

1967

*Present* : Tambiah, J., and Alles, J.

R. P. CHALONONA, Appellant, and T. P. WEERASINGHE,  
Respondent

*S. C. 156/1966—D. C. Anuradhapura, 648/T*

*Appeal—Time limit for presenting petition of appeal—Sunday not a dies non—Holidays Act, No. 17 of 1965, s. 2 (a)—Civil Procedure Code, s. 754 (2)—Supreme Court Appeals (Special Provisions) Act, No. 4 of 1960.*

According to section 2 (a) of the Holidays Act, No. 17 of 1965 Sunday is no more a *dies non*. Sundays, therefore, cannot be excluded now when counting the number of days within which a petition of appeal should be presented in terms of section 754 (2) of the Civil Procedure Code.

Relief granted under Supreme Court Appeals (Special Provisions) Act, No. 4 of 1960 applies only to appeals filed within the prescribed time.

**A**PPEAL from a judgment of the District Court, Anuradhapura.

*Frederick W. Obeyesekere*, with *E. St. N. W. Tillekeratne*, for 1st respondent-appellant.

*C. R. Gunaratne*, for plaintiff-respondent.

September 8, 1967. TAMBIAH, J.—

In this case judgment was delivered on 21st January, 1966, and the Petition of Appeal was filed on 10th February, 1966. Counsel for the plaintiff-respondent takes up the preliminary objection that the appeal is out of time. Even applying the ruling stated in *Boyangoda v. Mendis*<sup>1</sup>, this appeal should have been filed on 9th February, 1966.

Mr. Obeyesekere for the appellant, however, submitted that in view of Section 754 (2), Sundays also should not be counted. But in view of the Holidays Act No. 17 of 1965, which came into operation on 1st January, 1965, Sunday is no more a *dies non*, vide section 2 (a) of the Holidays Act, No. 17 of 1965. Therefore the Petition of Appeal has been filed out of time.

The Supreme Court Appeals (Special Provisions) Act, No. 4 of 1960 cannot help the appellant in this case. Relief granted under that Act only applies to appeals filed within the prescribed time. For these reasons the appeal is rejected with costs.

ALLES, J.—I agree.

*Appeal rejected.*

<sup>1</sup> (1929) 30 N. L. R. 321.