store. He stated he did not do any footings or foundations as they were already existing in the structure. The Plaintiff had told him that the existing partially built structure had been done by her nephew. It was put to witness that when he took over the building, it was already build up to where it needed roofing. Witness stated that he has stated all the work he had done through his quotation. His work was building a foundation which was attached on an unbuilt portion of land. Witness stated that the Plaintiff was a very good person and whilst working with her, he had not had any issues with her regarding her temper. While he was building there was a completed house attached. He started the work on the foundation. When he was starting the work, no one had occupied the place. About 3-4 months' people came and occupied. The foundation is separated by a wall and witness continued building on the other side of the foundation. It is one house built on one foundation. One was completed and on the other half of the foundation, there were a few starting blocks whereby witness demolished the blocks that has started on the foundation and restarted the work again.

Evidence of the 1st and 2nd Defendant

- [48] The 2nd Defendant, Ms Junling Tang stated that she is a business woman aged 51 years old and representing the 1st Defendant, Ms Catherine Tang her daughter who is a minor. She is a Seychellois and states she does not know the Plaintiff. She had gone to meet Mr Leslie

Boniface as a client to buy property. Witness has seen Mrs Laboudallon in Mr Boniface's office. She received permission to build on the property of Mrs Laboudallon and it was Mr Boniface who had done the negotiations. He had the Power of Attorney from the owner of the property. Witness identified and produced document a Power of Attorney 1D (1) in which the Plaintiff gives power to Mr Leslie Boniface to act in her name in regards to executing any transaction in respect of Parcel C1987 situated at Pointe Aux Sel and also to enter into negotiations and/or decision as regards the said property on her behalf. The said document is signed by Gerard Maurel Attorney at Law.

- [49] The 2nd Defendant states she agreed to purchase this property. She paid in total a sum of One Million and Six Hundred and Seventy-Five Thousand together SR 1,675,000.00. Mr Boniface had told her that as the property is less than 400 sq metres by law you cannot buy as it is too small. He had told her that she can only lease the property or get a permission to build and when she finishes building, maybe she can buy it. She decided to get a permission to build. Witness was shown a document which she identified as the 'Permission to Build' document and marked it as Exhibit 1D (2). She stated she received this document signed by three persons. The owner Madam Fleurance Laboudallon had signed and she Ms Junling Tang had signed as the buyer, and the lawyer Mr Leslie Boniface too had signed it.
- [50] She admits that although she had met the Plaintiff Mrs Laboudallon outside the office of Mr Boniface, they had gone in one at a time to sign the document. All three were not together at the time of signing the document. When Mrs Laboudallon signed she was not in the office and when she signed Mrs Laboudallon was not there. She admitted Exhibit 1D (2) contains a stamp from the land registry.
- [51] Witness stated she paid SR 1. 675 million to the Attorney a Law Mr Boniface. The first payment was made on 26 September 2017 and the amount is SR 225,000.00 to Mr Leslie Boniface. She produced the receipt issued by Mr Boniface as 1D 3. The next payment was made on the 7 November 2017 in a sum of SR 100,000.00 produced as 1D 4. The third payment to Mr Boniface was SR 200,000.00 dated 2nd November 2017 receipt produced as 1D5. The next payment to Mr Boniface was a sum of SR 200,000.00 done on the 16 November 2017 receipt produced as 1D6. The next was on 20 December 2017 in a sum of SR 200,000.00 receipt 1D7. The next payment to Mr Boniface was on the 21 December 2017 in a sum of SR 270,000.00 receipt dated 21 December 2017 marked as 1D 8. A further payment was made on 23 December 2017 in a sum of SR 300,000.00 which receipt was produced as 1D 9 and the last payment was made on the 10 January 2018 in a sum of SR100,000 produced as 1D10. Altogether the payment for this property she stated is One million six hundred and seventy-five thousand SR 1, 675,000.00. All this money was paid to Mr Boniface in his office. She produced the aforementioned receipts in proof of same.

- [52] The 2nd Defendant thereafter testified that she thinks she had received a receipt for each payment. She further stated that sometimes she would make payment to his secretary Sharon or Fiona as Mr Boniface was not in. When the permission to build was registered the 2nd Defendant began to get a draftsman/architect to start working on her project. She was hoping to build a warehouse and a small office and apartment on the top. As COVID started she could not build. Her architect started the drawing and planning, approved it and she prepared the site. However due to financial problems and COVID she did not start work. She stated she still intends to build.
- [53] The 2nd Defendant stated she did not agree with the Plaintiff's proposition that she be given the 540,000.00 back and that she should cancel the permission to build. When she went on site, she went there for a few times but the first time her lawyer Mr Leslie Boniface, brought her there to show her the location as she did not know the people. Witness did not agree with the proposition of Mrs Laboudallon of paying her SR 540,000.00 and she cancel the permission to build. Witness said she paid one million six hundred and seventy-five thousand and 540,000.00 is only a part of it. She would accept SR 1.675 million because that is what she paid but she would rather buy than accept her refund. When she was paying, her lawyer Mr Leslie Boniface he had said the property can be sold, as the property is over 400 sq. meters (406 or something). She stated she is still interested in buying the property.
- [54] She admitted that when she visited the plot of land Mrs Laboudallon the Plaintiff was also there. They had not spoken much. Mrs Laboudallon showed her where the piece of land was and the building. She stated Mr Boniface was the lawyer for both of them. Witness met Mrs Laboudallon once or twice but she did not tell her about buying the property as her lawyer was Mr Boniface. She stated the building sitting on the property was just prefab. Witness stated that Mrs Laboudallon had told her she had got the material for the prefab store or house from Italy. The 2nd Defendant she did not know how much the building alone would be worth.
- [55] Under cross examination she stated she did not feel strange to sign the document alone as the lawyer was present, he is a professional and he had a Power of Attorney from Mrs Laboudallon. Mrs Laboudallon was in the outer office at the time. With regards to the payments she paid all instalments in cash. She had not inquired from Mrs Laboudallon whether she had received the money. After when they revisited the property, Mr Boniface had told her if the property is less than 400 square meter, planning or land use will not sell the property because it is too little. They changed the words to permission to build but witness stated she still wants to buy it. Mr Boniface did not tell her at any time about renting the property. It is useless to rent the property. She wanted to stay forever to develop it and then to make apartments. When she signed the documents witness knew she is not the owner of the property.

- [56] The 2nd Defendant further clarified that she visited the property with Mr Boniface on one or two occasions. She met the owner of the property, Mrs Laboudallon. She showed her where the small plot of land is. At that time, Mr Leslie Boniface was with them, so there three of them. The 2nd Defendant was never told that she will build and then after some years the property will go back to the owner.

Evidence of the 3rd Defendant.

- [57] Mr Leslie Boniface, the 3rd Defendant, never testified in this case. Instead he called witnesses Steve Laboudallon, Fiona Denis and a contractor named Daniel Portlouis as his witnesses.
- [58] Witness Steve Laboudallon a self-employed carpenter testified that he knows Mr Boniface personally as he was in a relationship with his sister and they lived in the same house. He also knows Fleurange Laboudallon the Plaintiff because she is his aunt. He stated at the time he had a marital issue and as his mother's place was full he had gone to stay with her. He had not paid her rent but had done work on one house at her residence. He converted a store to make it a two room apartment. However a conflict arose and he left. For the works done on her property she did not pay him. His brother Jemmy Laboudallon too had issues with the aunt. He further stated that Mr Boniface has lived with his family around 35 years and they took Leslie as a brother. He stated he stayed there for three months though there was a verbal agreement with the aunt for three years. He admitted he had not paid rent as he was doing another project.
- [59] Witness Fiona Denis stated she knows the Plaintiff in this case. She had been working with Mr Boniface in his office between 2017 and 2020. During the time she was working in the office of Mr Boniface, Mrs Laboudallon came to office often for various cases. She stated that Mrs Laboudallon would refer to him as son. Witness stated she has been to Mrs Laboudallon's house around 3-4 occasions for the permission to build matter. There were times she was unable to come to the office and they would go to her house and she would even cook for them. On these occasions the Plaintiff and Mr Boniface would discuss the permission to build given to the Chinese lady, Junling Tang. She referred to discussions between Mr Boniface and Mrs Laboudallon regarding performing work with the contractor, Daniel Portlouis which he performed. However, Mrs Laboudallon began complaining about the contractor Portlouis. She stated they were having lunch with Mrs Laboudallon and everything was explained to her before she signed the permission to build.
- [60] Witness stated she is unaware of the amount paid by the 2nd Defendant for the permission to build but knew it was over a million rupees. A commission of SR 200,000.00 was paid to her and the other payment was for the permission to build and the Plaintiff agreed for SR 1.2 million. She produced a document to show that Mrs Laboudallon had accepted the money as Exhibit 3D2, the agreed sum was 1.2. She stated she prepared the document

showing Mrs Laboudallon accepting amount paid is marked as Exhibit 3D2. This document was signed in office when she came to the office. As she was planning a trip to Italy she wanted SR 500,000.00. As they wanted a record to cover themselves they drafted a document stating the agreed sum that the office and Mrs Laboudallon agreed to receive for the Permission to Build was 1.2. The Plaintiff then proceeded with SR500,000.00 she got to travel to Italy. She identified the signature of the Plaintiff on the document 1D2; She was also aware of a transfer payment of SR10,000.00. She stated the permission to build was signed at her home and 3D2 was signed in the office in the presence of witness. She admitted she was not aware if money was paid to Mr Boniface.

- [61] Witness was aware that there was an agreement with one Mr. Daniel Portlouis, construction work on her property which she was renting. Those works were to be paid from the proceeds of the permission to build. She denied that the Plaintiff requested for the permission to build from the office on several occasions and the office continuously refused to give her a copy of the permission to build. She stated Mrs Laboudallon was well aware of what was going on and she signed the document. Witness testified that there was no need to sign as a witness for the acceptance of fees because the relationship between Mrs Laboudallon and the lawyer was more than just client and service provider as her lawyer was more family like there was no necessity. She too admitted Mrs Laboudallon does not know how to read or write but she understands when you explain to her. She admitted she does not have proof of payments made with her and transfers done by her to the Plaintiff. According to her the 2nd Defendant paid SR 1,400,000.00 of which she took SR 200,000.00 and the Plaintiff was paid SR 500,000.00. The balance owing to Mrs Laboudallon was set off against payments paid to the contractor Daniel Portlouis who did work on her house,
- [62] The next witness called by the Plaintiff, Daniel Portlouis a contractor who stated that he did construction work on the property of the Plaintiff and built a two-bedroom house. They demolished an old house and built a new one. He admitted he had to stop when there was a dispute in regards to payment. He stated he had done up to roof level and was paid about 600.000.00 for the works. He is aware the house is now complete but not aware who completed it. Witness was shown a document and stated that this is the approved plan for the house he built. The approved plan document was marked as Exhibit 3D3. It was suggested to witness that he stopped the construction at the foundation level and not at the roof level which he did not deny but remained silent. He produced photographs Exhibit 3D4 (1 to 10) to show the work he had done Witness was shown another document and stated that it is proof of payment that Mr Boniface made. This document was marked as Exhibit 3D5.
- [63] Mr Portlouis admits under cross examination he had no building contract with the Plaintiff before doing the works as he was liaising with Mr Leslie Boniface. He admits Mr Andre Bristol took over after he left the site and during the construction he had no dealings with

Mrs. Laboudallon but with Mr Leslie Boniface because he was the one who was paying witness. Witness admits he did not have a receipt to show. The one they had had the total sum paid. Mr Leslie Boniface had the receipts with him for the stages of work done but witness stated he did not have the receipts. Witness stated that he did not receive any money from the Plaintiff but was paid the SR760, 000 which he admits was paid by Mr Boniface.

[64] Thereafter Mr Boniface the 3rd Defendant closed his defence.

The Law

[65] Section 60 of the Land Registration Act provides:

“Every instrument evidencing a disposition and executed in Seychelles shall be executed in the presence of a notary, barrister, attorney, magistrate, Justice of the Peace, a duly appointed Government Representative, or the Registrar, who shall attest the execution in the prescribed form.”

[66] Section 61 of the Land Registration Act further provides:

“When a party who is required to execute an instrument is unable to do so through ignorance or physical disability, he shall be deemed to have executed such instrument-

(a) under section 60 to attest the execution of an instrument and of two witnesses able to sign their names, after the instrument has been read over to him by such person in the presence of in case of ignorance, if he makes his mark thereon in the presence of a person empowered the two witnesses, and such mark is attested by such person and the two witnesses in the prescribed form; and

(b)

(b) in case of physical disability, if he declares or acknowledges in the presence of such person and of two such witnesses his assent to such instrument after the same has been read over to him by such person in the presence of the two witnesses and such assent and the fact of such physical disability is attested by such person and the two witnesses in the prescribed form.”

[67] Section 70(1) of the Land Registration Act provides:

“Upon the application of the donor or the donee of a power of attorney which contains any power to dispose of any interest in land, such power of attorney shall be entered in the register of powers of attorney and the original, or with the consent of the Registrar a copy thereof certified by the Registrar, shall be filed in the file of powers of attorney.”

Section 89(2) of the Land Registration Act provides protection for good faith purchasers:

"The register shall not be rectified so as to affect the title of a proprietor who is in possession and acquired the land, lease or charge for valuable consideration, unless such proprietor had knowledge of the omission, fraud or mistake in consequence of which rectification is sought, or caused such omission, fraud or mistake or substantially contributed to it by his act, neglect or default."

[68] Article 1108 of the Civil Code of Seychelles provides:

"The following are essential conditions for the validity of an agreement:

- (1) The consent of the party who binds him or herself;*
- (2) His or her capacity to contract;*
- (3) A definite object which forms the subject matter of the undertaking;*
- (4) A lawful cause in the obligation."*

Article 1109 provides:

"There is no valid consent if the consent has been given only by mistake, or if it has been extorted by duress or induced by fraud."

Article 1116 provides:

"Fraud is a cause of nullity of an agreement when the contrivances practised by one party are such that it is evident that, without these contrivances, the other party would not have entered into the contract. It shall not be presumed and it must be proved."

Article 1674 provides:

"If the seller has been aggrieved for more than seven-twelfths of the value of an immovable, he shall have the right to apply for rescission of the contract, even though he has expressly waived such right in the contract."

Article 1675 adds:

"In order to establish whether there is lesion, the immovable must be valued according to its condition and value at the time of sale."

Analysis and Findings

[69] As set out above, this Court has given careful consideration to the evidence before this Court led by both parties. In its analysis and findings it will deal with the law and submissions in relation to the evidence led.

- [70] In order to better understand the evidence of the Plaintiff and other witnesses, it is best to refer to the sketch marked S and observations and further observations made by Court on 4 December 2024 of the locus in quo. All parties were given time to peruse the sketch and observations made by this Court and did not object or challenge either. For reasons best known to the Plaintiff no survey plan was ever produced. According to the evidence it is clear to this Court that all structures A, B, C, D, E, Z and lands X and Y marked on the sketch are situated on parcel C9697 and owned by the Plaintiff a fact not contested and established by document P1.
- [71] It is clear that the land on which the 'Permission to Build' which is in dispute was granted is marked as X in the sketch plan (also referred to by the 1st and 2nd Defendant as Parcel C 1987 in their defence which is a subdivision of Parcel C9697) and the building on the said land has been marked as Z. It is the 3rd Defendant's contention in his defence filed that there was no building on X. However the Court on inspection, observed a prefab container type house and Mr Valentine the Quantity Surveyor further accurately in his evidence and drawings clearly describes the building Z which according to the evidence though not fully completed the husband of the Plaintiff was intending to complete by sending material from Italy.
- [72] Giving careful consideration to the evidence and sketch plan made by Court in this case, it is clear to this Court that document P2 titled 'Permission to Build' was signed by both parties namely the Plaintiff and the 2nd Defendant Junling Tang (on behalf of her minor daughter Catherine Tang 1st Defendant) on misrepresentations made by Attorney at Law Mr Leslie Boniface. The Plaintiff states she gave instructions to Mr Boniface that the property marked X in the sketch plan S with the prefab container house Z, was to lease out the premises for a period of ten years and specifically states that she had no intention of entering into a permission to build with the 1st and 2nd Defendants as the property contained a prefab container house which was being built by her husband with materials sent from Italy. The 2nd Defendant in her evidence under oath specifically states, she was interested in purchasing a property and had gone to Mr Leslie Boniface and had paid a sum of SR 1.675 million rupees for the purchase of the property. The excuse he had given the 2nd Defendant was as the square area was less than 400 sq. metres she could not purchase the land but a permission to build could be done and once she built, she could buy the land in her name.
- [73] When one observes P2 it is clear that it does not meet the requisites or the intended requirements of both parties as it is neither a lease agreement nor sale or transfer of property document but a permission to build. On this basis alone, I am of the view that the said document should be rescinded and declared void ab initio.

- [74] Further it is clear to this Court that the 3rd Defendant had taken undue advantage of the vulnerability of the Plaintiff by misrepresenting facts to her as she being elderly and illiterate had placed her trust in him due to the close relationship he had with her niece for a period of 20 years. Having misrepresented facts to her and the 2nd Defendant, he had made the Plaintiff sign the said document. Mr Boniface the 3rd Defendant avoided skilfully giving evidence personally in this case but relies on a defence filed by him not supported by his evidence but supported by the evidence of an assistant he had in office Ms Fiona Denise and a contractor Mr Daniel Portlouis.
- [75] It is in evidence that Mr Leslie Boniface the 3rd Defendant held a special Power of Attorney for the Plaintiff Mrs Laboudallon (3D1). When one peruses the 'Permission to Build' agreement P2, it is clear that Mr Boniface had placed his signature on the document in his capacity as an Attorney at Law and therefore takes on the responsibility and duties attached to an Attorney at Law under the Legal Practitioners Act. Mrs Laboudallon has personally placed her signature and Ms Junling Tang too and both admit their signatures in the document P2. It cannot be stated therefore that Mr Boniface had signed the document P2 as the power of attorney holder for Mrs Laboudallon the Plaintiff.
- [76] It is clear from the evidence that Ms Junling Tang had paid a sum of SR 1,595,000 (as per the total from the receipts (unchallenged) filed (1D3 to 1D10) to Mr Boniface as he was her attorney as well, for the purchase of the said property. The Plaintiff admits she received a sum of SR 540,000.00 only. She also agrees that the total sum she agreed on was 1.2 million (SR 1,200,000.00). She however states she never received the balance money from Mr Leslie Boniface even though she asked for it. Based on the receipts filed and the evidence of the 2nd Defendant, I am satisfied that a sum of SR 1,595,000.00 was paid in cash to Mr Boniface over a period of time, a fact acknowledged by his witness Fiona Denise. Although she states 1.4 million was paid, she admits she was not present each time a payment was made. Giving due consideration to the evidence led in this case, I am satisfied that the sum paid by Ms Junling Tang to Mr Leslie Boniface for the purchase of the property was SR 1,595,000.00 (One million five hundred and ninety-five thousand rupees). From this sum, I am satisfied that Mr Leslie Boniface had paid Mrs Laboudallon the Plaintiff a sum of SR 540,000.00 (five hundred and forty thousand). The sum the Plaintiff agreed on is SR 1,200,000.00 (one million two hundred thousand). It appears therefore that a sum of SR 660,000.00 (six hundred and sixty thousand) still remains with the Attorney at Law the 3rd Defendant.
- [77] Mr Leslie Boniface has stated in his pleadings that he had done some building work for the Plaintiff and he had utilised this amount to pay the contractor Mr. Daniel Portlouis. He called Mr Portlouis who produced document 3D3 showing planning approval for the construction of a two bedroom house and 3D4 showing some photographs of a partially built house. The contractor, Mr. Portlouis also gave evidence of the construction work done

by him and tendered one receipt 3D5 of a final payment made by Mr. Leslie Boniface for works done by him in the construction of this house totalling SR 760,000.00 dated 27 March 2019. At the *locus in quo* it was clear that the house the parties were referring to was structure B drawn in the sketch Plan S.

[78] It is clear from the evidence before Court that Mr Portlouis started building this house B on the instructions of Mr Boniface. He admits he took instructions from Mr Boniface and admits he had no instructions or building contract with the Plaintiff. At a certain stage, he fell out with the Plaintiff and stopped and the Plaintiff employed another contractor Mr Andre Bristol to do the balance work and complete the house. This is admitted by contractor Portlouis himself. Mr Andre Bristol too confirmed that he took over a partly built house and completed it for Mrs Laboudallon the Plaintiff.

[79] Be that as it may, Mr Leslie Boniface should bear in mind that even though he had a Power of Attorney to act for Mrs Laboudallon the Plaintiff, at the time he placed his signature on the document P2 (Permission to Build) he was acting as an Attorney at Law. Whatever relationship he was having with the Plaintiff, both the Plaintiff and the 1st and 2nd Defendants were his clients and he was dealing with clients' money which should have been banked in a clients' account in accordance with section 5 and 6 of the Control and Protection of Clients Accounts Act read with the Legal Practitioners Act and its Rules. He is expressly prohibited from helping himself to any part of the funds, unless obtaining written consent for same. He has not shown any approval given by Mrs Laboudallon for him to deal otherwise with the money paid by Ms Junling Tang to him for P2. Mrs Laboudallon specifically states she asked for the balance money owing to her from the permission to build but Mr Boniface never paid it. Document 3D2 is not a receipt that she accepted the entire SR 1.2 million but that she agreed for the payment of SR 1.2 million as consideration for P2. His defence that he used this money for a construction project for Mrs Laboudallon the Plaintiff, clearly without her approval, is therefore not acceptable. If any money is owing to him from the Plaintiff regarding any construction work being a lawyer one does not have to advise him what he should do. There is no evidence that Mr Boniface banked the money received SR 1,595,000.00 in his clients account and made payment from it to the respective parties. He has not obtained any prior written consent from Mrs Laboudallon the Plaintiff to utilise this money owed to her from the agreement P2 for any other purpose. His defence that he used this money for a construction project for Mrs Laboudallon clearly without her approval is therefore not acceptable.

[80] It has been established and is not contested that the Plaintiff is illiterate. The 'Permission to Build' P2 was not read over or explained in the presence of two independent witnesses as required by section 61 LRA. In Estate of Emile Bristol v King (CS 97/2017) [2019] SCSC 1219 (4 June 2019), it was held that non-compliance with section 61 rendered a thumbprint transfer invalid. There were no witnesses in P2 as well. Unlike Couchene v

Baker (CS 57/2016) [2017] SCSC 954 (5 November 2017), the Plaintiff's illiteracy is undisputed and corroborated. The statutory framework imposes strict safeguards under section 61 LRA to protect illiterate signatories. These were not met. Article 1109–1116 Civil Code of Seychelles further require genuine, informed consent; the Plaintiff's illiteracy and misunderstanding constitute mistake of substance, if not fraud.

- [81] Further it appears that the 3rd Defendant constantly in his defence filed, refers to a Power of Attorney which Section 70 of the LRA requires registration for land dispositions. As in Chetty v Chetty (SCA 73 of 2022) [2022] SCCA 70 (16 December 2022) failure to register means no valid disposition in rem could pass; at most, personal obligations subsisted, however in this present case, regarding the 'Permission to Build', the power of attorney is immaterial, since the Plaintiff signed in her own capacity and not through the 3rd defendant via the Power of Attorney.
- [82] Article 1116 Civil Code of Seychelles, recognises fraud as contrivances inducing a contract. The Plaintiff believed she was signing a lease, not a perpetual permission to build. This amounts to mistake of substance under Article 1109. The surrounding circumstances, parties signature being obtained separately, payments routed through the 3rd Defendant, SR 200,000 given to a person who was simultaneously a witness, secretary, of the notary, raise serious concerns of independence and propriety. Combined with SR 760,000.00 paid to a contractor for incomplete works, these irregularities suggest exploitation of the Plaintiff's illiteracy, age and reliance.
- [83] The 2nd Defendant described herself as a businesswoman. Under Berlouis v Du Boil & Ors (SCA 4 of 2015) [2016] SCCA 16 (12 August 2016), she is held to the standard of a prudent purchaser with commercial experience. Her own evidence shows she:
- i. Paid SR 1.595 million in fragmented cash instalments, sometimes to Boniface's secretary, without verifying with the owner;
 - ii. Accepted handwritten receipts without bank proof;
 - iii. Relied on a document she never saw executed by the Plaintiff (as both the Plaintiff and 2nd Defendant state their signatures were obtained separately and not together) ;
 - iv. Ignored shifting parcel size explanations;
 - v. Proceeded with development plans knowing she was not yet legal owner.
- [84] Such conduct falls below the prudent standard. Constructive notice arises where red flags are ignored (Jones V Smith (1841) 1 hare 43 and Oliver V Hinton (1899) 2 Ch 264). Tang's evidence fixes her with notice of the defects. She cannot rely on section 89 LRA protection

as a good faith purchaser. The 2nd Defendant's own evidence, measured against the prudent purchaser standard, demonstrates constructive notice of irregularities which coupled with conflicts of interest in execution and disbursement, her claim to good faith is undermined.

[85] As this Court has declared that the 'Permission to build' agreement is to be rescinded and declared void ab initio all moneys paid by the 2nd Defendant have to be returned to her. Mrs Laboudallon is to return a sum of SR 540,000.00 in her custody to the 1st and 2nd Defendants. The other sum owing to Mrs Laboudallon in the custody of Mr Leslie Boniface a sum of SR 660,000.00 (SR six hundred and sixty thousand) is also to be paid back to the 1st and 2nd Defendants by Mr Leslie Boniface the 3rd Defendant. As the agreement in respect of 'Permission to Build' has been rescinded on the grounds of mistake and misrepresentation by the Attorney Mr Leslie Boniface to both parties, the 3rd Defendant Attorney Mr Boniface in addition has to pay back all balance money totalling a sum of SR 395,000.00 (three hundred and ninety-five thousand) paid by the 1st and 2nd Defendants as legal fees, witness fees or commission back to the 1st and 2nd Defendants. In light of all these findings the *plea in limine litis* too stands dismissed.

[86] Article 1674 of the Civil Code of Seychelles provides the legal framework for addressing lesion. In this case the Plaintiff has no proof to show that the 280sq. meters allocated to the 2nd defendant was worth less than half of the money she received. It was on record that the Plaintiff signed a document dated 26th September 2017 entitled acceptance of fees for permission to build at 1.2 million rupees for the same land and size. Valuations place the property at SR 1.99 million; the 1st and 2nd Defendants paid SR 1,595,000.00 which is more than half the value. Under Marie v Marie (SCA 34 of 2013) [2016] SCCA 18 (12 August 2016), lesion fails on the figures. Lesion is not established on the facts or procedure.

[87] Based on the aforementioned reasoning this Court is satisfied that the Plaintiff has proven her case on a balance of probabilities. Therefore, judgment is given in favour of the Plaintiff and this Court grants the following reliefs peculiar to this case as prayed for by the Plaintiff: This Court makes order:

- A That the "Permission to Build" agreement contained in document P2 and dated 27 October 2017 be rescinded on the ground of mistake.
- B That the Plaintiff refunds to the 2nd Defendant the sum of Seychelles Rupees Five Hundred and Forty Thousand (SR 540,000) together with legal interest thereon accruing from 27 October 2017 until full payment.
- C That the 3rd Defendant refunds to the 2nd Defendant the total sum of Seychelles Rupees One Million and Fifty-Five Thousand (SR 1,055,000), being the aggregate of SR 660,000 and SR 395,000 paid by the 2nd Defendant to the 3rd Defendant as consideration for the said 'Permission to Build' agreement and related expenses,

together with legal interest thereon accruing from 27 October 2017 until full payment.

- D* That such orders are made so as to restore the parties, as far as money and law will allow, to the position they were in, prior to the execution of the rescinded 'Permission to Build' agreement of 27 October 2017.
- E* That each party shall bear their own costs of these proceedings.
- F* That upon confirmation by the 2nd Defendant that she has been refunded in accordance with Orders B and C above, I direct the Registrar of Lands to rectify the Land Register in respect of Title C9697 by removing the entry relating to the rescinded 'Permission to Build'.

Signed, dated and delivered at Ile du Port on this 30th day of September 2025.


Burhan J

30-9-2025.

