

1964

Present : Sri Skanda Rajah, J.

A. R. M. DAHALAN, Appellant, *and* M. M. YOOSOOF, Respondent

S. C. 124/1962—C. R. Colombo, 82216

*Rent Restriction Act (Cap. 274)—Sections 8 and 23—Payment of key money—
Illegality—Set-off against arrears of rent not permissible.*

Payment of key money is illegal under sections 8 and 23 of the Rent Restriction Act. Such money cannot, therefore, be set off by the tenant against arrears of rent.

APPPEAL from a judgment of the Court of Requests, Colombo.

C. Ranganathan, with A. Sivagurunathan, for Plaintiff-Appellant.

No appearance for Defendant-Respondent.

February 6, 1964. SRI SKANDA RAJAH, J.—

The learned Commissioner of Requests has found that the tenant was in arrears of rent. He has also found that a sum of Rs. 3,000 was paid as key money in respect of this tenancy and, in effect, though the rent had not been paid, if the sum of Rs. 3,000 paid at the commencement of the tenancy is taken into consideration the rent was not in arrears. Payment of such key money may properly be termed as premium under Section 8 of the Rent Restriction Act (Chapter 274). Such a payment is an offence under Section 23 of this Ordinance. Such a payment is therefore illegal. On the authority of *Vitharne v. de Zylva*¹, the defendant is precluded from setting off this sum of Rs. 3,000 in respect of the payment of rent. Therefore I would allow the appeal with costs in both Courts.

Appeal allowed.

¹ (1954) 56 N. L. R. 57.