

Present: De Sampayo J.

1916.

PUNCHA v. SETHUHAMY.

171—C. R. Kegalla, 12,472.

*Res judicata*—Action in Village Tribunal for declaration of title—  
Subsequent action in Court of Requests.

In an action for declaration of title to land in the Court of Requests the judgment of a Village Tribunal with respect to the same land cannot be pleaded as *res judicata* if the value of the land was above Rs. 20. The fact that the land was valued at Rs. 15 in the Village Tribunal case was considered not conclusive as to the value.

THE facts appear in the judgment.

*J. S. Jayewardene*, for plaintiff, appellant.—The Village Tribunal is not a Court of competent jurisdiction. The mere fact that the land was valued in the Village Tribunal case at Rs. 15 does not conclude the matter. The Commissioner was wrong in not recording evidence on the value of the land.

*Arulanandan*, for defendant, respondent.—The value of the land was not put in issue in the Village Tribunal case. It must be taken to have been admitted by the plaintiff that the value was Rs. 15. The plaintiff is trying to get behind the finding of the Village Tribunal. So long as the judgment of the Village Tribunal stands, jurisdiction ought to be presumed.

*Jayewardene*, in reply.—The technical rules of pleadings are not applicable to Village Tribunal cases. We ought to be given an opportunity of proving that the land was worth over Rs. 20.

June 20, 1916. DE SAMPAYO J.—

The plaintiff has brought this action for declaration of title to a land called Siyambatugahamullawatta, and for possession and damages. It appears there was a previous case involving title to the same land and between the same parties in the Village Tribunal, which held that the land belonged to the present defendant as trustee of Walpola Vihare, and gave judgment for the value of a jak tree cut down by the present plaintiff. The judgment in the Village Tribunal has been pleaded as *res judicata* in this action. The Commissioner has upheld the plea and dismissed the action.

It is essential for the plea of *res judicata* that the judgment pleaded should be one given by a Court of competent jurisdiction. The Village Tribunal has no jurisdiction to decide questions of title in respect of land above Rs. 20 in value. In the Village Tribunal case the land was valued in the plaint at Rs. 15. The land is 3 pelas

1916. in extent, and the plaintiff values it at Rs. 110. Neither value  
is, of course, to be accepted without evidence. In applying  
DE SAMPAYO the doctrine of *res judicata*, the Commissioner has not made any  
J. inquiry nor recorded any finding with regard to value, but has  
Puncha v. disposed of the action on being satisfied as to the identity of the  
Setuhamy land. The case should go back for the purpose of determining  
whether the land in respect of value was within the jurisdiction of  
the Village Tribunal.

The judgment accordingly is set aside, and the case sent back for  
further proceedings. The plaintiff will have the costs of this appeal.  
The other issue between the parties will be tried or not according  
to the Court's finding on the above question.

*Set aside.*

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