

**ALRIDGE S.A. v LO SEEN CHEONG T.**

[Court of Civil Appeal]

2018 SCJ 269

**SUMMARY**

**Facts:** This is an appeal from an interlocutory judgment of a learned Judge overruling a preliminary objection raised by the appellant, then defendant, to the effect that the Supreme Court had no jurisdiction to entertain the plaint against him. The respondent, then plaintiff, sued the then defendant for defamation based on emails sent by the latter. However, the then defendant raised a plea in limine to the effect that inasmuch as the alleged defamatory communications took place outside Mauritius, the plaint should be dismissed with costs. After hearing both parties, the learned Judge overruled the plea in limine (1) on the basis that Mauritian Courts have jurisdiction to hear the action irrespective of the place from where the emails were sent, (2) on the assumption that the then defendant was residing in Mauritius, (3) in the light of Articles 2 and 59 of the Code de Procédure Civile on the basis of the then defendant's residence in Mauritius irrespective of the place from where the emails were sent (4) without hearing evidence on the matter of where the alleged tort was committed and (5) by stating that it could be gleaned from the plaint that the electronic mails were sent from Mauritius.

**Held:**

As regards the issue of residence and the relevant Articles from the Code de Procédure Civile, the Court held that in matters raising issues of conflict of laws or conflict of jurisdictions, our Courts are guided by French rules of private international law. French doctrine distinguishes between 'compétence générale' and 'compétence spéciale' and Articles 2 and 59 of the Code de Procédure Civile deal with the 'jurisdiction interne' of our Courts. They are only applicable to determine the Court in Mauritius in which "le défendeur sera assigné" where Mauritian Courts already have jurisdiction. They do not themselves confer jurisdiction on the Courts of Mauritius to hear a matter on the basis of the defendant's domicile or residence.

As regards the issue of jurisdiction, the Court held that French doctrine generally acknowledges that jurisdiction is to be determined on the basis of the *lex loci delicti commissi* (the law of the place where the tort was committed). The Court further stated that our Courts have, in view of the doctrine and case-law applicable made in France before the 1982 amendments, jurisdiction in tort cases where the 'acte dommageable' or "préjudice" takes place in Mauritius. The Court held that the learned Judge erred in over-ruling the preliminary objection on the basis of the then defendant's residence in Mauritius and Articles 2 and 59 of the Code de Procédure Civile. The Court further explained that the learned Judge erred when she ruled on the issue of jurisdiction without hearing evidence on the matter of where the alleged tort was committed, the more so that it was not averred in the plaint. It was incumbent on the learned Judge to determine on the basis of evidence and law where the alleged tort and defamation took place in the present case, as Mauritian Courts would only have jurisdiction to determine this plaint if the alleged '*fautes*' had been committed in Mauritius.

The Court of Civil Appeal allowed the appeal, quashed the decision of the learned Judge and remitted the matter to her to hear evidence as to where the alleged tort and defamation took place and to determine whether the Supreme Court has jurisdiction to hear the case.

**This summary is provided for information purposes only and to assist in understanding the Court's decision. It does not constitute legal advice. The full judgment of the Court is the only authoritative document.**

**Short Summary**

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In the present matter, the Court of Civil Appeal quashed the decision of the learned Judge overruling a plea in limine to the effect that the Supreme Court had no jurisdiction to hear the action as the alleged defamatory communications took place outside Mauritius. The Court of Civil Appeal held that our Courts have jurisdiction in tort cases where the ‘acte dommageable’ or “préjudice” takes place in Mauritius.