

1958 Present : H. N. G. Fernando, J., and Sinnestamby, J.

KANADARA KORALE CO-OPERATIVE AGRICULTURAL
PRODUCTION AND SALES SOCIETY LTD., and U. LEKAMGE
APPUHAMY, Respondent

S. C. 683—D. C. Anuradhapura, 4829

*Co-operative Society—Purchase of paddy from members—Dispute over non-payment
of purchase price—Jurisdiction of District Court—Co-operative Societies
Ordinance (Cap. 107), s. 45 (1).*

Where the purchase of paddy from its members is a part of the business of a
Co-operative Society, section 45 (1) of the Co-operative Societies Ordinance
ousts the jurisdiction of the ordinary Courts in regard to a dispute between a
member and the Society over non-payment of the price of paddy purchased.

APPPEAL from a judgment of the District Court, Anuradhapura.

Edmund J. Cooray, with *E. B. Vannitamby*, for the Defendant-
Appellant.

Siva Selliah, for the Plaintiff-Respondent.

Cur. adv. vult.

October 13, 1958. H. N. G. FERNANDO, J.—

Section 45 (1) of the Co-operative Societies Ordinance (Cap. 107) provides *inter alia* that any dispute touching the business of a Co-operative Society between the Society and any of its members shall be referred to the Registrar.

In the present case the plaintiff is admittedly a member of the defendant Society, and accordingly if the dispute was one concerning the Society's business the section would clearly apply. In that event the District Court would have had no jurisdiction to entertain the action: *Sannugam v. The Badulla Co-operative Stores Union, Ltd.*¹

The case for the plaintiff is that he sold 720 bushels of paddy at the rate of Rs. 12 per bushel to the defendant Society "which *inter alia* purchases paddy under the Guaranteed Price Scheme".

¹ (1952) 54 N. L. R. 16.

The actual delivery of the paddy was made however not to the Society itself but to the Government Price Scheme Store, and it is common ground that this was equivalent to delivery to the Society. *Prima facie*, therefore, the Society became liable to pay for the paddy at the rate of Rs. 12 per bushel, but payment was made only at the rate of Rs. 10 per bushel and the present action is for the recovery of the balance of Rs. 2 per bushel. The reason for this deduction from the sale price was stated in evidence by an officer of the Co-operative Department: it would appear that the Price Scheme is intended to apply only to paddy sold by *cultivators*, and that the Government makes a deduction of Rs. 2 per bushel from payments due to Societies in a case where the purchasing officer considers that a person has sold paddy not produced by himself. The witness added that he authorised the Society in its turn to pay the plaintiff at the reduced rate of Rs. 10 per bushel. The Society would obviously be the loser if it has to pay at a higher rate than it receives from the purchasing organisation.

All that counsel for the respondent can urge, and he urged it with some ability, is that since the Society would be willing to pay the plaintiff at the higher rate and is precluded from so doing only because of the attitude of the Government officials concerned, the dispute is not one connected with the business of the Society. But even if one were to suppose for the sake of argument that the officials have acted unjustly or even unlawfully, it is clear that the Society has failed, for good reason or bad, to make a payment alleged to be due from it. The purchase of paddy from members is a part of the business of the Society, and the making of payments for purchases or the failure to make such payments are equally acts or omissions in the course of the business. When, therefore, the Society wrote to the plaintiff declining to pay the balance claimed, a dispute arose between the two parties upon the question whether or not the plaintiff was entitled in law to receive the balance. Such a dispute is in my opinion clearly one to which the Section 45 (1) of the Ordinance applies, and the District Court accordingly had no jurisdiction to entertain the action.

The appeal is allowed and the plaintiff's action dismissed with costs in both Courts.

SINNETAMBY, J.—I agree.

Appeal allowed.