1963 *Present* : T. S. Fernando, J.

A. H. A. SAMAD, Appellant, *and* P. M. ALICE NONA, Respondent

S. C. 34 of 1962—C. R. Kurunegala, 1258

Rent Restriction (Amendment) Act, No. 10 of 1961—Sections 6, 13 (1), 13 (2)—Rent in arrear for three months—Action in ejectment—Sufficiency of one month's notice of the termination of the tenancy—Interpretation Ordinance (Cap. 2), s. 5.

Under the Rent Restriction Act, No. 29 of 1948, as amended by the Rent Restriction (Amendment) Act, No. 10 of 1961, a landlord could, during the period of two years commencing on 20th July 1960, bring an action against a tenant defaulting in payment of rent only if such default extended to being in arrear for three months. Where rent has been in arrear for three months, there is nothing in the Act requiring a further three months' notice of termination of tenancy. There is only apparent and not real conflict between section 6 and section 13 (1) of the Amendment Act.

A landlord instituted action in ejectment against his tenant on 4th October 1961 on the ground that rent was in arrear for three months from 1st January 1961. One month's notice to quit had been given on 7th May 1961, and on 27th May 1961, the tenant tendered to the landlord the arrears of rent.

Held, that the landlord was entitled to judgment in his favour.

APPEAL from a judgment of the Court of Requests, Kurunegala.

C. Ranganathan, for the plaintiff-appellant.

G. T. Samerawickreme, for the defendant-respondent.

Cur. adv. vult.

June 14, 1963. T. S. FERNANDO, J.—

The defendant is the admitted tenant of the plaintiff, and the latter by notice D1 dated 7th May 1961 gave the former notice to quit the premises let on or before 1st July 1961 on the ground that the rent was in arrear from 1st January 1961. There is no dispute that the rent was in arrear for all three months as alleged in the notice.

The Rent Restriction Act, No. 29 of 1948, was amended by the Rent Restriction (Amendment) Act, No. 10 of 1961, which became law on 1st May 1961. Section 13 (1) of the Amendment Act provides that "notwithstanding anything in the principal Act, the landlord of any premises to which this Act applies shall be entitled to institute any action or proceedings for the ejectment of the tenant of such premises only on one or more of the following grounds :—

(*a*) that the rent of such premises has been in arrear for three months ;
(*b*) . . . ."

Sub-section (2) of section 13 of the Amendment Act enacts that " the provisions of sub-section (1) shall be deemed to have come into operation on the twentieth day of July 1960, and shall continue in force for a period of two years commencing from that date ". It would be correct, therefore, to say that section 13 (1) was in operation from 20th July 1960 to 19th July 1962. If so, unless some other provision of law was in the way of the plaintiff, he was entitled during the two-year period abovementioned to institute an action against his tenant on the ground of rent being in arrear for three months. The present action was instituted on 4th October 1961, i.e. within this two-year period. The learned Commissioner of Requests, in the view he took of another provision of the Amendment Act, viz. Section 6, felt himself obliged to dismiss the plaintiff's action on the ground that that section provides that the landlord shall not be entitled to institute an action for the ejectment of the tenant on the ground that rent has been in arrear for one month if the landlord has not given the tenant three months' notice of the termination of the tenancy, or if the tenant has, before such date of the termination of the tenancy as is specified in the landlord's notice of such termination, tendered to the landlord all arrears of rent. It must be mentioned that the defendant did by letter of 27th May 1961 tender to the plaintiff the arrears of rent.

Section 6 of the Amendment Act came into operation only on 1st May 1961 and the learned Commissioner held that section 13 (1) of the Amendment Act applies only to actions instituted prior to 1st May 1961, i.e. to actions instituted between 20th July 1960 and 30th April 1961. This action having been instituted after 1st May 1961, in the view the learned Commissioner took, section 6 required the plaintiff to give three months' notice of the termination of the tenancy.

It does appear to me, with respect, that there is only apparent and not real conflict between the two above-mentioned sections of the Amendment Act. To agree with the contention of the defendant in this case would involve the conclusion that section 13 (1) (*a*) of the Amendment Act was not in operation after 1st May 1961, or, in other words, that its operation has to be limited to the period commencing on 20th July 1960 and ending on 30th April 1961. Recognition must be given to the intention of Parliament that section 13 (1) was to be applied notwithstanding anything in the principal Act. The rule of interpretation is that every

amending Act shall be read as one with the principal Act to which it relates—*vide* section 5 of the Interpretation Ordinance (Cap. 2). Section 13 (1) of Act No. 10 of 1961 applies, in my opinion, notwithstanding anything in Act No. 29 of 1948 as amended by Act No. 10 of 1961. But assuming that it does not have application in that manner, and that the expression " principal Act " means Act No. 29 of 1948 as unamended, the expression " this Act " in the same section 13 (1) of Act No. 10 of 1961 must receive the interpretation that it means this Act read with the principal Act. Therefore, during the period of two years commencing on 20th July 1960, the period of the moratorium as counsel for the plaintiff described it, a landlord could bring an action against a tenant defaulting in payment of rent only if such default extended to being in arrear for three months. Where rent has been in arrear for three months, there is nothing in the Act requiring a further three months' notice of termination of tenancy.

The judgment appealed from is set aside and a direction made that judgment be entered for the plaintiff as prayed for in the plaint subject to any adjustment by the Commissioner of the damages payable taking account of money, if any, paid by the defendant to the plaintiff after the institution of this action.

The defendant is ordered to pay the plaintiff's costs in both courts.

Appeal allowed.