

PERIYAN

v.

AMERASINGHE, CHAIRMAN, BOARD NO. 4, JANATHA ESTATES
DEVELOPMENT BOARD

COURT OF APPEAL.

DR. GUNAWARDENA, J.

C.A. APPLICATION NO. 1202/85

M.C. KEGALLE CASE NO. 58170.

OCTOBER 06TH, 1994.

Government Quarters (Recovery of Possession) Act No. 7 of 1969 – Section 2 – Implied application of the provisions of the Act – section 3 – Validity of the “quit notice”.

The petitioner was occupying estate quarters on the authority of a letter, which stated that the petitioner be permitted to occupy the said quarters, on humanitarian grounds. It was contended that the petitioner was a licensee and the common law applied.

Held:

- (1) that in terms of section 2 of the Government Quarters (Recovery of Possession) Act, it is implied that all those who occupy Government Quarters, are subject to the provisions of the said Act.
- (2) that the notice to quit given under section 3 of the said Act, is valid, as the law applicable, in this instance, is not the common law, but the provisions of the said Act.

APPLICATION for revision of Order of Magistrate of Kegalle.

S. Mahenthiran for petitioner.

Respondent absent and unrepresented.

October 06th, 1994.

DR. GUNAWARDENA, J.

This is an application to revise the order of the learned Magistrate dated October 4, 1985, wherein he was ordered that a Writ of Possession be issued to eject the petitioner from the estate quarters he is occupying in Pallegama Estate, Niyadurupola.

The learned Counsel for the petitioner submitted that, the notice to quit should have been issued according to common law, when the occupation was terminated, as the petitioner was occupying the premises as a licensee. It is seen from the document marked R1, the notice to quit given to petitioner, that he had been asked to vacate the said premises as he is not an employee. The learned Counsel for the petitioner further submitted that, the petitioner occupied the said premises in terms of the letter dated 19.8.83, (P3) where it is stated that the petitioner be permitted to occupy the said quarters, "on humanitarian grounds as he has no other place of occupation at present." He submitted that the said letter indicated that, the petitioner is occupying the premises as a licensee, and therefore his occupation should have been terminated in terms of the common law. The proceedings to eject the petitioner should have been taken under the common law. He submitted that, therefore the "quit notice", given under Section 3 of the Government Quarters (Recovery of Possession) Act, in this case, was bad in law.

It is not in dispute that the said quarters are government quarters. It is pertinent to note that section 2 of the said Act states as follows:-

"2. The provisions of this Act -

- (a) shall apply to all Government quarters; and
- (b) shall be deemed at all times to have been, and to be, an implied condition of the occupation by persons of such quarters."

The effect of the above provision is to make all those who occupy Government quarters to be subjected to the provisions of the said Act. Therefore, the argument of the learned Counsel for the petitioner that, the common law should apply, in this case, would fail. Hence the notice to quit given in this case is valid in law. In the circumstances this Court is of the view that, there is no reason to interfere with the said Order of the learned Magistrate, issuing a Writ of Possession. Accordingly this application is dismissed without costs.

Application dismissed.