

1967

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

D. S. L. HEWAGE, Appellant, *and* Mrs. L. D. BANDARANAYAKE,
Respondent

S. C. 386/66—D. C. Kandy, 7233/L

Rent Restriction (Amendment) Act, No. 12 of 1966—Section 4 (1) (c)—Eviction of tenant in contravention thereof—Right of the tenant to be restored to possession.

The defendant-appellant, a tenant, was illegally ejected by the execution of writ in contravention of the provisions of section 4 (1) (c) of the Rent Restriction (Amendment) Act, No. 12 of 1966.

Held, that the appellant should be restored to possession of the premises let.

APPPEAL from an order of the District Court, Kandy.

T. B. Dissanayake, for the defendant-appellant.

No appearance for the plaintiff-respondent.

September 9, 1967. TAMBIAH, J.—

The Defendant-Appellant is a tenant of premises which is governed by the Rent Restriction (Amendment) Act No. 12 of 1966. This Act came into force on 10th May, 1966. The Plaintiff obtained decree for ejectment of defendant earlier and on 9th May, 1966, Proctor for the defendant filed a petition and affidavit and moved to stay execution of writ for a period of one year on certain conditions. This application was heard by the learned District Judge on the 13th of May, 1966, and was refused. Execution proceedings had not terminated on this date.

The Rent Restriction (Amendment) Act No. 12 of 1966 enacts that “proceedings shall not be taken for the enforcement of any judgment or decree in any such action as is referred to in paragraph (a) and where such proceedings have begun before the date of commencement of this Act, but have not been completed on the date of commencement of this Act, such proceedings shall not be continued.” (Vide Section 4 (1) (c) of Act 12 of 1966). It is clear that the proceedings of 9. 5. 66 in this case fall within the ambit of section 4 (1) (c) of the Rent Restriction (Amendment) Act No. 12 of 1966. Therefore the learned District Judge had no jurisdiction to refuse the application made by the defendant-appellant. Indeed, all proceedings thereafter are null and void. Unfortunately for the defendant he was ejected on 20.5.66.

Counsel for the appellant contends that the defendant should be restored to possession since he has been illegally evicted from these premises. In support of his contention he cites the case of 63 N. L. R. page 31. We agree with the contention of the appellant. We set aside the order of the learned District Judge and order that the defendant be placed in possession of the premises. There will be no costs of the appeal.

ALLES, J.—I agree.

Order set aside.

