

1917.

Present : De Sampayo J.

WICKRAMASURIYA v. PERERA.

777—P. C. Kalutara, 3,523.

*Alteration of building with permission of Chairman, Local Board—
Passing of the Housing and Town Improvement Ordinance—Fresh
permission unnecessary.*

The accused obtained permission from the Chairman, Local Board, for alteration of a building, and carried on the building operations after the Ordinance came into force.

Held, that a fresh approval of the Chairman, under section 10 of the Ordinance, was not necessary.

THE facts are set out in the judgment.

Weeraratne, for accused, appellant:

Grenier, C.C., for plaintiff, respondent.

October 8, 1917. DE SAMPAYO J.—

This is a prosecution under section 13 (1) of the Housing and Town Improvement Ordinance, 1915, for making an alteration in a building without the written consent of the Chairman, in contravention of section 10 of the Ordinance. The accused obtained the requisite permission from the Chairman, under the Local Board Ordinance, in 1914, before the enactment of the Housing and Town Improvement Ordinance, and he has since carried on building operations. The alleged offence is the continuation of the building works after the latter Ordinance came into operation, the standpoint of the prosecution being that the accused required a fresh approval or consent from the Chairman under section 10 of this Ordinance. It is very questionable whether such continuation is an "alteration" of the building within the meaning of section 10 of the Ordinance, as the prosecution contends. Apart from that question, however, I may say that in P. C. Kalutara, No. 44,552, which was a prosecution or allowing a building to be occupied in contravention of section 15, and which was decided by me on September 26, 1917, I stated my reasons for holding that the whole chapter of this Ordinance, in which provisions relating to buildings are contained, was inapplicable to buildings sanctioned and commenced under the previously existing law. That decision applies to this case with equal force. I may also refer to *Hubbard v. Bromley District Council*.¹ This series of

reports is not available to me, but *Scholefields's Encyclopaedia of Local Government Law*, vol. II., p. 55, gives a note of the decision, to the effect that buildings in course of erection when by-laws came into force were not subject to the by-laws as regards works carried out on them after the by-laws came into operation.

In my opinion the charge cannot be sustained. The conviction is set aside.

Set aside.

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DE SAMPAVO
J.
*Wickrama-
suriya v.
Perera*