

1973

Present : Rajaratnam, J.

S. PEDURU, Appellant, and A. C. M. THAHIR, Respondent

S. C. 19/72—C. R. Colombo, 1472/R. E.

Rent Act, No. 7 of 1972—“ Excepted premises ” prior to the Act—Letting of only a room therein—Action in ejectment relating to such room—Inapplicability of s. 47 of the Act.

Where a person took, on a small rent, only a room in certain residential premises the annual value of which exceeded Rs. 2,000, such room does not come under the protection of section 47 of the Rent Act No. 7 of 1972 if an action in ejectment relating to it was instituted prior to the commencement of the Act and was pending on the date of commencement of the Act. In such a case, therefore, the proceedings cannot be deemed to have been at all times null and void.

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

A. Sivagurunathan, for the defendant-appellant.

Respondent absent and unrepresented.

Cur. adv. vult.

November 21, 1973. RAJARATNAM, J.--

Mr. Advocate Sivagurunathan who appeared for the defendant-appellant in this case submitted that under s. 47 of the Rent Restriction Act No. 7 of 1972 this appeal must be declared null and void and produced a document marked 'X' which was purported to be a certified copy of an extract of the assessment book in relation to this premises. The annual value in relation to the whole premises is above Rs. 2,000. In this case the defendant took on rent only a room in premises No. 43 on a monthly rental of Rs. 15. In view of the decision in the case of *Plate Limited v. Ceylon Theatres Limited*¹, 75 N. L. R. 123, the defendant could not have as an occupier of a part of the premises claimed the protection of the Rent Restriction Act. To come under s. 47, this action must be for ejection from residential premises exceeding the relevant amount i.e. Rs. 2,000. Premises as defined in the Act is a building or part of a building with the land appertaining to it.

Therefore the action must be for ejection from a residential building or part of a building etc. the annual value of which exceeds Rs. 2,000. It is not possible to say what was the annual value of the part which the defendant occupied as there was no separate assessment but it does not follow therefore that the annual value of the whole building etc. should attach to the room the defendant occupied and I hold that the defendant was not in occupation of a part of a building the annual value of which exceeds the relevant amount, i.e. Rs. 2,000. The room did not bear an annual value exceeding Rs. 2,000 nor did it come under the protection of the Rent Restriction Act.

I dismiss the appeal without costs.

Appeal dismissed.

¹ (1971) 75 N. L. R. 123.