



LAWS OF SEYCHELLES

SEYCHELLES CODE OF CIVIL PROCEDURE

CHAPTER 213

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CHAPTER 213

SEYCHELLES CODE OF CIVIL PROCEDURE

[15th April, 1920]

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1. This Act shall be called the Seychelles Code of Civil Procedure hereinafter referred to as the Code.

Short title
3/23/1976

Definitions

2. In this Code, unless there is anything in the subject or context repugnant thereto, the words hereinafter mentioned shall have or include the meanings following:-

Definitions
4/3/1959
2 (i) 4/12/1962
4/14/1963

2nd Schedule/
13/1975
3/23/1976
2/D8/1978

"attorney" means an attorney-at-law and includes a barrister when acting as an attorney-at-law;

"cause" shall include any action, suit or other original proceedings between a plaintiff and a defendant;

"Chief Justice" means the Chief Justice of Seychelles;

"Civil Code" means the Civil Code of Seychelles;

"dies non" means a public holiday and includes a day on which the registry is closed;

"Judge" means a Judge of the Supreme Court and includes the Chief Justice and a Puisne Judge;

"judgment creditor" means a party to a cause or matter in whose favour a judgment or order of the court has been given;

"judgment debtor" means a party to a cause or matter against whom a judgment or order of the court has been given;

"matter" shall include every proceeding in the court not in a cause;

"Mauritius Ordinance" means an Ordinance of the Legislature of Mauritius as extended or applicable to Seychelles;

"party" includes every person served with notice or attending any proceeding;

"Registrar" means the Registrar of the Supreme Court and includes the Assistant Registrar;

"Registry" means the registry of the Supreme Court;

"suit" or "action" means a civil proceeding commenced by plaint;

"Supreme Court" means the Supreme Court of Seychelles;

"the court" means the Chief Justice or a puisne judge sitting in court or in chambers.

Sittings of Supreme Court

Supreme Court
may sit at any
time

3. Sittings of the Supreme Court may be appointed and holden at any time or times, whether in term or vacation, at the discretion of the court.

*4. There shall be three terms in each year for the despatch of civil business in the Supreme Court, the first of which terms shall commence on the fifteenth day of January and end on the fourteenth day of April; the second shall commence on the fifteenth day of May and end on the fourteenth day of August; and the third shall commence on the fifteenth day of September and end on the fourteenth day of December. Whenever any of such periods shall commence or end on a *dies non*, the term shall commence on the day following or end on the day preceding such *dies non*, as the case may be.

Terms

5. The Supreme Court may sit during vacation either for the further hearing of part-heard cases, or for the hearing of any cause or matter of an urgent nature.

Vacation sittings

6. Application for the hearing, during vacation, of a cause or matter on the ground of urgency, shall be made to a Judge in chambers, supported by an affidavit setting out the facts of the case and the grounds of urgency. Notice of such application shall be given to the opposite party.

Applications for hearing in vacation
6/3/1959

7. During vacation, the Supreme Court shall sit for the disposal of appeals from decisions of magistrates or of Justices of the Peace.

Appeals from lower courts

8. The Chief Justice may, by rules made under this Act with the approval of the President, alter the number of terms to be held in each year, or the days on which the terms shall commence and end.

Terms may be altered by rules of court
S.I. 95/1975
S.I. 72/1976
3/23/1976

REGISTRY

9. The registry shall be open for the despatch of business, whether in term time or during vacation, every day from 8 a.m. until 12 noon and from 1 p.m. until 4 p.m., except on Saturdays and public holidays, unless in any particular case the Chief Justice shall direct otherwise.

Office hours
3/D8/1978

10. The Registrar shall keep the following books in accordance with the forms set out in Schedule A —

Books to be kept by the Registrar
2/14/1963
S.I. 72/1976
S.I. 61/1988
S.I. 41/1991

* S.I. 45 of 1981 made under section 8 for variation of dates of commencement and termination of terms.
(Cap. 213:508 Leg.)

- (a) a book called the "suits' deposit book" in which he shall make entries of all sums of money paid into or deposited in court (for which he shall give an acknowledgment in writing to the person by whom any such payment or deposit is made) and in which, when any such money is paid out to the person entitled thereto, the person receiving the same shall enter a receipt therefore;

If any sum of money so paid or deposited in court remains unclaimed for a period of six months, the Registrar shall pay the same to the Principal Secretary of the Ministry of Finance to be held by him on deposit, together with a statement explaining to whom such money is due.

- (b) a book called the "suits' cash book" in which he shall enter daily all sums of money paid into or deposited in court and all sums of money paid out by him and which book the Registrar shall balance at the end of each day;
- (c) a book called the "revenue cash book" in which he shall enter on the day on which they are received all fees, fines and forfeitures accruing to the Republic from whatever source and receivable by the Registrar;
- (d) a book called the "ushers' fees deposit book" in which he shall enter all sums of money received from suits for services to be effected by the *ushers of the court, which sums shall be paid out on demand to the usher entitled thereto who shall enter a receipt therefor in the ushers' fees deposit book when payment is made;
- (e) a book called the "register of civil and commercial suits," in which he shall cause to be entered the particulars hereinafter required by this Code and every motion or other application which is to be heard in court which shall be entered in this book in the manner and with the same particulars, so far as may be, as are required by this Code in the case of suits;
- (f) a book called the "chambers application book," in which shall be entered a list of all applications made *ex parte* in chambers, which entries shall be made and numbered in the manner required by this Code in the case of suits and shall state the name and residence of the applicant, the nature of the application and the final order of the court.

*Section 25(3) of The Courts Act (Cap. 52)

11. The Registrar shall pay to the Principal Secretary of the Ministry of Finance daily, on the day next after that on which they are received, the total amount of all fees, fines and forfeitures accruing to the Republic and received by him. If on account of illness or other unavoidable cause he is unable to pay such amounts to the Principal Secretary of the Ministry of Finance on the day next after that on which they were received, or if such next day is a dies non, he shall pay them on the day next following.

Registrar to
pay receipts
daily to
Treasurer
2/14/1963
S.I. 72/1976
S.I. 61/1988
S.I. 41/1991

12. The Registrar shall at the commencement of each quarter tender to the Auditor General a return of all fees, fines or forfeitures receivable by him, which are due to the Republic and are outstanding.

Quarterly
return of out-
standings to
Auditor
General
S.I. 72/1976
2/2/1990

13. The Registrar shall have the custody of the records of the court and shall carry out the duties assigned to him by this Code or any other law in force for the time being and in regard to the time and manner of carrying out such duties he shall conform to any instructions which he may receive from the Chief Justice.

Custody of
records

14. The Assistant Registrar and the clerks of the registry shall be under the direction of the Registrar and shall carry out all orders in regard to their work given by him, subject to the supreme control of the Chief Justice.

Clerks of the
registry

15. If both the Registrar and the Assistant Registrar are temporarily absent or unavoidably prevented from carrying out their duties, or any of them, the Judge may direct one of the clerks of the registry to carry out any of such duties, and any acts performed by such clerk when so directed shall be as valid and effectual as if done by the Registrar or Assistant Registrar.

Absence of
Registrar
7/12/1962

16. The Registrar shall, in conformity with instructions or directions which he may receive from the Chief Justice, prepare a weekly cause list of all causes and matters set down for hearing in court during the week and shall affix such cause list in a conspicuous place at the entrance of the Supreme Court not later than 9 a.m. on Monday in the week during which such causes and matters are to be heard.

Weekly cause
list
4/3/1959

Taxation of
bills of costs

17. The Registrar shall tax all bills of costs when requested to do so by any party to any cause or matter, or in the case of bills of cost between solicitor and client, by any person interested.

Security to be
given by
Registrar

18. The Registrar shall give security for five thousand rupees and the Assistant Registrar for two thousand rupees, respectively, for the due and faithful performance of their duties and for the due accounting for the payment of all monies received by them in performance of their duties.

**Ushers*

Ushers' execu-
tion book
7/12/1962

19. The ushers shall keep a book in the registry called the usher's execution book in accordance with the form in Schedule A and each usher shall enter therein every warrant of execution which he has been required to execute together with the other particulars specified in such form in the several columns thereof. The ushers' execution book shall be open to the inspection of the Registrar or a Judge.

Payment of
receipts to
Registrar

20. Every usher levying or receiving any money by virtue of any process of court shall, within three days after the receipt thereof, pay the same into the hands of the Registrar.

Liability for
neglect

21. The ushers are liable in damages for neglect in levying execution or for fraud in relation thereto, at the suit of the party prejudiced.

Commencement of Action

Suits, in what
Court to be
brought

22. All civil and commercial suits, actions, causes and matters shall be brought before the Supreme Court, save in cases where other provisions is made by law.

Suits to be
commenced by
plaint

23. Every suit shall be instituted by filing a plaint in the registry.

Plaint must be
signed

24. Every such plaint shall be signed by the plaintiff's attorney, or if the plaintiff sues in person, by the plaintiff.

^{*}Section 29(1) of the Courts Act, (Cap. 59)

25. The plaintiff shall in addition file in the registry as many copies of the plaint and notices of documentary evidence as there are defendants.

Copies of
plaint

26. On receipt of the plaint the Registrar shall enter in the register of civil and commercial suits the names and places of residence of the parties, the nature of the action and the relief sought. Such entries shall be numbered in every year according to the order in which the plaints are received and the suit shall bear the same number.

Particulars of
plaint to be
registered

27. At the time of entering the plaint, the Registrar shall give to the plaintiff, or his attorney or agent, a note signed by the Registrar and under the seal of the court, according to the form set forth in Schedule C; and no money shall be paid out of court to the plaintiff, or his attorney or agent, except on production of such note:

Plaint note

Provided that in the event of such note being lost or destroyed, no money shall be paid to any person unless it be proved to the satisfaction of the Registrar that the person applying is the plaintiff or his agent authorised in that behalf.

28. No proceeding shall be had and no process shall be issued by the Registrar, unless upon prepayment into court of the fees established by law in respect of such proceeding or process.

Prepayment of
fees

29.(1) All claims by the Government of Seychelles against any private person shall be brought in the name of the Attorney General and (subject as hereinafter provided) shall be carried on in the same manner in every respect as suits between private parties.

Claims by or
against the
Government
2/2/1945
S.I. 95/1975
S.I. 72/1976
2/D22/1979

(2) All claims against the Government of Seychelles being claims of which the subject matter would have been cognisable by the Supreme Court of Judicature if the claim had been against a private individual may, be preferred in the Supreme Court in a suit instituted by the claimant as plaintiff against the Attorney General as defendant.

(3) The suit shall be commenced by filing a plaint in the registry.

(4) All documents which in a suit of the same nature between private parties would be required to be served upon the defendant shall be delivered at the office of the Attorney General.

(5) Whenever in any such suit a decree is made against the Government, no execution shall issue thereon, but a copy of such decree, under the seal of the court, shall be transmitted by the court to the Minister responsible for Finance who is empowered to order that such measures be taken as may be necessary to give effect to the decree and if such order provides for the payment of money the payment shall be a charge on the Consolidated Fund.

(6) No personal liability shall attach to the Attorney General in respect of costs awarded in any suit against the Government.

Issue and Service of Summons

Summons

30. When the plaint has been entered in the register of civil and commercial suits, the Registrar shall issue a summons, under the seal of the court and signed by him, to each defendant calling upon him to appear in the Supreme Court at a date and time therein stated, to answer the claim. A copy of the plaint shall be served with each summons.

Commencement of suit

31. The summons to appear to a plaint shall be dated on the day on which the suit was entered, and such date shall be the commencement of the suit.

Date for appearance of defendant

32. The day for the appearance of the defendant shall be fixed by the Registrar so as to allow the defendant sufficient time to enable him to appear and answer on such day, according to the distance of defendant's place of residence from the court and to the circumstances.

Minimum time for appearance 6/3/1959

33. The time fixed for appearance shall not be earlier than forty-eight hours after the service of the summons, except by leave of a Judge. When such leave is granted the words "By leave of the court" shall be written on the face of the summons.

Manner of service

34. Service of the summons shall be effected by delivering or tendering a copy thereof to the defendant personally, or if he cannot be found, to any member more than sixteen years old of the family of the defendant residing with him, or to any agent or manager of the defendant at the place where he carries on his business.

35. If the defendant have an agent empowered to accept service on his behalf, service on such agent shall be sufficient.

Service on agent

36. If the defendant is the Government of Seychelles service shall be effected by delivering a copy of the summons to the Attorney General in his office.

Service on Government
3/2/1945

37. When a defendant is employed and dwells in any mental hospital or other public asylum, it shall be sufficient service to deliver a copy of the summons to the superintendent of such hospital, who shall cause the same to be delivered to the defendant.

On person dwelling in asylum

38. When a defendant is employed in a police force, it shall be sufficient service to deliver a copy of the summons to the Commissioner of Police who shall cause the same to be delivered to the defendant.

On police officers

39. When a defendant is living or serving on board any ship, it shall be sufficient service to deliver a copy of the summons to the person on board who is at the time of such service apparently in charge of such ship, and such person shall cause the same to be delivered to the defendant.

On person on board ship

40. If the defendant is in gaol, it shall be sufficient service to deliver a copy of the summons to the Superintendent of Prisons who shall cause the summons to be delivered to the defendant.

On person in prison

41. If the defendant is a partnership (société) and the suit relates to a partnership transaction or to an actionable wrong in respect of which relief is claimable from the partnership (société), service may be made either (a) on one of the partners for himself and for the other partners, or (b) on any person having the management of the business of the partnership at the principal place of such business.

On a partnership

42. If the defendant cannot be found and there is no agent empowered to accept service on his behalf, nor any other person on whom service can be made, or if the defendant is keeping out of the way for the purpose of avoiding service, it shall be sufficient service to affix the summons on the outer door of the house or place of business of such defendant and a copy thereof in some conspicuous part of the Court House;

Substituted service

Court may
declare sum-
mons served

43. When service has been made in the manner mentioned in section 42 and the defendant does not appear on the day stated in the summons, the court may either, after making such inquiry as appears, to be necessary, declare the summons to be served and proceed in the absence of the defendant, or give such further order as to service as to the court may seem fit.

Ushers to
make return of
service to
Registrar

44. All summonses, notices, orders or other process of court required by this Code or any law in force or hereafter enacted to be served by the ushers of the court, shall within twenty-four hours after such service be returned to the Registrar and the usher by whom such service has been effected shall certify thereon over his signature the day and hour of service and the place and the manner of service.

Service of
other process

45. All summonses to witnesses, orders of the court and other process requiring to be served, may be served in the same manner as summonses to appear to a plaintiff, except where a special mode of service is directed by this Code or by any other law in force.

No service on
dies non
without leave
6/3/1959

46. No summons, notice or other process shall be served on a *dies non*, or between the hours of six in the evening and six in the morning, except in case of urgency, with the leave of a Judge. When such leave is granted, the words "By leave of the court" shall be written on the face of the summons, notice or other process. A *dies non* shall be counted in any computation of time required by this Code, unless any such day shall be the last of such time, in which case it shall be excluded from such computation.

Service out of the Jurisdiction

No service out
of the jurisdic-
tion without
leave of court

47.(1) No summons in civil and commercial suits shall be issued or served upon any defendant, whether a citizen of Seychelles or not, outside the jurisdiction of the Supreme Court, without leave of the court.

Mode of
service out of
the jurisdiction

(2) Service of such summons shall be effected out of Seychelles in the same way as the summons in a suit is required to be served in the country, colony or jurisdiction in which the service is to be effected and proof of such service having been effected, when required by the Supreme Court, shall be given in the manner provided by the law in force in such country, colony or jurisdiction.

(3) Where the defendant is not a citizen of Seychelles the summons shall not be served upon him, but notice thereof shall be given to him; such notice in lieu of service shall be in the form set out in Schedule C and shall be given in the manner in which a summons is served.

(4) The term "summons" in sections 47 to 61 means the plaint with summons.

(5) Sections 47 to 61 shall not apply to actions on bills of exchange or promissory notes brought under sections 295 to 302.

48. The issue and service out of the jurisdiction of a summons may be allowed whenever —

When service
out of the
jurisdiction is
allowed
3/23/1976

- (a) the whole subject matter of the suit is land or immovable property situated within the jurisdiction (with or without rents or profits); or
- (b) any act, deed, will, contract, obligation or liability affecting land or immovable property, situate within the jurisdiction, is sought to be construed, rectified, set aside or enforced in the suit; or
- (c) any relief is sought against any person domiciled or ordinarily resident within the jurisdiction; or
- (d) the suit is founded on any breach or alleged breach within the jurisdiction of any contract wherever made, which ought to be performed within the jurisdiction; or
- (e) any injunction is sought as to anything to be done within the jurisdiction, or any nuisance within the jurisdiction is sought to be prevented or removed, whether damages are or are not also sought in respect thereof; or
- (f) any person out of the jurisdiction is a necessary or proper party to a suit properly brought against some other person duly served within the jurisdiction:

Provided that nothing in this section shall be held to prevent a plaintiff commencing a suit against the Curator of Vacant Estates as representing an absentee, in accordance with the Curatelle Act as modified by this Code.

49. Every application for leave to issue and serve a summons on a defendant out of the jurisdiction shall be supported by affidavit stating that in the belief of the deponent the plaintiff has a good cause of action, and showing in what place or country the defendant is or probably may be found, and whether such defendant is a

Application for
leave to serve
out of the
jurisdiction

citizen of Seychelles or not, and the grounds upon which the application is made; and no such leave shall be granted unless it shall be made sufficiently to appear to the court that the case is a proper one for service out of the jurisdiction under this Code.

Time for
service

50. Any order giving leave to effect such service shall limit a time after such service within which such defendant is to appear to answer the claim. The time so limited shall not (unless the judge see fit to order otherwise), in the first instance, exceed —

one month, where the defendant is in Mauritius or Reunion;

two months, where the defendant is in India, Africa or Madagascar;

three months, where the defendant is in Europe or Australia;

four months, where the defendant is in the United States of America or any other part of the world.

Setting aside
service

51. The defendant before appearing shall be at liberty without entering a conditional appearance to serve notice of motion to set aside such service, or to discharge the order authorising such service, or to enlarge the time within which an appearance is to be made.

Substituted service,
out of jurisdiction

52. The summons shall be served personally on the defendant; but the court on being satisfied that reasonable efforts have been made to effect personal service thereof may, on the application of the plaintiff, make such order for substituted or other service, or for the substitution for service of notice, by advertisement or otherwise, as may seem just.

Such application shall be supported by an affidavit setting forth the grounds upon which the application is made. The order made under this section shall specify the time after the substituted or other service has been effected, or after the publication of the notice by advertisement or otherwise, within which the defendant is to appear to answer the claim: such time shall be limited as specified in section 50.

Procedure
when
defendant does
not appear

53. After the time limited by an order made under section 50 or section 52, the court, on proof being shown that the said order has been complied with and that the defendant has not appeared to answer the claim, may direct that the plaintiff shall be at liberty to

proceed in the suit in such manner and subject to such conditions as to the court may seem fit:

Provided that the plaintiff shall prove his case in such manner as the court shall direct, and the making of such proof shall be a condition precedent to the plaintiff obtaining judgment.

54. When a defendant who has been personally served with a summons in Seychelles quits Seychelles without leaving an attorney or agent to make an appearance for, or represent and defend him, it shall be lawful for the court, after the time within which the defendant so served within the jurisdiction should have appeared to answer the claim, to order that all ulterior orders, summonses, notices and process be not served personally but be served at the defendant's last place of abode or business in Seychelles; and such service shall be sufficient to entitle the plaintiff to proceed in the action as provided in section 53.

Suits begun by service within the jurisdiction may be continued by leave

55. In any case where a defendant who is outside the jurisdiction of the Supreme Court has in Seychelles no attorney or agent duly empowered to make an appearance for, or represent and defend him, but has in the particular contract on which he is sued, specially elected a domicile for service, service at such domicile shall, for the particular matters or things for which the domicile was elected, be sufficient not only for the summons, but also for all ulterior orders, summonses, notices or process in the suit;

Election of domicile for service

Provided that in the case of minors or interdicted persons the summons, as well as all ulterior orders, summonses, notices or process in the suit, shall also be served on the Attorney General.

56. In case any defendant, who is out of the jurisdiction of the supreme Court, has in Seychelles an attorney or agent duly empowered to make an appearance for or represent and defend him, but such attorney or agent is unknown to the plaintiff, proceedings shall begin and be carried on as herein enacted and as if there were no such attorney or agent:

Where defendant out of the jurisdiction has an agent who is not known

Provided that it shall be lawful for such attorney or agent to intervene at any stage in the proceedings and by leave of the court to appear for such defendant and defend the action, subject to such terms as to time, costs or otherwise, as the court may think fit, having in view the reasons set forth by such attorney or agent for not having made himself known.

Deposit of
deed
appointing
attorney or
agent

57. If the attorney or agent has been appointed by an authentic deed, or by power of attorney whether authentic or under private signatures, it shall be the duty of the notary in Seychelles who has drawn up such deed, or who has received the deposit of such power of attorney, or of the holder of any such power under private signatures where it has not been deposited with a notary, under a penalty not exceeding five hundred rupees, to file in the registry within one month from the date on which such deed or power was drawn up by, or deposited with, such notary, or came into the hands of such holder, as the case may be, a memorandum setting forth the names of the principal and agent. Such memorandum may be inspected without payment of a fee and it shall not be lawful for the plaintiff to pretend ignorance of the same.

Foreign deed
of appointment

58. If the power of attorney or other deed appointing an attorney or agent has been drawn up in any place outside the jurisdiction of the Supreme Court, the attorney or agent appointed thereby may deposit the same with a notary in Seychelles, and the provisions of section 57 shall apply thereto.

Suits against
Curator when
allowed

59. Whenever the Curator of Vacant Estates is vested with any property or right belonging or accruing to an absentee, and a suit is brought against the Curator as representing such absentee, it shall be lawful for the Curator before appearing to answer the claim to apply by way of summons to the court for a stay of proceedings to enable him to communicate with the absentee. The court in making an order on the said application shall have regard to the times specified in section 50, to the nature and circumstances of the case, and to the nature of the process which has been served upon the Curator:

Provided that when the Curator is vested with the estate of an absentee, it shall not be lawful for him to be made a defendant in any suit of tort (*délit or quasi délit*) committed before the date of the vesting order, for which the absentee is liable, as representing such absentee:

Provided further that the Curator shall not be made a defendant in a suit with respect to a mere right existing or alleged to exist in an absentee when the estate or alleged estate of the absentee consists solely of such right.

Government
not liable for
costs

60. In no suit against the Curator shall the Government be liable to pay the costs of such suit.

61.(1) Service of any document whether personal or otherwise, where the party to be served is on any of the inner islands or the outlying islands shall be effected by leaving two copies thereof with the Registrar, unless such person has in Mahé, Praslin or La Digue an attorney or agent who may be served on his behalf. The two copies so left with the Registrar shall be forwarded by him for service by a person designated by him. Such service shall be effected in the manner provided by section 34 and shall be as valid as service by an usher. The person designated by the Registrar shall be bound to effect service on prepayment of a fee of ten rupees by the party at whose instance the service is to be effected.

Service on
parties on
certain islands
2/20/1968
S.I. 72/1976

(2) In this section —

"inner islands" means the islands of Aride, Curieuse, North Cousin, South Cousin, Round (near Praslin), Félicité, Mary Anne, East Sister, West Sister, Frigate, L'Ilot, Récif, Silhouette, North and Les Mamelles;

"outlying islands" means those islands and groups of islands listed as outlying islands in the First Schedule to the Peace Officers (Inner Islands and Outlying Islands) Act.

Cap. 157

62. Nothing in sections 47 to 61 shall be held to alter or amend article 1985, paragraph 1 of the Civil Code.

Civil Code,
art. 1985
42/41/1948

Appearance of Parties

63. On the day fixed in the summons for the defendant to appear and answer to the claim, the parties shall be in attendance at the Court House in person or by their respective attorneys or agents.

Parties appear
on date fixed
in summons

64. If on the day fixed for the defendant to appear and answer the claim, or on any other subsequent day to which the hearing of the suit is adjourned, when the case is called on, neither party appears, the suit shall then be dismissed unless the court, for reasons to be recorded, otherwise directs. When a suit is dismissed under this section, the plaintiff may bring a fresh suit, subject to the law as to prescription.

Procedure if
neither party
appears

65. If on the day so fixed in the summons when the case is called on the plaintiff appears but the defendant does not appear or sufficiently excuse his absence, the court, after due proof of the service of the summons, may proceed to the hearing of the suit and may

— if defendant
does not appear

give judgment in the absence of the defendant, or may adjourn the hearing of the suit *ex-parte*.

— if defendant
appears sub-
sequently

66. If the court has adjourned the hearing of the suit *ex-parte*, and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the court directs as to costs or otherwise, be heard in answer to the suit as if he had appeared on the day fixed for his appearance.

— if plaintiff
does not appear

67. If on the day so fixed in the summons, when the case is called on, the defendant appears and the plaintiff does not appear or sufficiently excuse his absence, the plaintiff's suit shall be dismissed. If the defendant admits the plaintiff's claim or part thereof, the court shall give judgment for the plaintiff for so much of the claim as is admitted. If the defendant has claimed a set-off (*compensation*), the court may proceed to the hearing of the set-off and may give judgment thereon.

— if only
some of the
defendants ap-
pear

68. If there be more defendants than one, and one or more of them appear, and the others do not appear, the suit may proceed, and the court shall, at the time of passing judgment, make such order as it thinks fit with respect to the defendants who do not appear.

Setting aside
judgement
given *ex parte*

69. If in any case where one party does not appear on the day fixed in the summons, judgment has been given by the court, the party against whom judgment has been given may apply to the court to set it aside by motion made within one month after the date of the judgment if the case has been dismissed, or within one month after execution has been effected if judgment has been given against the defendant, and if he satisfies the court that the summons was not duly served or that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the court shall set aside the judgment upon such terms as to costs, payment into court or otherwise as it thinks fit and shall order the suit to be restored to the list of cases for hearing. Notice of such motion shall be given to the other side.

How parties
may appear

70. A party to a cause or matter may, except when otherwise expressly provided by any law for the time being in force, appear in person or by an attorney or barrister at-law. A party not resident within Seychelles may appoint some other person by power of attorney to appear on his behalf.

Provided that the court may for sufficient reasons allow any other person to appear on behalf of any party.

Pleading and Inspection

71. The plaintiff must contain the following particulars:—

- (a) the name of the court in which the suit is brought;
- (b) the name, description and place of residence of the plaintiff;
- (c) the name, description and place of residence of the defendant, so far as they can be ascertained;
- (d) a plain and concise statement of the circumstances constituting the cause of action and where and when it arose and of the material facts which are necessary to sustain the action;
- (e) a demand of the relief which the plaintiff claims;
- (f) if the plaintiff has allowed a set-off or has relinquished a portion of his claim, the amount so allowed or relinquished.

Particulars to be contained in plaintiff

72. If the plaintiff seeks the recovery of money, the plaintiff must state the precise amount, so far as the case admits.

In money suits

73. If the plaintiff sues, or the defendant or any of the defendants is sued in a representative character, the plaintiff must state in what capacity the plaintiff or defendant sues or is sued.

Capacity of plaintiff and defendant to be stated

74. If the plaintiff sues upon a document other than a document transcribed in the Mortgage Office of Seychelles, he shall annex a copy thereof to his plaintiff. If he rely on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall annex a list thereof to his plaintiff and shall state where the same may be seen a reasonable time before the hearing.

Copies and lists of documents

75. The statement of defence must contain a clear and distinct statement of the material facts on which the defendant relies to meet the claim. A mere general denial of the plaintiff's claim is not sufficient. Material facts alleged in the plaintiff must be distinctly denied or they will be taken to be admitted.

Statement of defence what it must contain

— must be
filed in registry

76. The statement of defence shall be filed in the registry and shall form part of the record and the defendant shall in addition supply one copy to the plaintiff, or if there be more than one plaintiff, to each plaintiff, unless the court directs otherwise.

List of
defendant's
documents

77. If the defendant intends to produce any documentary evidence, he shall annex a list thereof to his statement of defence and shall state where the same may be seen a reasonable time before the hearing.

Copies of
documents for
court

78. A copy of every document tendered as evidence must be provided for the use of the court, unless the court otherwise directs.

Set-off

79. If the defendant relies upon a set-off (*compensation*), his statement of defence must contain particulars of such set-off and a statement of the material facts necessary to sustain the same. If the set-off depends upon a document, he must annex a copy of such document to his statement of defence.

Counter-claim
6/6/1983

80.(1) Subject to subsection (2), where a defendant in any action wishes to make any claim or seek any remedy or relief against a plaintiff in respect of any thing arising out of the subject matter of the action, he may, instead of raising a separate action make the claim or seek the remedy or relief by way of a counter claim in the action; and where he does so the counterclaim shall be added to his defence to the action.

(2) If, on the application of any party against whom a counterclaim is made, it appears to the court that it is in the interests of justice that the subject matter of the counterclaim be dealt with as a separate action, the Court may —

(a) order that the counterclaim be struck out;

(b) order that it be tried separately; or

(c) make such order as it considers appropriate.

Failure to supply
lists of documents

81. If either the plaintiff or the defendant omits to comply with sections 74 and 77 he shall not be allowed to produce in evidence on his behalf at the hearing any document in respect of which such omission has been made without the leave of the court and subject to such terms as the court may direct.

82. Nothing in sections 74 and 77 applies to documents produced for cross-examination of the witness of the other party, or in answer to any case set up by the defendant or handed to a witness merely to refresh his memory.

Exception to
section 81

83. If any document included in the list of documents attached to the plaint or the statement of defence is not in the possession or power of the plaintiff or the defendant, as the case may be, the plaintiff or defendant shall state, if possible, in whose possession it is.

Document not
in possession
of party

84. Each party shall be entitled to demand of the other inspection of any deed, agreement, bill or other document mentioned or referred to in his pleading or in the list of documents annexed thereto or which are or have been in his possession or power, relating to the matter in question, and in the event of such inspection not being granted, the party desiring the same may apply to the court by motion, of which notice shall be given, at least two clear days before the hearing for an order for such inspection, and the court may make an order for inspection in such place and in such manner as it may think fit:

Inspection of
documents

Provided that the order shall not be made when and so far as the court shall be of opinion that it is not necessary either for disposing fairly of the cause or matter or for saving costs.

85. If any party fails to comply with any order for inspection of documents, he shall be liable, if a plaintiff, to have his suit dismissed and, if a defendant, to be placed in the same position as if he had not appeared on the day fixed in the summons to answer the claim.

Non com-
pliance with
order for in-
spection

86. A defendant may apply on the day fixed in the summons to appear and answer to the claim or prior thereto, for further particulars of the plaintiff's claim, and the court shall direct the furnishing of such particulars as appear to be necessary and may make such order as to costs and the time within which such particulars shall be furnished as may seem just.

Further par-
ticulars of
plaint

87. The plaintiff may apply within four days after the statement of defence has been filed in court for further particulars of the defence or set-off, and the court shall direct the furnishing of such

Further
particulars of
defence

particulars as appear to be necessary and may make such order as to costs and the time within which such particulars shall be furnished as may seem just:

Provided however that the court may at any time of its own motion or on the application of either party order particulars or further particulars to be supplied and may adjourn the hearing for that purpose and may make such order as to costs and the time within which such particulars shall be supplied as appears to be just.

Plans

88. The court may order plans for any *flocus in quod* to be supplied by either party in the same manner as particulars.

Copies of
particulars to
be supplied

89. When particulars are ordered, one copy shall be filed in the Registry and shall form part of the record, and one copy shall be supplied to each plaintiff or each defendant, as the case may be, by the party ordered to supply such particulars, unless the court directs otherwise.

Points of law

90. Any party shall be entitled to raise by his pleadings any point of law; and any point so raised shall be disposed of at the trial, provided that by consent of the parties, or by order of the court, on the application of either party, the same may be set down for hearing and disposed of at any time before the trial.

Decision on
point of law
only

91. If in the opinion of the court the decision of such point of law substantially disposes of the whole cause of action, ground of defence, set-off or counterclaim, the court may thereupon dismiss the action, or make such other order therein as may be just.

Striking out
pleadings

92. The court may order any pleading to be struck out, on the ground that it discloses no reasonable cause of action or answer, and in such case, or in case of the action or defence being shown by the pleading to be frivolous or vexatious, the court may order the action to be stayed or dismissed, or may give judgment, on such terms as may be just.

Pleadings to be
endorsed by at-
torney or party

93. All pleadings, particulars and applications of whatever nature shall be endorsed with the name and address of the attorney of the party on whose behalf they are made, or, if the party sues in person, with the name, description and address of the party. At the head of each pleading or application its description and the title of the suit shall be given.

94. Every party who is represented by an attorney shall elect domicile in the office of his attorney. If he is not so represented, he shall be deemed to have elected domicile at the place of residence endorsed by him on the pleadings or other application as the case may be, unless he file in the registry a written declaration electing domicile elsewhere within Seychelles.

Election of
domicile

95. The court may, if it sees sufficient cause, direct any document or book produced before it in any suit to be impounded and kept in the custody of an officer of the court for such period and subject to such conditions as the court thinks fit.

Impounding
documents

96. In suits in which an appeal is not allowed, when the suit has been disposed of, and in suits in which an appeal is allowed, when the time for preferring an appeal has lapsed, or, if an appeal has been preferred, then after the appeal has been disposed of, any person whether a party to the suit or not, desirous of receiving back any document produced by him in evidence, shall, unless the document is impounded under the preceding section, be entitled to receive back the same:

Return of
documents
produced in
evidence

Provided that no document shall be returned which by force of the judgment has become void or useless. A receipt shall be given on the return of the document by the person receiving it.

Possessory Actions

97. Possessory actions (*actions possessoires*) in which the plaintiff claims to be maintained in, or restored to the quiet enjoyment and possession of land, premises, water-rights, or other immovable property or any other right arising out of immovable property, shall only be maintainable when —

Possessory
actions —
when main-
tainable

- (a) the possessory action has been entered within one year from the date of the alleged trespass, and
- (b) the plaintiff has been in quiet and peaceful possession for one full year at least either by himself or by those through whom he claims in virtue of a non-precarious (*non-précaire*) title.

98. In such actions, if the possession and trespass are denied, it shall not be competent to raise the question of title or ownership.

When posses-
sion and
trespass are
denied

Possession and ownership

99. Possession and ownership shall not be alleged in the same plaint.

When petitory action fails

100. It shall not be lawful for an unsuccessful plaintiff in a petitory action (*action pétitoire*) to enter a possessory action.

Petitory action may not be entered until possessory action is disposed of

101. No petitory action shall be entered by a defendant to a possessory action before such possessory action shall have been first disposed of by the court, and the judgment of the court satisfied by the defendant if unsuccessful. Should it be shown to the satisfaction of the court that it is owing to the negligence of the successful plaintiff that the defendant has not satisfied the aforesaid judgment, the court shall on the application of the latter fix a time within which such judgment shall be satisfied; when such time is over, the court shall proceed with the petitory action.

Payment into Court

Payment into court in full satisfaction of demand

102. The defendant in any suit may pay into court, at any stage of the suit, such sum of money as he shall consider a full satisfaction for the demand of the plaintiff. Notice of such payment shall be given forthwith by the Registrar to the plaintiff in writing, and the amount shall be paid out to the plaintiff on his application.

Acceptance in part satisfaction

103. If the plaintiff accept such amount only as satisfaction in part of his claim, he may prosecute his suit for the balance; and if the court decides that the amount paid into court was a full satisfaction of the plaintiff's claim, the plaintiff shall pay to the defendant the costs of the suit incurred by him after such payment and the costs incurred by him previous thereto, so far as they are caused by excess in the plaintiff's claim.

Acceptance in full satisfaction

104. If the plaintiff accept such amount as satisfaction in full of his claim, he shall file in court a statement to that effect and the court shall pass judgment accordingly, and shall make such order as to the costs of the suit as shall appear to the court to be just under the circumstances.

Joinder of causes of action

When different causes of action may be joined in same suit

105. Different causes of action may be joined in the same suit, provided that they be between the same parties and that the parties sue and are sued respectively in the same capacities, but if it appear to the court that any of such causes of action cannot be conveniently tried or disposed of together, the court may, either of its own vol-

tion or on the application of the defendant, order separate trials of any of such causes of action, or may make such other order as may be necessary or expedient for the separate disposal thereof, or may order any of such causes of action to be excluded, and may make such order as to costs as may be just.

Consolidation

106. If more than one suit has been entered by the same plaintiff against the same defendant or if more than one suit has been entered by different plaintiffs against the same defendant in respect of claims arising out of the same transaction or series of transactions or if cross-suits have been entered between the same parties, and the parties sue and are sued respectively in the same capacities, the court may either of its own motion or on the application of any of the parties order such suits or any of them to be consolidated and tried as one suit, if it appear to the court that they can be conveniently tried or disposed of together, and the court may make such other order as may be necessary or expedient for the purpose of trying such suits together, and may make such order as to costs as may be just.

When suits
may be con-
solidated

Parties

107. All persons may be joined in one suit as plaintiffs in whom the right to any relief claimed is alleged, whether jointly, severally or in the alternative, in respect of the same cause of action. And judgment may be given for such one or more of the plaintiffs as may be found entitled to relief, for such relief as they or he may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who is not found entitled to relief, unless the court in disposing of the costs of the suit otherwise direct.

Who may be
joined as
plaintiffs

108. Where a suit has been commenced in the name of the wrong person as plaintiff, or where it is doubtful if it has been commenced in the name of the right plaintiff, the court may, if satisfied that it has been so commenced through a *bona fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person with his consent to be substituted or with the plaintiff upon such terms as the court thinks just.

Suits com-
menced in
name of wrong
person

Who may be joined as defendants

109. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

Option as to joining parties in same suit

110. The plaintiff may, at his option, join as parties to the same suit all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes.

Numerous persons having same interest in one cause

111. Where there are numerous persons having the same interest in one cause or matter, one or more of such persons may sue or be sued, or may be authorised by the court to defend in such cause or matter, on behalf of or for the benefit of all persons so interested, subject to such notice to the persons interested as the court may direct.

Misjoinder, adding of parties, etc.

112. No cause or matter shall be defeated by reason of the misjoinder or non-joinder of parties and the court may in every cause or matter deal with the matter in controversy so far as regards the rights and interests of the parties actually before it. The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the names of any persons improperly joined, whether as plaintiffs or defendants, be struck out, and that the names of any parties, whether plaintiffs or defendants, who ought to have been joined, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the cause or matter, be added.

No person to be added as plaintiff without his consent

113. No person shall be added as a plaintiff without his consent in writing thereto.

Procedure where a defendant is added

114. Where a defendant is added or substituted, the plaint shall, unless the court direct otherwise, be amended in such manner as may be necessary, and a summons with a copy of the amended plaint attached shall be served on the new defendant and the proceedings as against such party shall be deemed to have begun

only on the service of such summons. The court may order a copy of the amended plaint to be served on or supplied to the original defendant.

115. Any application to add or strike out or substitute a plaintiff or defendant may be made to the court at any time before trial by motion, or at the trial of the action in a summary manner.

Application to
add or strike
out parties

116. If on the day the plaint is made returnable, the defendant to a suit moves for leave to join as parties to the suit one or more persons alleged to be liable as sureties, the court shall grant the defendant a reasonable time within which to join such persons. In such case the defendant shall serve upon the person alleged to be so liable a copy of the plaint but it shall not be necessary to serve upon such person a copy of the order of the court directing him to be joined as a party.

Joinder of
sureties
32/9/1948

If no such application is made on the return day of the plaint or if the plaint has not been served upon the surety within the time fixed by the court, it shall be lawful for the court to proceed with the principal action and adjudicate separately upon the question of the security.

Intervention

117. Every person interested in the event of a pending suit shall be entitled to be made a party thereto in order to maintain his rights, provided that his application to intervene is made before all parties to the suit have closed their cases.

Who may inter-
vene and at
what time

118. An application to intervene in a suit shall be made by way of motion with an affidavit containing the grounds on which the applicant relies in support thereof.

Application to
be by motion

119. Notice of such motion shall be served upon all the parties to the suit.

Notice to be
given

120. If leave to intervene is granted by the court, the intervener shall, within the period fixed by the court, file a statement of his demand and of the material facts on which it is based and shall at the same time supply a copy of such statement to the other parties to the suit.

Intervener
must file state-
ment of
demand

Incidental Demands

Application to
be by motion

121. Either party to a suit may, in the course of such suit, apply to the court by way of motion to make an incidental demand.

With affidavit

122. The motion shall be accompanied by an affidavit of the facts in support thereof and shall be served upon the adverse party.

All incidental
demands to be
made at same
time

123. All incidental demands shall be made at the same time. The costs of any subsequent incidental demand made on grounds which already existed at the time when a prior demand was made shall be borne by the party making such demand.

Judgement
may be given
on principal
demand only

124. The court may, in its discretion, give judgment in the principal demand only, if the incidental one be of a nature unjustly to delay the plaintiff in the principal demand, and afterwards give judgment upon the incidental demand.

Affidavit in
reply

125. If the adverse party contests the incidental demand he shall file an affidavit in reply, unless the court otherwise direct.

Hearing

If defendant
admits claim

126. If on the day fixed in the summons for the defendant to appear, the defendant appears and admits the plaintiff's claim, judgment shall be given for the plaintiff.

If claim
denied,
statement of
defence to be
filed

127. If the defendant denies the plaintiff's claim or any part thereof, the court shall adjourn the case to a date to be fixed by the court and shall order the defendant to file a statement of defence on or before such date. If there are more than one defendant, with different defences, separate statements of defence shall be filed by such defendants. The court may, if it think fit, give judgment for the plaintiff for such part of the claim as is admitted by the defendant to be due:

Provided however that, if the defendant appears in person and the plaintiff's claim is for less than five hundred rupees, the court, if it think fit, may allow the defendant to make his statement of defence verbally, which statement shall be recorded by the Registrar, and may either hear the suit forth-with or fix another date for the hearing.

Provided also that the court may, at any time after the parties have appeared, proceed to hear the suit, if the parties are ready and consent thereto.

128. On the date to which the suit has been adjourned under the last preceding section, the parties shall appear and the court shall then adjourn the suit to a date to be fixed by the court for the hearing. If the defendant has neglected to file his statement of defence within the time ordered by the court, the court may either give judgment for the plaintiff on his claim or grant further time, subject to such order as to costs, as to the court may seem fit.

Failure to file
statement of
defence

129. On the date fixed by the court for the hearing of the suit, the parties shall appear and the court shall proceed to the hearing of the suit. The court may, at any stage of the suit, if sufficient cause be shown and subject to such order as to costs as to the court may seem fit, grant time to the plaintiff or defendant to proceed in the prosecution or defence of the suit and may adjourn the hearing of the suit.

Hearing and
adjournment
2/20/1968

130. If on the day fixed in the summons for the defendant to appear, or on any subsequent day before judgment has been given, the parties or the plaintiff if no set-off has been pleaded, appear in court and state that the suit has been settled, the suit shall be struck out and no suit shall thereafter be brought between the same parties in respect of the same cause of action.

Procedure
when suit is
settled

131. The parties may at any stage of the suit before judgment, appear in court and file a judgment by consent signed by both parties, stating the terms and conditions agreed upon between them in settlement of the suit and the amount, if any, to be paid by either party to the other and the court, unless it see cause not to do so, shall give judgment in accordance with such settlement.

Judgement by
consent

132. When by reason of the illness or unavoidable absence of the Judge, the court cannot be held, the Registrar shall call into court all the parties to the cases fixed for the day and all witnesses summoned for such day, and shall adjourn the court to such other day as he may deem expedient.

Absence of
Judge
7/12/1962

133. If on the day to which the hearing of the suit has been adjourned by the court or by the Registrar under section 132, the parties or any of them fail to appear, the court may proceed to dispose of the suit in one of the manners directed in that behalf by sections 61, 65 and 67 or may make such orders as it thinks fit.

Non-ap-
pearance at ad-
journed hearing

Procedure if
parties fail to
produce
evidence, etc.

134. If any part to a suit to whom time has been granted fails to produce his evidence or to cause the attendance of his witness or to perform any other act necessary to the further progress of the suit, for which time has been allowed, the court may, notwithstanding such default, proceed to decide the suit forthwith.

Delivery of
judgment
4/4/1986

135.(1) At the conclusion of the hearing of the suit, the court shall deliver judgment at once or on some future day of which notice shall be given at the conclusion of the hearing to the parties or their attorneys or agents (if any).

(2) Where on the day fixed for delivery of judgment, the court is not prepared to deliver judgment, a yet future day may be appointed and announced for the delivery of judgment.

(3) The judgment shall be dated and signed by the judge in open court at the time of delivering it.

Payment by in-
stalments

136. The court may, save where otherwise provided by law, when delivering judgment make such orders concerning the time or times at which, and by what instalments, any debt or damages or costs for which judgment shall be obtained in the said court, shall be paid and all such moneys shall be paid into court unless the court otherwise direct. Such orders may be made subject to payment of interest on the amount of the judgment debt remaining unpaid, or to the finding of security therefor by the judgment debtor.

Hearing of
suit *in situ*

137. The court may in any suit, either of its own motion or at the request of any party to the suit, if the court be of opinion that the hearing of the suit will be facilitated thereby ---

- (a) direct that such suit or any witnesses in the suit be heard on the land or premises in dispute between the parties to the suit or at any place where any matter in dispute in such suit has occurred, or
- (b) may proceed to such land or premises or place for the purpose of inspection only, without hearing witnesses, but the parties shall have the right to be present at such inspection.

The court shall notify the parties of the place and the date of the date of such hearing or inspection, in sufficient time to enable them to be present.

138. The expenses of such hearing or inspection shall be deposited in the registry in advance by the party requesting it, but the court may make such order as to the party by whom such expenses are to be borne as it thinks fit.

Expenses to be deposited in advance

139. The Registrar shall be present at every sitting of the court and shall accompany the Judge when hearing evidence on any land or premises in dispute or at any place where any matter in dispute in the suit has occurred, but he need not be present when the Judge proceeds to such land, premises or place for the purpose of inspection only, unless the Judge otherwise direct.

Duties of Registrar — to be present in court
6/3/1959

140. The Registrar shall enter in the record of every cause or matter the date or dates on which it is called on, the names of the parties appearing and of the lawyers, if any, by whom they are represented, and the name, description and place of residence of every person who has given evidence. He shall also make an entry of all orders and judgments of the court, of all admissions made, of all objections taken and the ruling of the court thereon and of any other matter which appears to be requisite or which the Judge shall direct to be noted, and he shall note the authorities cited by either party.

-- To make entries on record

141. In all cases in which an appeal lies, the Registrar shall in addition take down in writing and attach to the record the evidence of the witnesses and the answers of a party examined on personal answers.

— To take down evidence in appealable cases

142. Any document admitted in evidence shall be marked in the Registrar with a distinguishing number or letter and with the title of the cause or matter to which it relates and shall be attached to the record.

-- To mark documents admitted

143. In all cases in which an appeal lies, any document tendered in evidence but not admitted by the court shall be similarly marked by the Registrar for the purpose of identification, and as having been rejected and shall be attached to the record, if the party tendering the same in evidence so require.

-- Or rejected if party requests

144. The Registrar shall enter in the register of civil and commercial suits, against each cause or matter, the judgment or final order of the court therein.

-- To register judgments

Sittings of
court open to
public

145. All sittings of the court shall be open to the public except when the law directs that they shall be held with closed doors, but the court may, in any particular cause or matter, if the court think necessary in the interest of public order or decency, order all persons not directly interested in such cause or matter, or any particular class of persons, to leave the court, during the hearing.

Amendment of
pleadings

Amendments

146. The court may, at any stage of the proceedings, allow either party to alter or amend his pleadings, in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that a plaint shall not be amended so as to convert a suit of one character into a suit of another and substantially different character.

Clerical errors
in judgements

147. Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the court on motion.

Amendment of
errors in
proceedings

148. The court may at any time, and on such terms as to costs or otherwise as the court may think just, amend any defect or error in any proceedings, and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceedings.

Amended
pleading to be
supplied to ad-
verse party.

149. Where a pleading is amended by order of the court, the pleading shall be redrawn in its amended form and a copy thereof supplied to the opposite party if the court so order, subject to any order as to costs which the court may think fit to make.

Suspension or
setting aside of
judgments

150. The court may, after hearing both parties, alter, vary or suspend its judgment or order, during the sitting of the court at which such judgment or order has been given.

Conclusions of the Ministère Public

151. The following matters shall be referred to the Attorney General for his conclusions as *Ministère Public*, but there shall henceforth be no obligation upon him to give conclusions as *Ministère Public*, in any matter referred to him, unless required so to do by the court, and no judgment shall be held to be invalid for want of such conclusions whenever such matter shall have been referred to him according to law:

Matters which must be referred to the Attorney General for conclusions as *Ministère Public*
42/41/1948
32/9/1948

- (a) matters relating to the guardianship of minors;
- (b) matters in which one of the parties is represented by a curator;
- (c) matters concerning presumed absentees or matters in which such absentees are interested;
- (d) matters relating to the interdiction of persons or the appointment of advisers (*conseils judiciaires*).

Witnesses

152. Any party to a cause or matter may obtain, on application to the Registrar of the court, summonses to persons whose attendance is required to give evidence or to produce documents.

Witness summonses

153. The party applying for a summons shall, before the summons is granted, pay into court a sum of money sufficient to defray the travelling and other expenses of the person so summoned, and for one day's attendance. He shall state in his application the description and the place of residence of the witness whom he desires to summon.

Payment into court of expenses of witness

154. Every summons for the attendance of a person to give evidence or produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document or for both purposes; and any particular document which the person summoned is called upon to produce shall be described in the summons with reasonable accuracy.

Particulars to be contained in witness summons

155. Any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced instead of attending personally to produce the same.

Summons to produce documents

Evidence of
person present
in court

156. Any person present in court may be required by the court to give evidence or to produce any document then and there in his actual possession or power.

Witness sum-
mons to be
served by an
usher

157. Every summons to a witness to give evidence or produce a document shall be served by an usher of the court in the manner prescribed in this Code for the service of a summons on a defendant, as nearly as may be.

Time for
service

158. The summons shall in all cases be served a sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the Court House. A summons shall not be issued less than twenty-four hours before the time when the attendance of the witness is required, without the special leave of the court.

When witness
may depart

159. No person so summoned and attending shall depart unless and until (a) he has been examined or has produced the document and the court has risen, or (b) he has obtained the leave of the court to depart.

Witness about
to leave the
jurisdiction

160. If a witness be about to leave the jurisdiction of the court, or if other sufficient cause be shown to the satisfaction of the court why his evidence should be taken immediately, the court may upon the application of either party take the evidence of such witness at any time after the commencement of the cause or matter. Sufficient notice of the application shall be given to the adverse party.

Witness refus-
ing to give
evidence etc.,
may be fined

161. Every person summoned to give evidence or to produce a document or to appear in court to give his personal answer not upon oath, who shall fail without sufficient cause to comply with the summons or who departs contrary to the provisions of section 159 or who being in court refuses without sufficient reason to give evidence or to be sworn when required by the court, may be ordered by the court to pay a fine not exceeding one hundred rupees and a writ may be issued to bring such person before the court.

Personal Answers

162.(1) Any party to a cause or matter may examine the adverse party on his personal answers as to anything relevant to the matter at issue between the parties.

Rules relating
to examination
of parties on
personal
answers
S.I. 72/1976

(2) If a party to any cause or matter be the Republic, a public establishment (*établissement public*), a corporation or a body having a legal entity, such party shall be bound to appoint a special attorney to give his personal answers in such cause or matter. If on the day fixed for the appearance of any such party to give his personal answers, no such attorney appears on behalf of such party, and no satisfactory reason for such attorney's non-appearance is given, the facts, matters and things alleged by the adverse party may be held to have been admitted:

Provided however that administrators, managers or agents of such party may also be called upon to give their personal answers on matters which are within their personal knowledge, and the court may in its discretion attach whatever weight it thinks fit to such answers.

(3) If a party to a cause or matter be incapable in law of contracting (*incapable*), he shall give his personal answers through his guardian, curator or other legal representative.

163. Whenever a party is desirous of obtaining the personal answers not upon oath of the adverse party, he may apply to the Judge in court on the day fixed for the defendant to file his statement of defence or prior thereto, or he may petition the court *ex parte* at any time prior to the day fixed for the hearing of the cause or matter, to obtain the attendance of such adverse party and the court on sufficient ground being shown shall make an order granting the application or petition. And the party having obtained such order shall serve a summons, together with a copy of the order, on the adverse party to appear in court on the day stated therein.

Procedure to
obtain atten-
dance of ad-
verse party for
examination

164. If a party to the cause or matter is present in court at the hearing of the case, he may be examined on his personal answers with the permission of the Judge, without any previous application.

Party present
in court may
be examined

Where the
Republic is a
party
4/2/1945
S.I. 95/1975
S.I. 72/1976

165. In no cause or matter where the Government or the Republic is a party shall the Minister represent or be regarded as the agent of the Government or of the Republic nor shall the Minister be made a party to such cause or matter or be summoned thereto on personal answers or otherwise except as an ordinary witness.

In any such cause or matter the Attorney General shall represent the Government or the Republic.

Examination —
when to take
place

166. The examination on personal answers shall be in open court at the hearing of the cause or matter, but no party having closed his case shall be allowed thereafter to examine the adverse party on his personal answers.

Examinations
may be
separate

167. If more than one person be called by either party to a cause or matter to give personal answers, the court may direct that each such person shall give his answers out of the hearing of the others.

Affidavits

When court
may order
facts to be
proved by
affidavit

168. The court may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit or that the affidavit of any witness may be read at the hearing, on such conditions as the court thinks reasonable:

Provided that where it appears to the court that either party *bona fide* desires the production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit.

Cross-
examination

169. Upon any motion, petition or application evidence may be given by affidavit; but the court may, on the application of either party, order the attendance for cross-examination of the person making any such affidavit.

What af-
fidavits may
contain

170. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, except on interlocutory applications, on which statements as to his belief, with the grounds thereof, may be admitted.

Before whom
affidavits may
be sworn
2/10/1962

171. Affidavits may be sworn in Seychelles —

- (a) before a Judge, a Magistrate, a Justice of the Peace, a Notary or the Registrar and

- (b) in any cause or matter, in addition to those mentioned in paragraph (a) before any person specially appointed for the purpose by the court.

Opposition by Third Parties

172. Any person whose interests are affected by a judgment rendered in a suit in which neither he nor persons represented by him were made parties, may file an opposition to such judgment.

Who may file opposition to judgement

173. Such opposition shall be formed by means of a principal action to which the parties to the suit, in which the judgment sought to be set aside was obtained, shall be made defendants.

Procedure

174. Such opposition by a third party shall not delay the execution of the judgment sought to be set aside unless the court orders a stay of execution.

Opposition not to delay execution of judgement.

175. Execution of judgments ordering a party to give up possession of an immovable property shall not be stayed by an opposition to such judgment made by third parties whenever such judgments are *res judicata* between the parties to the original suit.

Opposition when judgement is *res judicata*

Abatement

176. A cause or matter shall not become abated by reason of the death, bankruptcy or insolvency, or change of status or of capacity, of any of the parties, if the cause of action survives; and, whether the cause of action survives or not, there shall be no abatement by reason of the death of either party between the hearing and the judgment.

No abatement if cause of action survives

177. In case of the death, bankruptcy or insolvency, or change of status or of capacity, of a party to a cause or matter, the court may order that any necessary party be added or that any person entitled to represent the party who has died or become bankrupt or insolvent, or being the successor in interest of any such party, be substituted for such party.

Death, bankruptcy, etc., of a party

178. Any person claiming to be the representative of a deceased plaintiff or for a deceased defendant may apply to the court to substitute his name on the record for that of the deceased plaintiff or the deceased defendant, as the case may be. The application shall be by petition moved on the defendant or the plaintiff, as the case may be.

Substitution of name on record - application by representative of deceased party

— Application
by plaintiff or
defendant

179. Any plaintiff or defendant may apply to the court to substitute any person alleged to be the representative of a deceased defendant or of a deceased plaintiff for the deceased defendant or the deceased plaintiff, as the case may be. Such application shall be by petition served on the person whom it is desired to substitute.

Procedure
where party is
added or sub-
stituted

180. If the court order any party to be added or any person to be substituted under sections 177, 178 or 179, the cause or matter shall proceed in the same manner as if such person or parties had been parties at the commencement of the cause or matter.

Summons to
compel a party
to proceed

181. When the plaintiff or defendant in a cause or matter dies and the cause of action survives, but the person entitled to proceed fails to proceed, the defendant or the person against whom the cause or matter may be continued may apply by summons to compel the plaintiff or the person entitled to proceed to proceed within such time as may be ordered; and in default of such proceeding, judgment may be entered for the defendant, or, as the case may be, for the person against whom the cause or matter might have been continued.

Discontinuance

When plaintiff
may discon-
tinue suit.
Leave of court,
required
3/10/1968

182. The plaintiff may, at any time before the statement of defence has been filed, or after it has been filed before taking any other proceeding in the suit (save any interlocutory application) by notice in writing to the Registrar, wholly discontinue his suit against all or any of the defendants or withdraw any part of his claim and thereupon he shall pay such defendant's costs of the suit, or if the suit be not wholly discontinued, the costs occasioned by the part of the claim so withdrawn. Such costs shall be taxed, and such discontinuance or withdrawal, as the case may be, shall not be a defence to any subsequent action. Save as in this section otherwise provided, it shall not be competent for the plaintiff to discontinue the suit without leave of the court, but the court may at any time before judgment, upon such terms as to costs, and as to any other suit, and otherwise as may be just, order the suit to be discontinued, or any part of the claim to be struck out. The court may, in like manner, and with the like discretion as to terms, upon the application of a defendant, order the whole or any part of his alleged grounds of defence to be withdrawn or struck out, but it shall not be competent for a defendant to withdraw his defence or any part thereof without such leave.

183. The Registrar shall on receipt of such notice in writing forthwith give notice to the defendant of such discontinuance or withdrawal.

Notice of discontinuance

184. The defendant may recover the costs of a suit which has been discontinued under section 182 in the same way as if such costs had been granted by a judgment of the court.

Costs of discontinued suit

185. If any subsequent suit shall be brought before payment of the costs of a discontinued suit, for the same, or substantially the same cause of action, the court may, if it think fit, order a stay of such subsequent suit, until such costs shall have been paid.

Subsequent action may be stayed

Peremption of Suits

186. All causes and matters are extinguished for want of prosecution when no proceeding has been taken therein during three years.

Want of prosecution

187. Peremption does not take place when proceedings are compulsorily stayed by any incidental proceeding, an interlocutory judgment, reference to experts, arbitrators, or commissioners or when the record cannot be found.

When peremption does not take place

188. Peremption takes place against the Republic, public establishments (*établissements publics*), and all persons even such as are represented by guardians and curators, without prejudice to any action in damages against the administrators of such establishments, and such guardians and curators for any loss incurred through their fault or negligence.

Against whom peremption takes place

189. Peremption to be effective must be decreed by the court upon a motion made to that effect by one of the parties to the suit in respect of which peremption is alleged to have taken place. Notice of such motion shall be given to the other parties to such suit.

Peremption must be decreed by the court

190. Any valid act of procedure made by one of the parties in a suit, although made after the lapse of three years, renders peremption inoperative, if made before notice of the motion mentioned in section 189 is given to the adverse party.

When peremption is inoperative

191. Peremption only extends to the cause or matter, but it does not extinguish the right of action itself.

Effect of peremption

Procedure if
peremption is
decreed

192. The parties to a cause or matter in respect of which peremption has been decreed by the court to have taken place, shall not be entitled to avail themselves of any act of procedure done in the course of such cause or matter.

Costs

193. If peremption is decreed by the court to have taken place with respect to a cause or matter, the court shall, unless good cause be shown to the contrary, require the plaintiff to pay the costs of such cause or matter.

New Trial

When a new
trial may be
granted

194. A new trial may be granted on the application of either party to the suit —

- (a) where fraud or violence has been employed or documents subsequently discovered to be forged have been made use of by the opposite party;
- (b) when new and important matter or evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the hearing of the suit, has since been discovered or become available;
- (c) when it appears to the court to be necessary for the ends of justice.

Procedure to
obtain new trial

195. Application for a new trial shall be made by petition supported by an affidavit of the facts, and shall be served on the opposite party in the same manner and subject to the same rules as to time for appearance as in the case of plaints.

Application,
when to be
made

196. Application for a new trial must be made, —

- (a) if judgment was given against the defendant in default, within three months from the date when execution of the judgment was effected or from the earliest date on which anything was paid or done in satisfaction of the judgment;
- (b) in all other cases, within three months from the date of the judgment.

Forgery, fraud
or other
evidence

197. Where a new trial is applied for on the ground of forgery, fraud or other evidence, the period of three months mentioned in art-

tion 196 shall only run from the day on which the forgery or fraud shall have been known or the new evidence discovered, provided that in the last two cases there is written proof of the day on which such fraud or new evidence shall have been discovered.

198. The court may grant an order for a new trial on such terms, if any, as to costs and finding of security for the amount for which judgment was given at the first trial, or such other terms as to the court may seem fit.

Court may impose terms

199. When a new trial is granted, the court shall fix a date for the hearing. If the adverse party does not appear on the hearing of the petition for the new trial and an order is made granting the application, the party in whose favour the order is made shall summon the adverse party to appear on the date fixed by the court for the new trial and the trial shall then proceed in all respects as if it has been a first trial.

Date for new trial

200. The court may grant a stay of execution pending the hearing of the new trial.

Stay of execution

201. It shall not be competent for the applicant to raise any other issues at the new trial except those alleged in his application for such new trial.

What issues may be raised at new trial

202. If, at the new trial, judgment be given in favour of the applicant, all sums of money paid under the first judgment shall be returned to the applicant and the parties shall be put back in the same position as if there had been no first trial, unless the court orders otherwise.

Effect of judgment for the applicant

203. Whenever an application for a new trial shall have been made and refused or whenever a new trial has been granted and adjudicated upon, it shall not be lawful for the same party to apply again for a new trial of the same suit or for a new trial of such new trial.

No new trial of a new trial

204. If, on appeal, a new trial be ordered by the appellate court, either party may file in the registry of the Supreme Court the original judgment or order of the appellate court, or a copy of the said judgment or order certified to be correct and sealed by the

How trial ordered by appellate court is to be dealt with

Registrar of the appellate court, and within one month after filing such judgment or order such party shall apply to the Registrar to fix a date for the hearing of such new trial and shall summon the adverse party to appear on the date fixed for the new trial and the trial shall then proceed in all respects as if it had been a first trial, subject however to any order made by the appellate court.

Arbitration

Reference to
arbitration

205. The court may, in any cases other than those mentioned in article 1004 of the French Code of Civil Procedure, with the consent of both parties to the suit, and also in any case in which the law permits arbitration independently of such consent, order such suit, with or without other matters within the jurisdiction of the court in dispute between such parties, to be referred to arbitration, to such person or persons, and in such manner and on such terms, as the court shall think reasonable and just, and if more than one arbitrator has been appointed, it may appoint an umpire if it think fit. Such reference shall not be revocable except with the consent of the court:

Provided that nothing in this section shall be deemed to prevent persons from submitting their disputes to arbitration in accordance with the provisions of Book Three of the French Code of Civil Procedure, without an order of the court.

Objections to
award

206. When the award of the arbitrators or umpire has been filed in court, the Registrar shall give notice to the parties. If no objection to the award be filed in the registry within 10 days from the receipt of such notice by either party, the court shall give judgment in accordance with the award.

When award
may be set
aside or
modified

207. An award shall not be objected to and shall not be set aside except on one of the following grounds –

- (a) corruption or misconduct of an arbitrator or umpire;
- (b) either party having been guilty of fraudulent concealment of any matter which ought to have been disclosed or of wilfully misleading or deceiving the arbitrator or umpire;

Provided however that an award may be modified by the court after hearing both parties if it has left undetermined any of the mat-

ters referred to arbitration or if it has determined any matter not referred to arbitration, or if the award contains some obvious error; or, in any such case, the court may send the award back to the arbitrator or umpire to be modified.

Suits in Formâ Pauperis

208. Any person may on application to the court be admitted to sue or defend as a pauper, but no person shall be so admitted unless he satisfy the court —

Who may sue
as paupers
2/19/1955

(a) that he is not worth three hundred rupees, his wearing apparel and the subject matter of the suit or other proceeding before the court excepted; and

(b) that he has reasonable grounds for suing or of defence.

209. The court may examine the applicant on oath or take such other evidence as may be requisite to enable it to decide on the application.

Examination
of applicant

210. A person admitted to sue or defend as a pauper shall not be liable to pay any fees of court, but unless the court certify in writing that the suit is one of public policy (*ordre public*), he shall not be exempted from the payment of the stamp or registration dues.

Fees of court

211. If the court certify that the suit is of public policy, witnesses shall be bound to attend and give evidence, when summoned, without the previous payment of the fees or allowances authorised by law but no witness shall be summoned unless the court is satisfied that the evidence of such witness is necessary for the ends of justice.

When suit is
one of public
policy

212.(1) Where any person is admitted to sue or defend as a pauper, the court may direct that all process issued in connection with the suit shall be served by a member of the Police Force and may, if necessary, assign counsel or an attorney, or both, to assist the person so admitted and counsel or an attorney so assigned shall not be at liberty to refuse his assistance unless he satisfies the court that he has some good reason for refusing. The court shall have the same discretionary power to assign counsel or an attorney, or both, to assist a person who has been admitted to sue or defend as a pauper, in the preparation of an appeal from any decision or order of the Supreme Court.

Counsel and
Attorney may
be assigned
2/19/1955
S.L. 95/1975

(2) Where counsel or an attorney has been assigned to any person under the provisions of subsection (1) the remuneration of such counsel or attorney for the services for which he has been so assigned shall be of such amount or according to such scale as may be prescribed by regulations made by the Minister and shall be paid to him out of general revenues.

Remuneration

213. Whilst a person sues or defends as a pauper, no person shall take or agree to take, or seek to obtain from him any fee, profit or reward, for the conduct of his business in the court, and any person who takes, or agrees to take, or seeks to obtain any such fee, profit or reward, shall be guilty of a contempt of court.

Pauper may be dispaupered

214. If any person admitted to sue or defend as a pauper gives, or agrees to give, any such fee, profit, or reward, he shall be forthwith dispaupered, and shall not be afterwards admitted again in the same cause to sue or defend as a pauper.

Attorney to sign proceedings

215. No proceeding shall be served, and no petition shall be presented, on behalf of any person admitted to sue or defend as a pauper, except for the discharge of his attorney, unless it is signed by his attorney, if any attorney has been assigned to him.

Unnecessary proceedings

216. It shall be the duty of the attorney assigned to the person admitted to sue or defend as a pauper, to take care that no proceeding is served or petition presented without good cause.

Disbursements

217. No attorney or usher shall be bound in any civil suit brought by or against paupers to make any disbursement of his own moneys.

**Recovery of fees
4/19/1955
S.L. 77/1976**

218. If the court order any costs to be paid to any person admitted to sue or defend as a pauper, the court, stamp, or registration fees which would have been paid by such person if he had not been admitted to sue or defend as a pauper and the remuneration of counsel or the attorney which has been paid or is payable under subsection (2) of section 212, shall be deducted from the amount of the costs so ordered to be paid and shall be paid to the Registrar for the benefit of the Republic and shall be recoverable by the Attorney General in the same manner as if the order for costs had been in his favour. Such costs may be levied in certain cases.

Of Furnishing of Security

219. The court may, on the application of the defendant, require the plaintiff to give security for costs in all cases in which under the Civil Code such security may be required and also when the plaintiff is known to be insolvent.

When security may be required

220. Whenever a party to a suit shall have been ordered to furnish security, the court shall, by the same order, fix the time within which such security shall be furnished by such party and accepted or objected to by the other party.

Time within which security is to be furnished

221. The party to a suit ordered to give security shall give notice to the other party or his attorney of the persons intended to stand as sureties. Such notice shall state the names of the persons suggested as well as the means of such persons.

Notice of sureties offered

222. If the surety is objected to, the matter shall be summarily dealt with by a Judge in chambers.

Objections

Damages

223. Whenever damages or any sum of money to be paid shall not have been definitely determined by the judgment of the court it shall be lawful for the plaintiff, after notice given to the defendant and failure on his part to tender an acceptable amount, to apply to the court by way of motion for an order fixing the amount of such money or damages and the court after hearing the parties shall make an order fixing the amount.

Determination of amount of damages

224. Should the amount tendered by the defendant be found by the court to have been sufficient, costs shall be granted against the plaintiff.

Costs

Execution

225. If the party liable fail to satisfy the judgment or to comply with the order of the court, application may be made to the Registrar by the judgment creditor, forty-eight hours after such default, for the enforcement of the judgment or order by means of execution. Before applying for execution, the judgment creditor must have the bill of costs taxed by the Registrar and where the

Procedure on application for execution

judgment is for a sum of money exceeding sixty rupees or for the delivery of property exceeding sixty rupees in value, the judgment creditor must also obtain from the Registrar a formal judgment stating the substance of the judgment or order and must cause the same to be registered at the Registration Office:

Urgency

Provided that the court may, on grounds of urgent necessity, direct that a judgment or order be enforced by execution, except in so far as it relates to the costs of the suit, immediately after judgment has been given and before the costs incurred in the suit can be ascertained by taxation, and that the judgment or order, in so far as it relates to the costs, be enforced by execution so soon as the amount of the costs shall have been ascertained by taxation.

Cross-judgements

226. If there be cross-judgments between the parties, execution shall be taken by that party only who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the remainder shall be entered, as well as satisfaction of the judgment for the smaller sum; and if both sums shall be equal, satisfaction shall be entered upon both judgments.

Foreign judgements
3rd Sch./
5/1976

227. Foreign judgments and deeds drawn up in foreign countries can only be enforced in the cases provided for by articles 2123* and 2128 of the Civil Code and agreeably with the provisions of the aforesaid articles. Arbitral awards under the New York Convention, as provided under articles 146 and 148 of the Commercial Code of Seychelles, shall be enforceable in accordance with the provisions of Book I, Title IX of the said Code.

When property
may be seized

228. Property whether movable or immovable can only be seized and sold in virtue of an executory title (*titre exécutoire*) and for a determined and liquidated amount. Should the claim not be in respect of a liquidated sum of money, the property seized shall not be sold until the amount in money which is due has first been determined by the court.

Caption of the
body

229. Caption of the body shall not be granted or enforced until the amount due has first been determined.

* Article 2123 now is pliedly repealed by section 16 of the Mortgage and Registration Act (Cap 154)

230. An appeal shall not operate as a stay of execution or of a proceedings under the decision appealed from unless the court or the appellate court so orders and subject to such terms as it may impose. No intermediate act or proceeding shall be invalidated except so far as the appellate court may direct.

Appeal not to operate as stay of execution
2/10/1968

231. When the appellate court has given judgment on the appeal, either party may file in the registry of the Supreme Court the original judgment or order of the appellate court, or a copy of the formal judgment certified to be correct and sealed by the Registrar of such court, and such judgment may then be enforced and the taxed costs of the appeal recovered by execution, in the same manner as is provided by this Code in the case of judgments of the Supreme Court, subject however to any order of the appellate court.

Execution of judgement after appeal

232.(1) For the purpose of execution, a warrant or writ of execution is valid in the first instance for 12 months beginning with the date of its issue.

Duration and extension of validity of warrant or writ of execution
5/10/1968

(2) Where a warrant or writ has not been wholly executed the court may by order extend the validity of the warrant or writ from time to time for a period of twelve months at any time beginning with the day on which the order is made, if an application for extension is made to the court the day next following that on which the warrant or writ would otherwise expire.

(3) Before a warrant or writ, the validity of which has been extended under this section, is executed the warrant or writ must be sealed with the seal of the court showing the date on which the order extending its validity was made.

(4) The priority of the warrant or writ, the validity of which has been extended under this section, shall be determined by reference to the date of the original issue thereof.

(5) The production of a warrant or writ of execution purporting to be sealed as in subsection (3) mentioned, shall be evidence that the validity of that warrant or writ has been extended under this section.

233.(1) As between the original parties to a judgment or order, execution may issue at any time within six years from the date of the judgment or order.

Execution to issue within six years.
Leave to issue execution in certain cases.
5/10/1968

(2) (a) In the following instances, namely:

- (i) where six years or more have elapsed since the date of the judgment or order,
- (ii) where any change has taken place, whether by death or otherwise, in the parties entitled or liable to execution under the judgment or order,
- (iii) where under the judgment or order any person is entitled to relief subject to the fulfilment of any condition which it is alleged has been fulfilled,
- (iv) where any goods sought to be seized under a warrant or writ of execution are in the hands of a sequestrator appointed by the court,

the party alleging himself to be entitled to execution may apply to the court for leave to issue execution accordingly, and the court may, if satisfied that the party so applying is entitled to execution, make an order to that effect, or may order that any issue or question necessary to determine the rights of the parties in relation to the application for leave to issue execution shall be tried in any of the ways in which any question in an action may be tried, and in either case, the court may impose such terms as to costs or otherwise as shall be just.

(b) Where the court grants leave for the issue of a warrant or writ of execution and the warrant or writ is not issued within one year after the date of the order granting such leave, the order shall cease to have effect without prejudice however to the making of a fresh order.

Fines may be recovered by execution

234. Any fine imposed by the court in virtue of the powers conferred by this Code may be enforced and recovered by execution in the same manner as a judgment of the court.

Police to assist ushers

235. All police officers are authorised and required to assist the ushers of the court in executing any warrant of execution, if called upon to do so by the usher executing the warrant.

Movable property which may not be seized in execution
4/4/1986

236. The following movable property may not be seized in execution: --

- (a) things which are declared by law to be immovable property by destination (immeubles par destination);
- (i) the necessary bedding and wearing apparel of the judgment debtor and of his wife and children living with him;

- (c) the books relating to the profession of the judgment debtor, who shall have the right to select those he requires, provided they do not exceed two thousand rupees in value;
- (d) appliances and instruments used by persons teaching or practising science and art, up to the value of two thousand rupees, such appliances and instruments to be selected by the judgment debtor;
- (e) the outfit of soldiers according to rank;
- (f) tools of artisans such as are necessary to enable them to carry on their trade;
- (g) one month's supply of necessary provisions for the judgment debtor and his family living with him.

237. The things mentioned in section 236, except those mentioned in paragraph (b) thereof, shall however not be exempt from seizure and sale when the suit is to recover an amount due —

— Except in certain cases

- (a) for board supplied to the judgment debtor;
- (b) to the vendor or maker or manufacturer of the said articles;
- (c) to a person who has lent money to enable the judgment debtor to buy, make or repair such articles;
- (d) for the rent and the harvesting of lands in the tilling of which the said articles shall have been used;
- (e) for the rent of the factories, mills and other works of which they form part;
- (f) for the rent of the premises in which the judgment debtor resides.

238. In the case of seizure of cattle and implements of husbandry necessary for the working of lands, it shall be lawful for the court, on the application of the judgment creditor, and after hearing the owner and the judgment debtor, to appoint a fit and competent person to carry on the working of such lands.

Court may appoint person to work land

239. Every application for execution shall be in writing and signed by the judgment creditor or by his attorney, if any, and shall contain the following particulars:

Particulars to be contained in application for execution

- (a) the title and number of the suit;
- (b) the date of the judgment or order;
- (c) whether any appeal has been entered;
- (d) the amount for which judgment has been given and of the costs;
- (e) what sum, if any, has been paid in satisfaction of the judgment or order;
- (f) the name of the party against whom the enforcement of the judgment is asked for;
- (g) the nature of the execution asked for.

The taxed bill of costs shall be attached to the application.

The Registrar shall note on the application the date and time when the application is received.

Procedure —
when judge-
ment is for a
sum of money

240. If the judgment is for a sum of money, the Registrar, on receipt of the application, shall issue under the seal of the court a warrant of execution to one of the ushers of the court, who by such warrant shall be empowered to levy such sum of money and also the costs of execution by distress and sale of the movable property of the party named in the warrant.

— When
judgement is
for delivery of
movable
property

241. If the judgment is for the delivery of any specific movable property, the Registrar shall, on receipt of the application, issue a warrant to an usher of the court to seize such property, if practicable, and to deliver it to the person to whom it has been ordered to be delivered by the judgment of the court. If the party who has been ordered by the judgment of the court to deliver any such movable property to any person intentionally refuses or neglects to comply with the judgment or order of the court, he may be committed to civil imprisonment for a period not exceeding six months, on the application of the judgment creditor.

— When
judgement is
for delivery of,
or to place in
possession of
immovable
property

242. If the judgment be (a) for the delivery of an immovable property or (b) that any person be placed in possession of immovable property, the Registrar shall, on receipt of the application, issue a writ to an usher of the court to place in possession of such immovable property the party or person to whom it has been adjudged or who has been ordered by the court to be placed in possession, and if

necessary to remove any person bound by the judgment who refuses to vacate such property. If any party or person so removed by the usher in virtue of a writ, re-enters on such property with intent to take possession thereof or to disturb the quiet possession of the party or person placed in possession by the usher, he may be committed by the court to civil imprisonment for a period not exceeding six months on the application of the judgment creditor.

243. Before any person is committed to civil imprisonment under section 241 or 242 such person shall be summoned to show cause why he should not be committed, and if he fail to appear or to show cause to the satisfaction of the court, the court may make such order as to committal as it considers just. Witnesses may be heard in support of the application and on behalf of the person summoned.

Civil
imprisonment

244. The Registrar shall cause to be endorsed on every warrant of execution and on every writ to place in possession of immovable property, the sum of money and the costs adjudged to be paid, together with the approximate amount of the costs of execution of such warrant or writ, and the value of the movable property which the usher shall seize, shall correspond as nearly as may be with the total amount endorsed on the warrant or by the Registrar. If the party against whom such warrant or writ has been issued pay into the registry, or to the usher charged with the execution of the warrant or writ, such sum of money and costs as aforesaid or such part thereof as the judgment creditor shall agree to accept in full discharge, the execution shall be removed and the property seized shall be released from seizure.

Amount
recoverable to
be endorsed on
warrants and
writs

245. Warrants of execution and writs shall bear the date of the day on which they are issued and shall continue in force for twelve months.

Warrants and
writs to be in
force for 12
months

246. If the movable property of the judgment debtor be insufficient to satisfy the judgment and the costs of execution, the Registrar shall on the application of the judgment creditor issue a writ of execution against the immovable property, if any, of the judgment debtor. Such immovable property shall be seized and sold in accordance with the procedure laid down by the Immovable Property (Judicial Sales) Act and any other law relating to the seizure and sale in execution of immovable property in force for the time being in Seychelles.

When movable
property is in-
sufficient to
satisfy judge-
ment
Cap. 91

247. A judgment creditor may apply for an order of attachment

Attachment

(opposition) of any money or movable property due to or belonging to his judgment debtor in the hands of any third person and the Registrar on receipt of such application shall issue an order prohibiting the person in whose hands such money or other movable property is from paying such money or delivering such property to any other person pending the further order of the court.

Validation of attachment

248. Within fifteen days from the date of the issue of the order of attachment, the judgment creditor shall apply to the court to validate the same and the Registrar shall thereupon summon the judgment debtor to appear before the court on such day as shall be fixed by the summons to show cause why such money should not be paid to the judgment creditor, or why such other movable property should not be seized and sold in execution of the judgment. The third party in whose hands such money or other movable property has been attached shall be summoned to appear at the same time to state what money or other movable property belonging to the judgment debtor is in his hands.

Hearing of application to validate

249. On the day so fixed by the summons, the court shall examine the person in whose hands such money or other movable property has been attached, on oath, concerning the money or other movable property alleged to be due to or to belong to the judgment debtor and shall hear all such evidence as may be produced by the parties or that the court may think fit to call for, and after hearing such evidence the court shall either validate the attachment and direct the money or other movable property to be seized in execution or shall release the same from the attachment.

Effect of failure to validate

250. If no application be made to validate the order of attachment within fifteen days from the date on which it was issued or if the judgment creditor fail, without sufficient excuse, to appear in support of the application to validate it, the attachment shall cease to have effect and the money or other property shall be released from attachment.

Procedure for arrest and imprisonment of judgment debtor

251. A judgment creditor may at any time, whether any other form of execution has been issued or not, apply to the court by petition, supported by an affidavit of the facts, for the arrest and imprisonment of his judgment debtor and the judge shall thereon order a warrant to be issued by the Registrar, calling upon the judgment debtor to appear in court and show cause why he should

not be committed to civil imprisonment in default of satisfaction of the judgment or order.

252. The judgment debtor on the day on which he has been summoned to appear, shall be examined on oath as to his means and witnesses may be heard on his behalf and on behalf of the judgment creditor.

Examination
of judgement
debtor

253. If the judgment debtor does not appear at the time fixed by the summons or refuses to make such disclosures as may be required of him by the court or if the court is satisfied that the judgment debtor —

When judge-
ment debtor
may be im-
prisoned civilly

- (a) has transferred, concealed or removed any part of his property after the date of commencement of the suit in which the judgment sought to be enforced was given or that after that date he has committed any act of bad faith in relation to his property with the object or effect of delaying the judgment creditor in enforcing his judgment or order; or
- (b) has given an undue or unreasonable preference to any of his other creditors; or
- (c) has refused or neglected to satisfy the judgment or order or any part thereof, when he has or since the date of the judgment has had the means of satisfying it,

the court may order such debtor to be imprisoned civilly unless or until the judgment is satisfied.

254. The imprisonment which may be ordered under the last preceding section may be for the periods specified by section 10 of the Imprisonment for Debt Act. Section 10 to 15 of that Act shall apply to and be read with sections 251, 252 and 253 of this Code.

Period of civil
imprisonment
Cap. 96
3/23/1976

Process of Execution

255. Every usher executing any process of execution against the movable property of any person, before selling such property, shall give at least four days' notice of the intended sale, by publication in the *Gazette* or by posting up notice on the court notice board, outside the principal post office in Victoria, on the main door of the market place in Victoria, outside the police station nearest to the place where the property is to be sold and on the outer door of the

Notices to be
given before
sale in execu-
tion

house or place where the property has been seized. Such notices shall state the place and the date and the hour of the intended sale and shall specify in a general manner the nature of the property to be sold:

Provided however that if the property seized by the usher is of a perishable nature and cannot be kept without deterioration for a sufficient time to permit such notice to be given, or if the party whose property has been seized so request in writing, the sale may take place after shorter notice and without any publication in the *Gazette*. The notices required to be posted up by articles 629 and 645 of the French Code of Civil Procedure shall be posted up at the same places as required by this section in the case of an intended sale in execution.

Movable
property seized
to be sold
within one
month from
seizure

256. Movable property seized in execution shall be sold by the usher within one month from the date of the seizure, unless the court direct otherwise. If the judgment creditor at whose instance the movable property was seized neglect to cause such property to be sold within the period of one month aforesaid or to obtain an order of the court extending the period within which such sale is to take place, the person whose property has been seized may apply to the court by motion made ex-parte to release such property from seizure.

Postponement
of sale

257. If the sale of the property seized is postponed (a) by the court or (b) by the usher to a later date within the period of one month mentioned in the last preceding section, fresh notice of the adjourned sale shall be given by the usher in the same manner as provided by section 255.

Witnesses to
seizure

258. The usher executing a warrant shall be accompanied by two witnesses, who shall be citizens of Seychelles, of age, and not nearly related to the usher by blood or marriage.

Entry on
premises to ef-
fect execution

259. Every usher acting under a warrant to levy, or arrest any party, may open any outer door or window of any dwelling house, or other building, in order to execute such warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot obtain admittance; and he shall be obliged to show his warrant, if required to do so.

260. The movable property seized by the usher shall be deposited by him in some fit place or may remain in the custody of a suitable custodian (*gardien*) approved by the usher, until the sale takes place. If the party whose goods have been seized offers a suitable person who is solvent and who is willing to act as custodian without remuneration and at once, such person shall be appointed custodian by the usher. The judgment creditor, the husband or the wife or near relations by blood or marriage, or servants of the judgment creditor may not be appointed custodians, but the party whose property has been seized and the husband or wife or relations by blood or marriage or servants of such party may be appointed custodians, if they consent and if the judgment creditor consent. A list of the articles seized shall be given to the custodian by the usher at the time when they are seized. The usher after seizing any property shall close all the doors and windows of the building or premises in which such property is deposited and shall affix his seals on all such doors or windows and each time that it may be necessary for him to remove any seal so affixed, for the performance of his duties, he shall reaffix such seal on leaving the premises.

Property seized to be placed in charge of a custodian

261. The custodian is not permitted to make use of the articles seized or to hire them out or to lend them, and he must account for any profit or revenue which they produce. He shall be liable in damages for any failure to comply with the provisions of this section.

Custodian not to use articles seized

262. A custodian may be relieved of his duties by the Registrar at any time before the sale takes place, on the application of the custodian himself or he may be dismissed by the Registrar on the application of the usher if it be shown that he has been guilty of misconduct or of neglect of his duties. In any such case a new custodian shall be appointed who shall verify the articles seized with the list made by the usher, before commencing his duties.

Dismissal of custodian

263. The usher executing the warrant shall return to the Registrar a memorandum of the seizure (*procès verbal de saisie*) to be filed with the record. The memorandum shall state the date on which the seizure was made, the name and residence of the plaintiff and of the defendant in the suit, the name of the custodian appointed by the usher, the names of the persons with whom a copy of the memorandum of seizure has been left, and it shall contain a detailed list of the property seized. It shall be stated whether seals have been affixed

Particulars to be contained in memorandum of seizure

by the usher. The memorandum shall be drawn up and signed, both as regards the originals and the copies, by the usher, by the custodian and by the witnesses to the seizure. If the custodian cannot write, mention shall be made of this.

Merchandise
and plate

264. If the articles seized include merchandise, such merchandise shall be weighed and measured. If they include plate (*argenterie*), the pieces of plate and the plate-marks shall be specified and they shall be weighed.

Valuable
securities

265. If the article seized include bank notes, drafts, valuable securities or money in cash, their number and description and the value so far as is apparent, shall be specified in the memorandum and they shall be deposited by the usher with the Registrar.

Private papers

266. If the person whose movable property is seized is not present when the seizure is made, and any room or piece of furniture is found to be locked, the usher shall open such room or piece of furniture in the presence of a police officer and if he finds there any private papers, he shall place them in some suitable receptacle within the building where the property has been seized and shall affix his seals to such receptacle.

Copy of
memorandum
of seizure to be
left with per-
son whose
goods are
seized

267. A copy of the memorandum of seizure shall be left by the usher with the person whose goods are seized —

- (a) at the time when the property is seized, if the seizure is made at the residence of such person, or if such person is present at the seizure;
- (b) on the same day on which the property is seized, if such person is not present at the seizure but resides within a distance of six miles from the place of seizure;
- (c) within eight days from the date of the seizure, if such person is not present at the seizure and resides more than six miles from the place of seizure.

Where proper-
ty seized is to
be sold

268. Movable property seized in execution shall be sold by the usher by auction at the premises of the person whose property has been seized or at some other suitable place within the district where the seizure has been made:

Provided that if either the usher or the judgment creditor or the judgment debtor is of opinion that no adequate price can be obtained by selling the property at any such place, any of them may apply to a Judge to fix another place for the sale and the Judge shall then appoint for such place as he shall think fit.

Provided also that silver plate (*vaiselle d'argent*) or jewellery exceeding one hundred and fifty rupees in value shall be sold at some suitable place in the town of Victoria.

269. The usher in charge of any warrant of execution or writ to place in possession shall proceed with the execution thereof notwithstanding any objection made by the party against whom such warrant or writ has been issued, but such party in case of need may apply to the court by a reference under article 806 of the French Code of Civil Procedure.

Execution not to be delayed by objections

270. The property seized shall be sold to the highest bidder for cash. If the purchaser makes default in payment, the article purchased by him shall be resold by *folle enchère*. If the value of the property seized exceeds the amount which the usher is empowered to levy by the warrant of execution, the usher shall only sell so much of the property as shall be sufficient to realise such sum.

How property to be sold

271. The usher in charge of the sale shall return to the Registrar a memorandum of the sale (*procès verbal en vente*) to be filed with the record. The memorandum of sale shall state the date and the hour of the sale and the place where it was held. It shall give the name and residence of each purchaser and the price paid for each article sold. The usher shall attach to the memorandum the notice announcing the sale and a certificate stating where copies of such notice have been posted up and he shall sign the memorandum. The usher is personally responsible for the purchase price of the articles sold. He may not receive more than the amount bid.

Particulars to be contained in memorandum of sale

272. Every usher executing any warrant for the delivery of specific movable property or any writ to place any person in possession of immovable property shall return to the Registrar, to be filed with the record, a memorandum stating what he has done in execution of such warrant or writ.

Usher to return memorandum of execution to Registrar

273. If when any movable property has been seized in execution any third party claims such property or any part thereof, or the proceeds thereof, as his own property, or in the case of a landlord as a distress for rent, such third party may lodge an opposition in the hands of the usher executing the warrant, either against the sale of such property or against payment to the party at whose instance it

Claims by third parties

has been seized, of the proceeds of such sale. The usher shall record the opposition lodged in his memorandum of seizure.

Procedure to
release proper-
ty from seizure

274. Within three days from the date when such opposition has been lodged, the claimant shall apply to the Registrar for a summons calling upon the party at whose instance the property has been seized to show cause why such property should not be released from seizure. Failing such application, the opposition shall be of no effect.

Hearing of
application

275. The Registrar shall thereupon issue a summons to the judgment creditor to appear before the court on a date to be fixed in the summons, and the court after hearing both parties on oath and their witnesses, if any, shall adjudicate upon the claim and either order the property claimed to be released from seizure or may make such other order as shall be just and may make such order as to costs as it considers fit. If either party fails to appear on the date fixed in the summons, without sufficient excuse, the court may proceed with the hearing and adjudication in the absence of such party.

Postponement
of sale pending
hearing of ap-
plication

276. The court may order that the sale of the property seized be postponed pending the hearing of the summons or that the sale proceed but that the property claimed be excluded from the sale. If any such order be made, the usher shall give notice thereof and of the date to which the sale has been postponed, in the same manner as notice of a sale in execution must be given under this Code.

Provided that the court shall not make any such order unless the claimant deposit with the Registrar a sum of money sufficient to cover the costs of such notice.

Opposition by
creditors

277. The creditors of the party whose movable property has been seized in execution may only lodge an opposition against the proceeds of the sale of such property. The opposing creditor shall either hand to the usher a written statement of the grounds of his claim (*opposition*), or he shall make a verbal claim, which shall be recorded by the usher in writing. The usher shall thereupon notify the creditor at whose instance the movable property was seized of the opposition lodged.

No suit
to be brought
on, to set

278. No suit shall be brought by the opposing creditor in regard to his claim except against the party whose movable property has

been seized, and for the amount of his claim; and no suit shall be brought by other creditors against the opposing creditor in regard to their claims, but such other creditors may make their claims when the proceeds of the property sold are being distributed.

279. If an usher who is about to seize any movable property in execution finds that such property has already been seized and placed in charge of a custodian, the usher shall not effect a second seizure but he may check the list of articles seized, which list the custodian shall be bound to show him, with the articles found on the premises. The usher shall seize any articles which have not been included in the list and shall draw up a memorandum of verification (*procès verbal de recollement*) which shall contain a list only of the articles not included in the first seizure. Such memorandum of verification shall be served upon the party at whose instance the first seizure was made, and shall have the effect of an opposition to the proceeds of the sale.

Procedure when a prior seizure has been effected

Provisional Seizure and Attachment

280. At any time after a suit has been commenced, the plaintiff may apply to the court to seize provisionally any movable property in the possession of the defendant in the suit or to attach provisionally any money or movable property due to or belonging to the defendant in the suit, which is in the hands of any third person. The application shall be by petition supported by an affidavit of the facts, and shall be signed by the plaintiff or his attorney, if any, and shall state the title and number of the suit.

Application to seize or attach provisionally

281. If the court is satisfied that the plaintiff has a *bona fide* claim, the court shall direct a warrant to be issued to one of the ushers to seize provisionally such property, or shall make an order prohibiting the third person in whose hands such money or other movable property is from paying such money or delivering such property to any other person pending the further order of the court. The order shall be served on the third party by an usher of the court. The court, before any such warrant or order is issued, may require the applicant to find such security as the court may think fit.

When application may be granted

282. The usher making the provisional seizure shall place the property seized in the custody of a responsible person and the property shall not be sold until after judgment has been given in the suit.

Property seized must be sold until after judgment

Validation of
provisional
seizure

283. If the plaintiff obtain judgment in his favour, any property provisionally seized shall remain under seizure, unless the plaintiff otherwise request, until the seizure is validated. If no application be made within eight days after judgment has been delivered to validate such seizure, the property seized shall be released from seizure on motion made *ex parte* by the judgment debtor. If the provisional seizure be validated, the procedure thereafter shall be the same as in the case of movable property seized in execution after judgment.

Procedure to
validate
provisional at-
tachment

284. If the plaintiff obtain judgment in his favour, any money or other movable property attached in the hands of a third person shall remain under attachment, unless the plaintiff otherwise request, until the attachment is validated. Within eight days after judgment has been delivered, the judgment creditor shall apply to the court to validate the attachment and he shall within the same period issue a summons (a) to the judgment debtor to show cause why such money should not be paid to the judgment creditor or why such other movable property should not be seized and sold in execution of the judgment and (b) to the third party to appear in court and state what money or other movable property due to or belonging to the judgment debtor is in his hands and the court shall thereupon proceed in the manner laid down in section 249. If the judgment creditor fail to take any of the steps required by this section within the time specified, or if he fail without sufficient excuse to appear in support of his application, the money or other property attached shall be released from attachment on motion made to the court *ex parte* by the judgment debtor and notice of such release shall be given to the third party, at the cost of the judgment debtor unless the court direct otherwise.

Effect of
judgment
against the
plaintiff

285. If a plaintiff, who has seized or attached money or other property provisionally, have judgment given against him, the provisional seizure or attachment shall be removed forthwith and notice thereof shall be given to the third person in whose hands such money or property was attached provisionally, at the cost of the plaintiff.

What movable
property may
not be attached

286. The following movable property shall not be liable to attachment:

- (a) things which are declared by law not to be liable to seizure in execution;

- (b) alimony (*provisions alimentaires*) granted by the court;
- (c) sums of money and other things of which a person can dispose, whenever the testator in his will or the donor in the deed of gift has declared such sums of money and other things not to be liable to seizure;
- (d) sums of money or other things payable or due under a will or deed of gift for the maintenance of a person even if not expressly declared in such will or deed of gift to be exempt from seizure.

287.(1) Alimony granted to a party by the court may however be attached whenever the consideration for the debt is food supplied to the judgment debtor.

Exceptions to rule as to non-attachment

(2) The property mentioned in paragraphs (c) and (d) of section 286 may be attached by judgment creditors whose claims arose after the deed of gift had been executed or the legacy became payable:

Provided, however, that no attachment shall be valid if made without the leave of the court or in excess of the amount fixed by the court.

Attachment of Salaries and Pensions

288. In this Code the term "Government" shall include all departments borne upon the annual estimates of revenue and expenditure.

Definition of terms
1-8/3/1919

The term "insolvency" shall mean any judicial application for leave to make a *cessio bonorum*, or for a full discharge of all debts.

The term "insolvent" shall mean any person making such judicial application.

289. No opposition to the payment or *saisie arrêt* of any sum of money or of any goods due by way of salary or pension to any person in the employment of the Government or of any partnership, corporation, or person shall, except as hereinafter provided, be in any case made or permitted.

Opposition to salaries and pensions abolished

289.(1) In case of the bankruptcy or insolvency of any person so entitled to salary or pension, the court or a judge having jurisdiction in such bankruptcy or insolvency, may order that any portion not exceeding one-third of such salary or pension be applied until the

Salaries and pensions when attachable and to what extent

final discharge of such bankrupt or insolvent, or for any shorter period, to the payment of the debts of such bankrupt or insolvent.

(2) It shall also be lawful for the court in actions for the payment of an alimony to order that any portion not exceeding one-third of the salary or pension due to the judgment debtor be applied, for any period of time, to the payment of the alimony awarded.

Form and service of order.
Payment of sum attached
2/14/1963
S.I. 61/1988
S.I. 41/1991

291. Such order shall be directed to the Principal Secretary of the Ministry of Finance or to the employer as the case may be, and shall specify the name and position of the bankrupt, insolvent, or judgment debtor, the date of the bankruptcy, insolvency, or judgment awarding the alimony, the person to whom payment is to be made, the amount to be paid per month, and the period for which such payments are to continue. On such order being served by an usher upon the Principal Secretary of the Ministry of Finance, or the employer, it shall be their duty respectively to pay on demand, accompanied by tender of a receipt in writing, to the person appointed by the order to receive payment, on the first day of each month during the continuance of the order, the specified portion of all salary or pension accruing due to the bankrupt, insolvent, or judgment debtor after the date of such service.

Revocation and amendment of order
2/14/1963
S.I. 61/1988
S.I. 41/1991

292. Any such order may, at any time, be revoked or varied by the court or Judge aforesaid. Such amended order shall be *mutatis mutandis* in the form of an original order, and shall take effect from the date of its service by an usher upon the Principal Secretary of the Ministry of Finance, or the employer as the case may be.

Registrar to report judgments obtained against civil servants
S.I. 95/1975
S.I. 72/1976

293. It shall be the duty of the Registrar or clerk of the court in which any judgment for debt shall be given against any person in the employment of the Government to report the said judgment to the Minister responsible for Finance for the information of the President.

Effect of order of attachment

294. Any order of attachment given under the provisions of this Code shall have the force and effect of a judgment validating a sequestration or *seizure d'arrêt* saving the right which any party may have to obtain the removal of the said attachment before the competent court.

Summary Procedure on Bills of Exchange

295. All actions upon bills of exchange or promissory notes commenced within six months after the same shall have become due and payable may be by writ of summons in the special form contained in Schedule D, and indorsed as therein mentioned, and it shall be lawful for the plaintiff, on due proof of personal service of such writ within the jurisdiction of the court, or an order for leave to proceed, and a copy of the writ of summons and the indorsements thereon, in case the defendant shall not have obtained leave to appear and have not appeared to such writ according to the exigency thereof, at once to sign final judgment in the form contained in Schedule E, for any sum not exceeding the sum indorsed on the writ, together with the interest at the rate specified (if not exceeding the legal rate of interest) or if none be specified, the rate of interest allowed by law in such cases to the date of the judgement, and a sum for costs to be fixed by the court, unless the plaintiff claim more than such fixed sum, in which case the costs shall be taxed in the ordinary way, and the plaintiff may, upon such judgment, issue execution forthwith.

Special writ;
judgement
1-7/30/1855

296. The court shall, upon application within the period of twelve days from such service, give leave to appear to such writ, and to defend the action, on the defendant paying into court the sum indorsed on the writ, or upon affidavits satisfactory to the Judge, which disclose a legal or equitable defence, or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Judge may deem sufficient to support the application, and on such terms as to security or otherwise as to the Judge may seem fit.

Leave to appear

297. After judgment the court may, under special circumstances, set aside the judgment, and, if necessary, stay or set aside execution, and may give leave to appear to the writ, and to defend the action, if it shall appear reasonable to the court so to do, and on such terms as to the court may seem just.

Leave to appear after
judgement in
special circumstances

298. In any proceedings under this Code, it shall be competent to the Court or a Judge to order the bill or note sought to be proceeded upon, to be forthwith deposited with an officer of the court, and further to order that all proceedings shall be stayed until the plaintiff shall have given security for the costs thereof.

Deposit of
bills, security
for costs

Recovery of
expenses, etc.

299. The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in protesting the same, for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under this Code for the recovery of the amount of such bill or note.

Writ to all parties to bill

300. The holder of any bill of exchange or promissory note may, if he thinks fit, issue one writ of summons, according to this Code, against all or any number of the parties to such bill or note, and such writ of summons shall be the commencement of an action or actions against the parties therein named respectively, and all subsequent proceedings against respective parties shall be in like manner, so far as may be, as if separate writs of summons had been issued.

Application of
certain English
Acts.
15 & 16 Vict.
C. 76
17 & 18 Vict.
C. 125

301. The provisions of the Common Law Procedure Act, 1852, and the Common Law Procedure Act, 1854, and all rules made under or by virtue of either of the said Acts, shall, so far as the same are or may be made applicable, extend and apply to all proceedings to be had or taken under section 295 to 300.

Execution
3/15/1860

302. Judgments recovered under section 295 to 301 upon bills of exchange and promissory notes may be executed by arrest of the body in execution under the provisions of the Imprisonment for Debt Act and of this Code.

Cap. 96

Jurisdiction in Partnership Disputes

Supreme Court
to decide in
matters of
partnership
1-2/2/1868

303. The Supreme Court shall have like jurisdiction for hearing and determining as ordinary commercial actions, any matters in disputes between partners relative to the affairs of their partnership, as such court has concerning other matters now triable before it.

Grant of Injunctions and Orders of Sequestration

Court to have
power to issue
injunctions
peremptory *inter*
dictum
or after
judgment
1-9/12/1895

304. It shall be lawful for any plaintiff, after the commencement of his action and before or after judgment, to apply to court for a writ of injunction to issue to restrain the defendant in such action from the repetition or continuance of the wrongful act or breach of contract or injury of a like kind, arising out of the same contract or relating to the same property or right, and such writ may be granted or denied by the said court upon such terms as to the duration of the

writ, keeping an account, giving security, or otherwise, as shall seem reasonable and just.

305. Application under section 304 shall be made by way of motion in court upon due notice given to the defendant.

Application for injunction may be by motion with notice

306. Orders for writs of injunction issued under section 304 may be enforced by attachment in the same manner and to the same extent as similar writs issued by the Supreme Court of Mauritius.

Orders for writs of injunction may be enforced by attachment

307. It shall be lawful for the court upon the application of any interested party and applying the provisions of article 1961 of the Civil Code at any time after the entering of the action and before the final judgment of the court, or in the case of an appeal, before the final judgment of the appellate court, has been filed, to order the sequestration of any movable or immovable property, the ownership or possession of which is the subject of any suit or action or as to which any action in cancellation, rescission or resolution of sale has been entered.

Right of the court to make sequestration orders as to property in dispute
8/10/1968

The sequestration shall be under such conditions as the court in its discretion may determine.

308. The procedure to arrive at such sequestration shall be that provided in sections 123, 124 and 125 of the Immovable Property (Judicial Sales) Act, with the exception that applications shall be made to the Judge, and be returnable before the court, and that publication in the official Gazette shall be sufficient publication of such application and of the return-day.

Procedure to arrive at sequestration
Cap. 94

309. The expenses of the sequestration shall be provided in the first instance by the party applying for the same, and the court may before ordering such sequestration require security to be furnished for the due payment of such expenses.

Expenses of the sequestration, by whom to be paid
Security may be required

310. The sequestrator shall be bound to deposit in the registry of the court a copy of the accounts of his administration at the time which may have been specified in the sequestration order, or at any other time which the court may order.

Accounts of sequestrator to be deposited in the Registry

Power to Appoint Commissioner to Examine Accounts

Power of
Court to ap-
point Commis-
sioners to
examine ac-
counts
1-11/14/1915

311. In any suit or cause in which an account has to be rendered or in which an examination or adjustment of accounts is necessary, the court may at any stage of the proceedings issue a commission to some fit person, chosen by the parties or in default of agreement by the court, directing him to make an examination or adjustment of such accounts, within such time as may be fixed by the court:

Provided that the court may appoint more than one person as commissioner.

Court to give
commissioner
necessary in-
structions

312. The court shall furnish the commissioner with such part of the proceedings and such detailed instructions as may appear necessary and the instructions shall specify whether the commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the points referred for his examination.

Expenses to be
deposited in
the registry

313. Before issuing any commission under this Code, the court may order such sum as it thinks reasonable for the expenses of the commission to be deposited in the registry, by either party, within such time as may appear necessary.

Court to direct
parties to ap-
pear before
commissioner

314. Whenever a commission is issued under this Code, the court shall direct the parties to the suit to appear before the commissioner in person or by their agents, counsel or attorneys. The commissioner shall fix a time and place for proceeding with the inquiry and any adjournment thereof and shall inform the parties. If at the time and place appointed by the commissioner one of the parties fails to appear, the commissioner may proceed *ex parte*; if neither party appears the commissioner shall refer the matter back to the court and the court may thereupon either dismiss the case or make such order as shall appear just under the circumstances.

Powers of com-
missioner

315.(1) The commissioner may unless otherwise directed in the order of appointment --

- (a) examine the parties and their witnesses, if any, on oath concerning the account and any other person whom the commissioner thinks proper to call upon to give evidence in the matter;

- (b) call for and examine documents and other things relevant to the subject of the inquiry.

(2) The commissioner may hear verbal evidence in all cases in which verbal evidence is admissible under the Civil Code. The court, when issuing the commission, shall, on the application of either party, decide whether verbal evidence is admissible and shall direct the commissioner accordingly.

(3) The commissioner shall have the same powers as the court in regard to the administering of the oath to parties and witnesses and any person who commits perjury before such commissioner during the course of an inquiry under this Code shall be liable to be prosecuted before the Supreme Court, and to the punishment provided by section 104 of the Penal Code and the proceedings before the commissioner shall be deemed to be a judicial proceeding before a competent court.

Cap. 158

(4) Any party desiring to summon a witness before the commissioner may apply to the Registrar of the Supreme Court and the Registrar shall thereupon issue a summons in accordance with the ordinary procedure of the Supreme Court as to the summoning of witnesses and any witness failing to appear before the commissioner after having been duly summoned shall be liable to be dealt with by the court in the same way as if he had been summoned to appear before the court. Witnesses shall be entitled to receive remuneration in accordance with the scale in force for the time being for the payment of witnesses in the Supreme Court and their attendance shall be testified by the commissioner initialling their summonses.

316. Within the time fixed in the order of appointment or within such further time as may appear necessary to the court, the commissioner shall file in court the proceedings held by him, and his report if any.

Proceedings to
be filed in court

317. Within seven days from the date of the filing of the proceedings and report the parties may file their objections, and the court after hearing argument thereon on either side may either accept the report or direct that further evidence be heard in court on any point in dispute or refer the matter back to the commissioner for further inquiry and report.

Proceedings in
court after in-
quiry

Penalties for obstructing commissioner

318. Whoever insults, obstructs or otherwise interferes with the commissioner while acting in the discharge of his duties shall be liable to prosecution and on conviction to a fine not exceeding eight hundred rupees.

Receipts produced in support of items in cases of reddition of accounts to be exempt from registration

319. Receipts of suppliers of goods, workmen, hotel keepers and others of the like nature, produced in support of the items of an account before the commission or before the court, in case of reddition of account, shall be exempt from registration.

Parties entitled to travelling expenses

320. In all cases in which an account has to be rendered, other than commercial cases, the party rendering the account shall be entitled to his travelling expenses if any, fair remuneration for the preparation of the account, and the cost of filing the account.

General Provisions

Periods of time — how to be interpreted
295 — 303
34/1919

321. Whenever any period of time is fixed by the court or by any law for any appearance to be made or any act to be done, the day on which the order is made by the court and the day on which the period specified in such order of the court or by such law expires, shall not, unless otherwise stipulated, be reckoned in computing the period of time fixed by the court or by such law.

Valuation by experts, attendance

322. Whenever any person has been summoned or given notice to be present at a valuation to be made by experts (under the French Code of Civil Procedure) and such valuation is not completed at the first meeting of the experts, but is adjourned to a later date, it shall not be necessary to summon or give notice to such person to be present at the adjourned meeting of the experts.

When Judge may make orders at his own house

323. In cases of emergency, it shall be lawful for a Judge to make at his own residence any order upon any application or petition which could lawfully be made by him at chambers.

Place of sittings of the court
6/5/1959

324. The court shall ordinarily sit in the town of Victoria at the building now used by the Supreme Court or in any other building which may be provided by the Government for the use of the court, but the Judge may, if he considers it expedient or convenient in the interests of justice, hold sittings of the court in the Districts of Pras-

lin and South Mahé. Such sittings shall be held in the Court House of the Justice of the Peace in the District in which the court is to be held. Notice of intention to hold any such sitting of the court shall be given by publication in the *Gazette* and by posting a notice in a conspicuous place outside the Court House in which the court is to be held not less than seven clear days prior to the date on which the court is to be held.

325. The Chief Justice may, with the approval of the Minister, make rules for more effectually carrying out the provisions of this Code, and may amend or cancel rules made in virtue of the powers conferred by this section.

Rules of Court
S.I. 72/1976

326. The laws, enactments, Ordinance, rules and orders, and the Arrêtés mentioned in the first column of Schedule B are hereby repealed to the extent specified in the second column thereof.

Repeals

327. Articles of the French Code of Civil Procedure repealed by any law which is repealed by this Code shall remain repealed.

French Code
of Civil
Procedure

328. The forms set forth in Schedule C, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned and where no form for any proceeding is given, they shall be looked upon as models and followed so far as possible, according to the requirements of the case.

Forms

REGISTER OF CIVIL AND COMMERCIAL SUITS

Month of

19

No. of Suit	Date of		Plaintiff's Name	Defendant's Name	Nature of Claim	Nature of Judgement	Reference
	Plead	Judgement					

CHAMBERS APPLICATION BOOK

Month of

19

No. of Application	Date of Application	Applicant's Name	Nature of application	Decision

SCHEDULE B

LAWS, ENACTMENTS, ETC., REPEALED

French Code of Civil Procedure.	Articles 1 to 47 inclusive. Articles 59 to 72 inclusive. Articles 75 to 123 inclusive. Articles 138 to 172 inclusive. Articles 188 to 192 inclusive. Articles 295 to 301 inclusive. Articles 324 to 351 inclusive. Articles 363 to 442 inclusive. Articles 474 to 625 inclusive. Articles 826 to 831 inclusive. Articles 857 to 864 inclusive. Articles 1029 to 1042 inclusive.
Mauritius Ordinance No. 34 of 1852.	All that has not yet been repealed except Section 34 and Section 61
Rules and Orders for regulating the practice of District Courts of Mauritius in Civil matters and Forms of Proceedings therein, proclaimed by Proclamation of 27th March, 1890.	All that has not yet been repealed except Rule 53 to 58 inclusive and Rules 96 and 98.
Mauritius Ordinance No. 22 of 1853.	Sections 3, 4, 5, 7, 10, 11, 12, 13.
Mauritius Ordinance No. 16 of 1869.	Section 6.
Mauritius Ordinance No. 15 of 1871.	The Whole.
Mauritius Ordinance No. 8 of 1872.	The Whole.
Mauritius Ordinance No. 17 of 1876.	In Section 1 the words "or in any of the cases provided for by Articles 10 and 11 of Ordinance No. 34 of 1852."
Mauritius Ordinance No. 37 of 1881.	The Whole.
Arrêté 20 July, 1898. (Decree No. 177).	Article 2 to 6 inclusive. Article 8 to 33 inclusive. Article 36 to 44 inclusive. Article 46 to 54 inclusive.
Arrêté 7th December, 1898. (Decree No. 142).	The Whole.

SCHEDULE C

Section 328

FORM I

Plaintiff's Note Entering Plaintiff

In the Supreme Court.

No. of plaintiff.

Plaintiff.

versus

Defendant.

Rs. Cts.

Fees paid

The above cause was entered on the day of and will be tried in the
said Court on the day of 19 , at
of the clock in the forenoon.

Registrar of the Court.

Memorandum:

1. If you obtain a judgment against the defendant, all moneys are ordered to be paid into Court, and must not be received by you.
2. Bring this note when you come into Court, or the office, for any purpose connected with the cause.
3. Money will be paid out of Court only on production of this note, and upon your or your agent's personal attendance.

FORM 2

Summons to appear to a Plaintiff

In the Supreme Court.

Plaintiff.

Against

Defendant.

WHEREAS a plaint numbered has been filed in the Registry of the Supreme Court on the day of against you the above-named Defendant.

You are hereby summoned to appear at a sitting of the supreme Court to be holden at o'clock in the forenoon of the day of

in the Year One thousand nine hundred and to answer the said plaint.

Registrar of the Supreme Court.

A copy of the above-mentioned summons and plaint has been duly served by me the undersigned Usher at of the clock on the day of

in the Year One thousand nine hundred and by delivering the same to the said

Usher in and for the Supreme Court.

FORM 3

Notice to be given by the Attorney for the Plaintiff to the defendant out of the jurisdiction in lieu of summons

In the Supreme Court.

In Re:

A. B. of Victoria, Mahé.

Plaintiff

Versus

C.D. of

Defendant.

Take notice that the said Plaintiff A. B. electing his legal domicile in the office of the undersigned Attorney has by leave of His Lordship— a Judge of seychelles dated the day of 19 commenced an action against you C.D. in the Supreme Court of Seychelles and has filed a plaint with summons in the Registry of the said Supreme Court (copy of which is hereto annexed) and that the said Plaintiff has further obtained leave to give this notice thereof to you the said C.D. in lieu of serving the said plaint with summons upon you, out of the Jurisdiction to wit at

And further take notice that in accordance with the said order you are to appear to answer the said plaint in the said Supreme Court within

months after service of this notice upon you.

Dated at Victoria, Mahe, Seychelles, this day of 19

Of Street, Victoria.

Attorney for A.B. the Plaintiff.

To

C.D. the Defendant of

FORM 4

Judge's order granting leave to file a plaint with summons against a defendant out of the jurisdiction and to give notice thereof in lieu of serving the same out of the jurisdiction

In the Supreme Court .Civil Side No.

A.B. of Mahé Plaintiff

In Re:

Versus

C.D. of Defendant.

Upon reading the foregoing application and affidavit Leave is hereby granted to the Plaintiff A.B. of to commence an action in the Supreme Court against the Defendant C.D. by filing his plaint with summons in the registry of the said Supreme Court and to give notice of the same to the said Defendant out of the jurisdiction to wit at

I further order the defendant to appear to answer the said plaint in the Supreme Court within months after service of this order upon him.

Chambers, Court House, Victoria, Mahé, Seychelles this day of 19.

Judge.

FORM 5

Summons to a Defendant out of the jurisdiction to answer to a Plaint

In the Supreme Court.

Civil Side No.

Plaintiff

Against

Defendant.

WHEREAS a Plaint numbered has, by leave of His Lordship a Judge of the Supreme Court of Seychelles, dated the day of has been filed against you the above named Defendant, and leave to give the summons issued and served upon you, the said Defendant out

of the jurisdiction, to wit at
has further been obtained.

You are hereby summoned to appear to answer the said plaint in the Supreme Court within months after the said service.

Registrar of the supreme Court.

A copy of the above mentioned summons, judge's order, and plaint has been duly served by me, etc.

FORM 6

Summons to Witness

In the Supreme Court.

Civil Side No.

A.B.

Plaintiff.

Between and

C.D.

Defendant.

To

You are hereby required to attend at the Supreme Court aforesaid on the day of , one thousand nine hundred and at the hour of in the forenoon, to give evidence in the above-mentioned cause on behalf of the above-named (Plaintiff or Defendant) and to bring with you and produce at the hearing of the above suit the following documents, viz.:--

In default of your attendance you will be liable to a penalty not exceeding One Hundred Rupees.

Given under the seal of the Court, this day of one thousand nine hundred and

Registrar of the Supreme Court.

FORM 7

Order for costs to Defendant where Plaintiff does not appear

In the Supreme Court.
(L.S.)

Civil Side No.

A.B.

Plaintiff

Between

and

C.D.

Defendant.

WHEREAS the Plaintiff in this cause has not now appeared either by himself or his attorney, at a Court holden on the day of being the day appointed for the trial thereof, to prosecute the same against the Defendant, and the Defendant has appeared in person (or by his attorney) and it was awarded that the Plaintiff pay the sum of by way of costs and satisfaction for the trouble and attendance of the Defendant in that behalf, and it is ordered that the Plaintiff do pay the same to the Registrar of the Court, at his Office on the day of

Given under the seal of the Court, this day of 19

By the Court:

Registrar of the Supreme Court

FORM 8

Judgment against Defendant for payment of debt or damages

In the Supreme Court.

Civil Side No.

A.B.

Plaintiff.

(L.S.)

Between

and

C.D.

Defendant.

Upon hearing this cause at a Court holden at on the day of it is adjudged that the do stand against the the sum of

for his debt (or damages by him sustained) and Rs.
amounting together to the sum of Rs.

for costs of suit,

By the Court:

Registrar of the Supreme Court.

FORM 9

Bond to be subscribed by every Clerk or Usher and his security

In the Supreme Court.

Seychelles. Know all men by these presents, that (Clerk or Usher's name, as well as names of the securities) are held and firmly bound to the Republic, in the sum of good and lawful money to be well and truly paid to the Republic, for which payment well and truly to be made, we do hereby bind ourselves jointly and severally, our heirs, executors and administrators and every of them firmly by these presents, dated this day of

in the Year of Our Lord One thousand nine hundred and :

WHEREAS the above bounden (Clerk or Usher's name) has been duly appointed to be a (Clerk or Usher) of the Supreme Court. Now the conditions of the above obligation are such that if the said (Clerk or Usher) do and shall well and truly perform and execute the duties and functions of the said office and trust, and further, if the above bounden (Clerk or Usher's name) do not and shall not during the time he shall continue to be such (Clerk or Usher) as aforesaid, commit any act contrary to the aforesaid duties and functions and shall truly and faithfully execute all warrants, writs or orders with which he may be entrusted, and make and render true and just accounts of all money, goods and merchandise which may come to his hands as such (Clerk or Usher) as aforesaid and furthermore, if the above bounden (Clerk or Usher's name) do and shall in the event of his resigning the office of (Clerk or Usher) return and deliver when required, to the Registrar of the Supreme Court the commission, appointment, or authority, instructions, and directions, which he now has received, or may hereafter receive and shall faithfully and honestly demean and conduct himself in the said office or charge, then the above obligation to be void, otherwise in full force and virtue.

Signed and delivered in the presence of

(Signature).

(Signature of Witness).

FORM 10

Summons to show cause why the new trial of a cause should not be ordered

In the Supreme Court.

Civil Side No.

A.B.

Plaintiff

Between

and

C.D.

Defendant.

Take notice that on day of the said Defendant has applied for a new trial of the said cause, upon the following grounds (state the grounds):

And further take notice, that in pursuance of an order of the said Court, dated the day of you are hereby summoned to show cause at a sitting of the said Court, to be holden at on the

day of 19 at o'clock in the forenoon, why the said new trial should not take place.

Given under the seal of the Court this day of 19 .

Registrar of the Supreme Court.

FORM II

Summons after unsatisfied judgment

In the Supreme Court.

Civil Side No.

A.B.

Plaintiff.

Between

and

C.D.

Defendant.

WHEREAS at a Court holden at the court House, Victoria, Mahé, Seychelles on the day of in the Year One thousand nine hundred and

The above named Plaintiff obtained a judgment against you for the payment of Rupees and Cents plus the sum of Rupees and Cents for costs, which said judgment remains still unsatisfied.

You are therefore hereby summoned to appear at a sitting of the Supreme Court to be holden at o'clock in the forenoon.

the day of in the Year One thousand nine hundred and
to be then and there examined by the Judge of the said Court touching
your means of satisfying the said judgment.

And take notice that if you do not appear in obedience to this summons, you may
by order of this Court be committed to the common gaol of Victoria, Mahé,
Seychelles.

Given under the seal of the Court, this day of
in the Year One Thousand nine hundred and

Registrar of the Supreme Court

FORM 12

Opposition in the hands of a third party

In the Supreme Court.

Civil Side No.

Between A.B.

Plaintiff

and

C.D.

Defendant.

and

E.F.

Garnishee

WHEREAS an application dated the day of in the year one
thousand nine hundred and has been made to

Judge of the Supreme Court of Seychelles, by

These are to allow the said to attach in your hands all sums of money
and other property whatever you now owe or may owe on whatever account to
the above-named Defendant, especially the sum of Rupees

the object of the present attachment being to secure payment of the
sum of Rupees due to the said Plaintiff under the above application, and
all costs that may be incurred by the said Defendant.

Issued by order of the Court and Judge this day of

in the year one thousand nine hundred and

Registrar of the Supreme Court.

The aforesaid Garnishee, residing at

Usher's Return

In pursuance of the above-mentioned Order, I, the undersigned Usher, duly repaired to the aforesaid residence of the said Garnishee, where being, I delivered to a copy of this attachment, duly certified by me on the day of in the Year one thousand nine hundred and

Usher in and for the Supreme Court.

(N.B. - If the Garnishee makes any special declaration, it is to be added here by the Usher.)

FORM 13

Summons to Garnishee

In the Supreme Court

Civil Side No.

Between A.B.

Plaintiff

and

C.D.

Defendant.

and

E.F.

Garnishee.

WHEREAS by an order of the above Court, dated the day of one thousand nine hundred and the above-named Plaintiff has attached in the hands of you the above-named Garnishee, all sums of money and other property whatever which you may owe to the above named Defendant;

Take notice that you are hereby summoned to appear before the said Court on the day of one thousand nine hundred and at the hour of in the forenoon to show cause why you should not be ordered to pay over to the above-named Plaintiff, out of any sums of money due by you to the above-named Defendant the sum of Rupees and Cents being the amount in principal and costs due by the said Defendant to the said Plaintiff by virtue of a

judgment of the Supreme Court given on the day of one thousand
nine hundred and plus the costs of present action.

Dated this day of one thousand nine hundred and

By the Court:

To Registrar of the Supreme Court.
Garnishee.

FORM 14

Summons to Defendant

In the Supreme Court.

Civil Side No.

Between A.B.

Plaintiff.

and

C.D.

Defendant

and

E.F.

Garnishee.

WHEREAS by an order of the above Court, dated the day of
one thousand nine hundred and the above-named Plaintiff has at-
tached in the hands of the above-named Garnishee all sums of money and other
property whatsoever which the latter may owe to you the above-named Defendant.

Take notice that you are hereby summoned to appear before the said Court on
the day of one thousand nine hundred and at
the hour of in the forenoon to show cause why the said Garnishee
should not be ordered to pay over to the said Plaintiff out of any sum of money due
by him, the said Garnishee, to you, the said Defendant, the sum of Rupees
and cents being the amount in principal and costs due by you to the said
Plaintiff as awarded by a judgment of the Supreme Court given on the day
of one thousand nine hundred and plus the costs of present
action.

Dated this day of one thousand nine hundred and

Registrar of the Supreme Court.

To

Defendant.

FORM 15

Summons to Plaintiff on Interpleader

In the Supreme Court.

Civil Side No.

Between A.B.

Claimant.

and

C.D.

Judgment Creditor

and

E.F.

Judgment Debtor.

WHEREAS of hath made a claim to goods and chattels (or money, etc., or for certain rent due, etc.) which have been seized and taken in execution under and by virtue of process issuing out of this Court in this action, you are, therefore, hereby summoned and required to be and appear before the said Court on at the hour of in the forenoon when the said claim will be adjudicated upon, and such order made thereupon, as to the Court shall seem fit.

Given under the seal of the Court this day of in the year 19

Registrar of the Supreme Court.

FORM 16

Interpleader Summons to Defendant

In the Supreme Court

Civil Side No.

Between A.B.

Plaintiff.

and

C.D.

Defendant.

You are hereby summoned to appear at a sitting of the Supreme Court to be holden at on the day of 19 at the hour of in the forenoon, touching a claim made by plaintiff to certain goods and chattels (or to the proceeds of the sale of certain goods and chattels, or for certain rent due on, etc.) ~~seized and~~ taken against you in execution under process issued out of the Court.

Given under the seal of the Court this day of 19

By Order of the Court:

Registrar of the Supreme Court.

FORM 17

Notice of Motion

In the Supreme Court.

Civil Side No.

Between A.B.

Plaintiff

and

C.D.

Defendant.

Take notice that this Honourable Court will be moved on the
day of or as soon thereafter as Counsel can be heard, for a
(Here state the subject matter of the intended motion.)

Dated this day of 19

Plaintiff's Attorney.

FORM 18

Notice of Payment into Court

In the Supreme Court.

Civil Side No.

I do hereby give you notice that the above-named has paid into Court the
sum of in full satisfaction of your demand in this action together with the
costs incurred by you therein.

Dated this day of 19

Registrar of the Supreme Court.

FORM 19

Affidavit of Pauper

In the Supreme Court.

Civil Side No.

EX PARTE

I,

A.

of

Make Oath and say that I am not worth three hundred Rupees in the world, save my wearing apparel and the matter in question mentioned in the Petition hereunto annexed.

Taken and sworn at the Registry of the Supreme Court on the
day of 19

Before me

Registrar of the Supreme Court.

Form 20

4/1/1958.

Minute of Family Council

In the Supreme Court.

Be it remembered that on the day of in the Year of Our Lord
One thousand nine hundred and

And before me President of Family Councils.

On the application of the of the minors

The relatives and friends of the said minor have assembled under my presidency
for the purposes as hereunder set forth.

Composition of the Family Council

On the Paternal Side.

1.

2.

3.

On the Maternal Side.

- 1.
- 2.
- 3.

All of them being of age.

And after the said members having been sworn by me to give each and every of them conscientiously his opinion on the matter now submitted, and after having considered the said matter with me declare that

President of Family Councils.

FORM 21

Recognisance by Party Appealing

In the Supreme Court.

Civil Side No.

Between A.B.

Plaintiff

and

C.D.

Defendant.

Be it remembered, that on this day of in the year one thousand nine hundred and of and hereby acknowledge to owe to the Republic the sum of Rupees for which payment well and truly to be made the said and jointly and severally bind themselves, their heirs and administrators, by these presents.

The condition of the above recognisance is such that if the said shall appear and prosecute the appeal lodged by him against a judgment given by the Judge on the day of in the year nineteen hundred and and and prosecute his said appeal to its conclusions, before the Court of Appeal within

after notice of appeal was given by him the said appellant to the Judge and pay such costs as the said Court may award on such appeal then and in such case, this recognisance to be null and void, otherwise to remain in full force and effect.

Taken and acknowledged by the said

}

at my Chambers, the day and year first }

before written, before me: } Registrar of the Supreme Court

FORM 22

Provisional Seizure Warrant

In the Supreme Court.

Civil Side No.

Between A.B.

Plaintiff

and

C.D

Defendant.

To Usher in and for the Supreme Court and to all members of the Police Force.

WHEREAS on this day the of in the year one thousand nine hundred and , on the application of of , supported by an affidavit, it was ordered by His Lordship , Judge of the Supreme Court, that a provisional seizure be forthwith made upon the goods and chattels of the said of in order to secure payment of the sum of being the amount due to the plaintiff by the said defendant for as specified in the said application.

These are therefore to command you the said Usher, to seize all the goods and chattels of the said wherever they may be found, and then place under safe custody until otherwise disposed of according to law. And you are also hereby directed to certify to me what you shall have done by virtue of this warrant.

Given under my hand and the seal of the Supreme Court, this day of in the year of Our Lord One thousand nine hundred and

Registrar of the Supreme Court.

FORM 23

Warrant to Levy

In the Supreme Court.

Civil Side No.

Between A.B.

Plaintiff

and

C.D.

Defendant.

To
Police Force.

Usher in and for the Supreme Court and to all members of the

WHEREAS on the day of in the year one thousand nine
hundred and in the Supreme Court it was awarded by His Lordship
Judge, that of
 should pay to the sum of Rupees

and Cents together with the costs of the suit, on pain, in default there-
of, of a levy being made on the goods and chattels of the said

AND WHEREAS the said has not yet paid the aforesaid sum of
Rupees nor the said costs of suit to the said These are therefore to
command you to levy the said sum of Rupees
and Cents and further Rupees being the amount of the
aforesaid costs of suit, by distress and sale of the goods and chattels of the said

And it is hereby ordered and directed that the goods and chattels so to be dis-
trained shall be sold and disposed of within one month after such distress unless the
said sum of Rupees and Cents plus the aforesaid costs of suit, for
which such distress shall be made together with the reasonable charges of taking
and keeping such distress, be sooner paid. And you are also hereby commanded to
certify unto me what you shall have done by virtue of this Warrant.

Given under my hand at the Supreme Court this day of

in the year of our Lord one thousand nine hundred and

____ Registrar of the Supreme Court

Awards Rs.

Costs Rs.

Return to the above Warrant

In execution of the present warrant, I certify
Levy Rs. that I have this day seized the household furniture,
goods, chattels and effects of the within-named
and have made and signed the
inventory of the same hereunto annexed.

FORM 24

Warrant to apprehend witnesses refusing to obey summons

In the Supreme Court.

Civil Side No.

To Commissioner of Police, and to all other members of the Police
Force.

WHEREAS on the day of I
Chief Justice/Judge, did issue to of
my summons requiring him to attend personally before me at the hour of
on at the Supreme Court, then and there to give evidence touching a
certain complaint depending before me on behalf of
against and whereas the said summons has been duly served on the said
and yet the said hath failed to appear at the time and place so appointed,
now you are hereby authorised and required to arrest the person of the said
and him to bring before me at the hour of on at the
Supreme Court.

Given under my hand and seal at aforesaid this day of in the
year

Judge.

FORM 25

Writ of Execution against Real Property

In the Supreme Court.

Civil Side No.

Between A.B.

Plaintiff

and

C.D.

Defendant.

To Usher in and for the Supreme Court.

WHEREAS, on the day of one thousand nine hundred and the aforesaid Plaintiff obtained a judgment in this Court against the aforesaid Defendant for the sum of Rupees and Cents for principal and Rupees and Cents for costs, amounting together to the sum of Rupees and cents and it was thereupon ordered by the Court that the said Defendant should pay the said sum and whereas in default of payment according to the said order, a warrant of execution was issued on the day of one thousand nine hundred and against the goods and chattels of the said Defendant and the distress thereunto made has proved insufficient.

These are therefore to require and order you to make and levy by seizure and sale of the real estate of the said Defendant in whatever District it may be situated the sum of Rupees and Cents being the amount still due to the aforesaid Plaintiff under the said judgment and also the sum of Rupees and Cents being the costs of execution.

Given under the seal of the Supreme Court, this day of one thousand nine hundred and

Registrar of the Supreme Court.

FORM 26

Writ Habere Facias Possessionem

In the Supreme Court.

Civil Side No.

To A.B

One of the Ushers of the Supreme Court.

WHEREAS on the day of 19 at a sale by licitation before the Judge of a plot of ground to the extent of situate at Mahé at the place called , bounded the said sale prosecuted between and the said Judge awarded the said plot of ground to on the date aforesaid, and

WHEREAS prevents the said from taking possession of the said land;

Therefore I command you that after the expiration of days to reckon from the instant, you cause the said to have possession of the above described plot of ground, and in what manner you shall have executed this Writ make it appear to me immediately after the execution thereof.

And I further command you to make and levy by distress and sale of such property of the said as may be levied upon by the existing law of Seychelles wheresoever the same may be found within the jurisdiction of this Court the sum of for costs and also the cost of this execution.

Dated this day of 19

Registrar of the Supreme Court.

FORM 27

Writ of Injunction

In the Supreme Court.

Civil Side No.

To

A.B.

of the Supreme Court.

WHEREAS on the day of an order was made by His Lordship Judge of the Supreme Court that a writ of Injunction should issue to restrain you the said

from continuing (to cut wood and take timber or any other injunction applied for) in a certain forest being in land belonging to

situate at the place called in the District of

(the said land being that possession and ownership of which is claimed by

as per Statement of Claim served upon you on the) until the first motion day or any other day fixed by the Judge to hear the matter.

I therefore hereby enjoin and command you the said from henceforth altogether and absolutely to abstain from cutting wood, etc.,

until the said Court shall make order to the contrary.

Dated this day of 19

Registrar of the Supreme Court.

FORM 28

Warrent for Giving Possession of Tenement

In the Supreme Court.

Civil Side No.

Between A.B.

Plaintiff

and

C.D.

Defendant.

WHEREAS a Court duly held on the day of at has, on the day of 19 ordered that the above

quit and deliver up possession of
sum of Rupees

These are therefore to require and command you to give possession of the said to the plaintiff forthwith.

plus the sum of Rupees being the costs of this warrant and execution, or such part and so much thereof as may be sufficient for the satisfying of this execution.

in the year of Our Lord one thousand nine hundred and

Registrar of the Supreme Court.

Section 295

We warn you that unless within twelve days after the service of this writ on you, inclusive of the day of such service, you obtain leave from a Judge of the Supreme Court to appear, and do, within that time, appear in the Supreme Court _____ in an action at the suit of A.B., the said A.B. may proceed to judgment and execution.

Witness, etc.

MEMBERSHIP: 1000 SUBSCRIBED: 60000

1100-1105, 1107-1108, 1110-1111, 1113-1114, 1116-1117, 1119-1120, 1122-1123, 1125-1126, 1128-1129, 1131-1132, 1134-1135, 1137-1138, 1140-1141, 1143-1144, 1146-1147, 1149-1150, 1152-1153, 1155-1156, 1158-1159, 1161-1162, 1164-1165, 1167-1168, 1170-1171, 1173-1174, 1176-1177, 1179-1180, 1182-1183, 1185-1186, 1188-1189, 1191-1192, 1194-1195, 1197-1198, 1199-1200, 1202-1203, 1205-1206, 1208-1209, 1211-1212, 1214-1215, 1217-1218, 1220-1221, 1223-1224, 1226-1227, 1229-1230, 1232-1233, 1235-1236, 1238-1239, 1241-1242, 1244-1245, 1247-1248, 1250-1251, 1253-1254, 1256-1257, 1259-1260, 1262-1263, 1265-1266, 1268-1269, 1271-1272, 1274-1275, 1277-1278, 1280-1281, 1283-1284, 1286-1287, 1289-1290, 1292-1293, 1295-1296, 1298-1299, 1301-1302, 1304-1305, 1307-1308, 1310-1311, 1313-1314, 1316-1317, 1319-1320, 1322-1323, 1325-1326, 1328-1329, 1331-1332, 1334-1335, 1337-1338, 1340-1341, 1343-1344, 1346-1347, 1349-1350, 1352-1353, 1355-1356, 1358-1359, 1361-1362, 1364-1365, 1367-1368, 1370-1371, 1373-1374, 1376-1377, 1379-1380, 1382-1383, 1385-1386, 1388-1389, 1391-1392, 1394-1395, 1397-1398, 1399-1400, 1402-1403, 1405-1406, 1408-1409, 1411-1412, 1414-1415, 1417-1418, 1420-1421, 1423-1424, 1426-1427, 1429-1430, 1432-1433, 1435-1436, 1438-1439, 1441-1442, 1444-1445, 1447-1448, 1450-1451, 1453-1454, 1456-1457, 1459-1460, 1462-1463, 1465-1466, 1468-1469, 1471-1472, 1474-1475, 1477-1478, 1480-1481, 1483-1484, 1486-1487, 1489-1490, 1492-1493, 1495-1496, 1498-1499, 1501-1502, 1504-1505, 1507-1508, 1510-1511, 1513-1514, 1516-1517, 1519-1520, 1522-1523, 1525-1526, 1528-1529, 1531-1532, 1534-1535, 1537-1538, 1540-1541, 1543-1544, 1546-1547, 1549-1550, 1552-1553, 1555-1556, 1558-1559, 1561-1562, 1564-1565, 1567-1568, 1570-1571, 1573-1574, 1576-1577, 1579-1580, 1582-1583, 1585-1586, 1588-1589, 1591-1592, 1594-1595, 1597-1598, 1599-1600, 1602-1603, 1605-1606, 1608-1609, 1611-1612, 1614-1615, 1617-1618, 1620-1621, 1623-1624, 1626-1627, 1629-1630, 1632-1633, 1635-1636, 1638-1639, 1641-1642, 1644-1645, 1647-1648, 1650-1651, 1653-1654, 1656-1657, 1659-1660, 1662-1663, 1665-1666, 1668-1669, 1671-1672, 1674-1675, 1677-1678, 1680-1681, 1683-1684, 1686-1687, 1689-1690, 1692-1693, 1695-1696, 1698-1699, 1701-1702, 1704-1705, 1707-1708, 1710-1711, 1713-1714, 1716-1717, 1719-1720, 1722-1723, 1725-1726, 1728-1729, 1731-1732, 1734-1735, 1737-1738, 1740-1741, 1743-1744, 1746-1747, 1749-1750, 1752-1753, 1755-1756, 1758-1759, 1761-1762, 1764-1765, 1767-1768, 1770-1771, 1773-1774, 1776-1777, 1779-1780, 1782-1783, 1785-1786, 1788-1789, 1791-1792, 1794-1795, 1797-1798, 1799-1800, 1802-1803, 1805-1806, 1808-1809, 1811-1812, 1814-1815, 1817-1818, 1820-1821, 1823-1824, 1826-1827, 1829-1830, 1832-1833, 1835-1836, 1838-1839, 1841-1842, 1844-1845, 1847-1848, 1850-1851, 1853-1854, 1856-1857, 1859-1860, 1862-1863, 1865-1866, 1868-1869, 1871-1872, 1874-1875, 1877-1878, 1880-1881, 1883-1884, 1886-1887, 1889-1890, 1892-1893, 1895-1896, 1898-1899, 1901-1902, 1904-1905, 1907-1908, 1910-1911, 1913-1914, 1916-1917, 1919-1920, 1922-1923, 1925-1926, 1928-1929, 1931-1932, 1934-1935, 1937-1938, 1940-1941, 1943-1944, 1946-1947, 1949-1950, 1952-1953, 1955-1956, 1958-1959, 1961-1962, 1964-1965, 1967-1968, 1970-1971, 1973-1974, 1976-1977, 1979-1980, 1982-1983, 1985-1986, 1988-1989, 1991-1992, 1994-1995, 1997-1998, 1999-2000, 2002-2003, 2005-2006, 2008-2009, 2011-2012, 2014-2015, 2017-2018, 2020-2021, 2023-2024, 2026-2027, 2029-2030, 2032-2033, 2035-2036, 2038-2039, 2041-2042, 2044-2045, 2047-2048, 2050-2051, 2053-2054, 2056-2057, 2059-2060, 2062-2063, 2065-2066, 2068-2069, 2071-2072, 2074-2075, 2077-2078, 2080-2081, 2083-2084, 2086-2087, 2089-2090, 2092-2093, 2095-2096, 2098-2099, 2101-2102, 2104-2105, 2107-2108, 2110-2111, 2113-2114, 2116-2117, 2119-2120, 2122-2123, 2125-2126, 2128-2129, 2131-2132, 2134-2135, 2137-2138, 2140-2141, 2143-2144, 2146-2147, 2149-2150, 2152-2153, 2155-2156, 2158-2159, 2161-2162, 2164-2165, 2167-2168, 2170-2171, 2173-2174, 2176-2177, 2179-2180, 2182-2183, 2185-2186, 2188-2189, 2191-2192, 2194-2195, 2197-2198, 2199-2200, 2202-2203, 2205-2206, 2208-2209, 2211-2212, 22

INDORSEMENT TO BE MADE ON THE WRIT BEFORE SERVICE THERE-
OF:

This writ was issued by E.F., of _____ Attorney for the plaintiff, or this writ is issued in person, by A.B., who resides at (mention the town, street, and number of the house of the plaintiff's residence).

INDORSEMENT

The Plaintiff claims (_____ Rupees, principal and interest, or _____ Rupees, balance of principal and interest) due to him as the payee (or indorsee) of a bill of exchange or promissory note, of which the following is a copy:- (here copy bill of exchange or promissory note, and all indorsements upon it.)

And if the amount thereof be paid to the plaintiff or his Attorney within days from the service hereof, further proceedings will be stayed.

NOTICE

Take notice that if the defendant do not obtain leave from a Judge of the Supreme Court within twelve days after having been served with this writ, inclusive of the day of such service, to appear thereto, and do not within such time cause an appearance to be entered for him in the Court out of which this writ issues, the plaintiff will be at liberty, at any time after the expiration of such twelve days, to sign final judgment for any sum not exceeding the sum above claimed and the sum of

Rupees for costs, and issue execution for the same.

Leave to appear may be obtained on application at the Judge's Chambers, Court House, Victoria, supported by affidavit, showing that there is a defence to the action on the merits, or that it is reasonable that the defendant should be allowed to appear in the action.

INDORSEMENT TO BE MADE ON THE WRIT AFTER SERVICE THEREOF

This Writ was served by X.Y. on L.M. (the defendant) on the day of _____
in the year 1 _____

By X.Y.

SCHEDULE E

Section 295

In the Supreme Court.

On the day of in the year 1 , (day of signing judgment)

Seychelles] A.B. in his own person (or by C.D. his Attorney) sued out to wit: } a writ against E.F., indorsed as follows:

[Here copy indorsement of plaintiff's claim]

And the said E.F. has not appeared:

Therefore it is considered that the said A.B. recover against the said E.F. Rupees, together with Rupees for costs.



LAWS OF SEYCHELLES

SEYCHELLES CODE OF CIVIL PROCEDURE

CHAPTER 213

(SUBSIDIARY LEGISLATION)

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THE CIVIL PROCEDURE

Sections 4 and 8

Supreme Court (Terms) Rules,
(15th June 1981)

S.I. 45 of 1981

1. These Rules may be cited as the Supreme Court (Terms) Rules.

Citation

2.(1) Notwithstanding section 4 of the Seychelles Code of Civil Procedure, there shall be 3 terms in each year for civil business in the Supreme Court —

Supreme Court
Terms

- (a) 10th January to 31st March;
- (b) 1st May to 31st July; and
- (c) 15th September to 10th December.

(2)(a) If the day for the start of a term falls on a *dies non* the term shall commence on the next following day which is not itself a *dies non*.

(b) If the day for the end of a term falls on a *dies non*, the terms shall end on the day next preceding which is not itself a *dies non*.

Section 212(2)

The Counsel and Attorneys Fees Regulations.

S.I. 13 of 1980

[21st January, 1980]

1. These regulations may be cited as the Counsel and Attorneys Fees Regulation.

Citation

2. The fees payable to counsel or an attorney assigned under 212 of the Seychelles Code of Civil Procedure shall be as follows:—

Scale of fees
Cap. 213

(a) when counsel or an attorney is assigned to study the brief and to report whether proceedings should be entered:

a fee of Rs.150;

(b) when counsel or an attorney is assigned to take care of the procedure only and does not appear as an advocate before the Court:

a fee of Rs.150;

- (c) when counsel or an attorney is assigned to take care of the procedure and appears also as an advocate before the Court:

a fee of Rs.300 and if the hearing lasts more than one day a fee of Rs.150 for every additional morning or part thereof, and a fee of Rs.100 for every additional afternoon or part thereof, on which the proceedings continue.
