

PHILIPPA ANN COUMBIS  
versus  
RONALD JOHN COUMBIS

HIGH COURT OF ZIMBABWE  
MAWADZE J  
HARARE, 1 April 2019 & 3 April 2019

**Report to the Supreme Court after an inquiry**

*Adv T Mpfu*, for the appellant  
*Adv D Tivadar*, for the respondent

MAWADZE J: After many false starts this court was only able to comply with the Supreme Court's directive on 1 April 2019. The numerous correspondence which are now part of the record bear testimony as to how it was difficult to find a convenient date for this hearing and to comply with the directive which was to expeditiously and urgently hold the inquiry. I mention in passing that the Judge President was appraised at all material times of the challenges this court faced.

This inquiry is informed by the Supreme Court order dated 23 January 2018 which in material parts states as follows;

“In light of the allegations made by the appellant that the respondent has conducted himself in a manner calculated to defeat the judgment of the High Court, some of which are disputed by the respondent and after hearing both counsel.

IT IS ORDERED BY CONSENT THAT:

1. The allegation, that the respondent has defied the judgment of the High Court be and is hereby remitted to the High Court.
2. ....
3. ....

4. MAWADZE J shall expeditiously determine the allegations made against the respondent and, for this purpose, may hear *viva voce* evidence and have regard to any documentary evidence as may be necessary, such determination to be concluded before the end of the current term.
5. Thereafter the Registrar of the High Court shall, forward, without further delay the record of proceedings together with the findings of fact made by MAWADZE J to the Registrar of this Court .....
6. ....
7. ....”

During the inquiry *Advocate Tivadar* took issue with *Advocate Mpofu*'s approach alleging that some of the issues *Advocate Mpofu* probed were well outside the ambit of the order of the Supreme Court, and are irrelevant. I however do not share that view.

Before the commencement of the inquiry both counsel agreed that I should inquire into the issues listed in the appellant's "trial minute" filed by *Advocate Mpofu*. I adopted that approach as I was also not privy to the specific issues which the parties had raised before the Supreme Court.

The "trial minute" captures the issues as follows:

"NOW THEREFORE, the following questions are placed before the court for it to make findings on and place a report before the Supreme Court.

1. Whether Julian Coumbis is currently resident in the republic and if he is not, when he left the republic and whether plaintiff has been able to exercise access to him in terms of the judgment of the High Court or was under the circumstances prevailing be able to exercise any such access.
2. Whether the defendant has been involved in the dissipation of the assets of the parties being assets to which plaintiff lays a claim and in respect of which an order of the Supreme Court may be made.
3. What financial encumbrances are currently placed on the assets of the parties.
4. Whether an amount of US\$2 823 007 was transferred by the defendant from Stir Crazy to Incavat.
5. Whether the defendant has paid his maintenance obligation in respect of the plaintiff and if he has not done so, the amount owing.
6. What assets of the parties remain and in respect of which on *officacious* award may be made by the Supreme Court."

In this inquiry I shall simply limit myself to findings of fact and would not be concerned about what award the Supreme Court may or may not make because that is food to be digested by the Supreme Court.

During the inquiry only the appellant (plaintiff) PHILIPPA ANN gave *viva voce* evidence. The respondent (defendant) RONALD JOHN COMBIS did not avail himself. I got the impression from the previous aborted hearings and the totality of the evidence that Ronald John Coumbis is not in Zimbabwe.

PHILIPPA ANN'S EVIDENCE (Philippa)

Philippa testified that she has not had any access to the perpetual minor child JULIAN RONALD COMBIS (Julian) since the granting of this court's order. As a result her access rights have been rendered nugatory. She said John was removed from Zimbabwe to South Africa well before this court's judgment handed down on 4 September 2014. She was not advised of this and she did not consent. She is not aware of the reasons thereof.

Philippa said as soon as Julian was removed from Zimbabwe to South Africa his telephone number was changed, Philippa was blocked from Julian's facebook and she does not have his email address. As to as to now Philippa does not know where Julian or respondent stay in South Africa and has no communication with the perpetual minor child. Due to her lack of means she is unable to mount any application in the South African Courts to cause Julian's return to Zimbabwe.

In relation to the former matrimonial home No. 6 Northword Rise, Mt Pleasant Harare awarded to the respondent Philippa said sometime in 2017 she read in a Government Gazette that this property was up for sale. As a result she proceeded to the said property. To her utter surprise she found the gate open, the house had been deserted and vandalised. All the movable property had been removed. It was virtually empty. In order to safeguard this property she has now moved into that house deserted by the respondent and all the children.

Philippa said all the movable property in that house awarded to her as *per* para 6 of the High Court order has been removed and taken to South Africa. She said she later learnt the said property was first moved to No 13 Bates Street in Milton Park and then to Belgravia house before being smuggled to South Africa without her consent.

In relation to the immovable property in South Africa Philipp said No 94. Matumi Sands and No 112 Matumi Sands have been sold by the respondent. Transfer of these two properties has already been effected. Philippa said she only managed to salvage No. 182 Shingara by making a court application in South Africa to stop its sale and a caveat has since been placed on that property.

According to Philippa the respondent has not removed any encumbrances on the properties in Zimbabwe which include No 6. Northwood Rise, Mt Pleasant, Harare and Belgravia house owned by Theright Investments (Pvt) Ltd.

After this court's order Philippa said she established that the respondent transferred about \$USD2,8 million from Star Crazy (Pvt) Ltd to Incavat Enterprises (Pvt) Ltd and that as at now Star Crazy (Pvt) Ltd should have been liquidated with no assets.

Lastly Philippa said the respondent has not paid her a single dime in maintenance granted to her by this court. To add salt to injury the Nissan Navara motor vehicle registration number ABD 6847 was seized by the vehicle Theft Squad who said the respondent had smuggled it into Zimbabwe. Even the awards of costs made to her by this court before the judgment of 04 September 2014 have not been paid by the respondent.

Philippa's evidence was virtually uncontroverted. The thrust of *Advocate Tivadar's* cross examination was to simply blame her for sunbathing instead of taking legal steps to protect her interests especially in relation to the dissipation of immovable assets which relate to para 12 of this court's order where an absolution from the instance had been granted.

As already said the respondent took a decision not to give viva voce evidence. As a result no meaningful change was made to Philippa's testimony most of which is conceded to. All she was blamed was her failure to take legal action to protect her interests after the High Court order pending the appeal in the Supreme Court.

In conclusion I observed that this matter has taken an emotional toll on Philippa as she constantly broke down while giving evidence. All the respondent did in closing submissions was to refer this court to his opposing affidavit filed with the Supreme Court. Be that as it may Philippa's evidence is not even controverted in any material way.

#### FINDINGS OF FACT MADE

1. (a) The perpetual minor child Julian Ronald Coumbis (born on 3 July 1994) was removed from Zimbabwe by the respondent and taken to South Africa in 2013 well before the judgment of the court on 4 September 2014.

- b) The respondent has not placed any credible evidence before this court for such conduct.
  - c) The said minor child remain in South Africa to date.
  - d) The appellant Philippa has not been able to exercise any access rights in respect of the said perpetual minor child as awarded to her in para 3 of this court's order
2. The two immovable properties in South Africa being No. 94 Matumi Sands and No. 112 Matumi Sands have been sold and transferred by the respondent.
- (b) The only available immovable property in South Africa is No. 182 Shingara for which appellant successfully had a caveat placed on it.
3. All the movable household goods at No. 6 Northwood Rise, Mt Pleasant, Harare awarded to the appellant Philippa in terms of para 6 of this court's order was removed from the said house by the respondent and taken to South Africa without the appellant's knowledge or consent. The respondent has not explained his conduct.
4. The motor vehicle, a Nissan Navara Registration Number ABD 6847 awarded to the appellant Philippa in terms of para 7 of this court's order was taken by the Vehicle Theft Squad as it was deemed to be subject to criminal investigation for which the respondent is allegedly accountable.
5. The respondent has not done anything to remove the encumbrances on immovable properties either awarded to him or to the appellant as per this court's order.
6. The respondent has caused to be transferred about USD\$2.8 million from Stir Crazy (Pvt) Ltd to Incavat Enterprises (Pvt) Ltd after the order of this court.
7. The respondent has not complied with the maintenance order granted in favour of the appellant Phillipa in terms of para 5 of this court's order and has not paid a single cent.
8. Lastly the following assets are still available;
- (a) No. 6 Northwood Rise Mt Pleasant, Harare Zimbabwe but still encumbered.
  - (b) Belgravia house, Harare still encumbered.

- (c) No. 6 Rosefrias, Avondale, Harare Zimbabwe
- (d) No. 13 Bates Street, Milton Park, Harare still encumbered.
- (e) No. 182 Shingara in South Africa.

CONCLUSION

The above are the findings made by this court after the inquiry as was directed by the Supreme Court. Accordingly the Registrar of the High Court should immediately forward the proceedings and the findings to the Registrar of the Supreme Court.

*Atherstone and Cook*, appellant's legal practitioners.  
*Gill, Godlonton & Gerrans*, respondent's legal practitioners