**FINANCIAL CRIMES COMMISSION v BIMLA RAMLOLL & ANOR**

**2024 SCJ 326**

**THE SUPREME COURT OF MAURITIUS**

(Before the Financial Crimes Division)

**In the matter of:**

**Record No. SCR 125131**

**Financial Crimes Commission**

**Applicant**

**v**

1. **Bimla Ramloll**
2. **Mohit Ramloll**

**Defendants**

---

**JUDGMENT**

The applicant is moving this Court for a Criminal Confiscation Order pursuant to sections 77 and 79 of the Financial Crimes Commission Act 2023 [**FCCA**] against both defendants ordering them to pay to the State, within such time as it may determine, an amount equal to the value of the benefits derived by them.

The present action was commenced by the Financial Intelligence Unit under the repealed section 17 and 19(1) of the Asset Recovery Act 2011 prior to the coming into force of the FCCA. In virtue of section 168(5)(b) FCCA, an application for a Restraining Order, Confiscation Order, Restriction Order or Recovery Order made under the repealed Asset Recovery Act and pending on the commencement of the Act shall be deemed to be an application made under the FCCA for a Criminal Attachment Order, Criminal Confiscation Order, Civil Attachment Order or Civil Confiscation Order, respectively, and shall be dealt with in accordance with the FCCA.

In an annex (Annex A) to the affidavit in support, the applicant has made the averments below:

1. Following a referral by the Supervision Department of the Bank of Mauritius, an enquiry was started into allegations of money lending and deposit taking by Sunkai Company Limited [**Sunkai**] without licence either from the Bank of Mauritius or the Financial Services Commission.

2. Sunkai is owned and controlled by the two defendants but was effectively managed by defendant No. 1.

3. Following searches made by the police a sum of Rs 22,463,750 in cash, a number of cheques and office cheques for various sums of money as well a number of documents were secured which revealed that Sunkai had received investments from September 2012 to March 2013 in the amount of Rs 690,668,800.

4. Sunkai had set up a scheme which was akin to a Ponzi or Pyramid Scheme

5. In 2016, both defendants were prosecuted before the Intermediate Court for the offence of swindling, under count 1 and money laundering under count 2. Defendant No. 1 was found guilty under both counts and defendant No. 2 was found guilty under count 2 only. Both have been sentenced to imprisonment.

6. The enquiry by the Asset Recovery Investigation Division has revealed that the defendants have purchased a condominium in Trianon and a portion of land at Sodnac; and Sunkai three apartments, two vehicles and a pleasure craft.

7. From March 2013 to January 2014, five restraining orders have been applied for and obtained in respect of apartments, motor vehicles, monies, cheques, portion of land and pleasure craft.

8. The defendants have acquired property and assets from proceeds of crime.

9. The present application has been made within 6 months from the date both defendants have been convicted. It is a conviction-based asset recovery.

10. It is therefore asserted that the defendants have benefitted from the offences of which they have been found guilty and the value of the benefits have been assessed as follows:

    (a). In respect of defendant No. 1, the sum of Rs 690,668,800 less the amount to be repaid to investors in the sum of Rs 82,383,149.95 leaving the balance of Rs 608,285,650.05 together with the increase in value of the portion of land at Sodnac from Rs 2,625,000 to Rs 3,360,000 amounting to Rs 735,000 and this in the light of a valuation

report as the value of the benefit. So that the total amount of benefit would amount to Rs 609,020,650.05.

(b). In respect of defendant No. 2, the sum of Rs 735,000 in relation to the portion of land at Sodnac as valued above.

After having initially resisted the application, both defendants have, on 26 February 2024, through their attorney, indicated that they now have no objection to the present application. They have not filed any counter affidavit. Although section 78 (1)(b) FCCA provides that every person who has been served may appear and adduce evidence at the hearing of the application, they have both deemed it opportune not to adduce any evidence at the hearing of this present application.

The applicant has attached to the application a statement setting out an assessment of the value of the benefit obtained by the defendants and since the defendants have not deemed it fit to respond to each averment in it or to state which averment they do not accept, there is simply no evidence that they do not accept any of the averment in the applicant's affidavit.

In assessing the value of the benefit, this Court takes into account the evidence adduced by the applicant in the statement which has been attached to the present application, assessing the monetary value of the benefit which each defendant has derived. The statement, setting out the assessment of the monetary value of the benefit obtained by the defendants, has considered the value of property that was derived, directly or indirectly, by the defendants as well as the increase in the total value of property in Sodnac in which the defendants have an interest in the period beginning immediately before the commission of the offence and ending at some time after the commission of the offence, that is within the period between September 2012 and March 2013.

Section 80 (6) provides that the defendants' failure to respond may be treated by the court as an acceptance of every averment in the statement other than an averment regarding whether he complied with the requirement and an averment that he has benefited from the offence or that he obtained any property or advantage as a result of or in connection with the commission of the offence. Section 80 (5) FCCA also provides that the Court may, for the purpose of determining whether there was a benefit and the value of the benefit, treat any acceptance by the defendant of the averments set out in the statement referred to in section 77(1)(b) as conclusive of the matters to which it relates.

In view of the fact that the defendants have not adduced any evidence, the evidence adduced by the applicant in its affidavit in support of the application and the attached statement stand unchallenged and unrebutted; and taking into account that the property and assets had been acquired by the defendants between September 2012 to March 2013 when Sunkai had received investments to the tune of Rs 690,668,800, I find it established that both defendants have benefitted from the commission of the offence of money laundering and defendant No. 1 has additionally benefitted from the commission of the offence of swindling.

In the light of the above and for the reasons given the applicant has also established that defendant No. 1 has benefitted from the monetary value in the sum of Rs 609,020,650.05 from the commission of the offences for which she has been convicted whereas defendant No. 2 has benefitted from the commission of the offence of money laundering in the value of Rs 735,000. Furthermore, since both defendants have not adduced any evidence, they have not persuaded this Court that the total value of their resources is less than the benefitted amount.

I therefore grant the application in terms of the Motion Paper and issue a Criminal Confiscation Order under Section 79 FCCA ordering:

1. Defendant No. 1 to pay to the State the sum of Rs 609,020,650.05 representing an amount equal to the value of her benefit within 6 months from the date of this present judgment; and
2. Defendant No. 2 to pay to the State, the sum of Rs 735,000 being an amount equal to the value of his benefit within 6 months from the date of this present judgment.

**P. M. T. K. Kam Sing**
**Judge**

**18 July 2024**

| | |
|---|---|
| **Applicant's Attorney:** | **N. Ramasawmy** |
| **Applicant's Counsel:** | **V. Nirsimulu, of Counsel** |
| | **H. Ponen, of Counsel** |
| **Defendants' Attorney:** | **A. Mahomed Khan** |
| **Defendants' Counsel:** | **S. Jaddoo** |