

1970

*Present : Siva Supramaniam, J.*

G. H. A. PERERA, Appellant, and Mrs. CHITRA DE VOS, Respondent

*S. C. 165/68—C. R. Panadura, 17742.*

*Rent Restriction—Urban Council area—Annual value of rent-controlled premises—Increase thereof to annual value of “excepted premises”—Effect—Local Authorities (Special Provisions) Act No. 4 of 1969, s. 3 (1) (2)—Rent Restriction Act (Cap. 274), Schedule, Regulation 2.*

The annual value of certain rented premises in an Urban Council area was raised in 1963 to Rs. 1,026 upon an objection to the previous assessment lodged by the landlord (the plaintiff). Subsequently the landlord sought a decree of ejection against the tenant (the defendant) on the basis that the premises were “excepted premises” within the meaning of Regulation 2 of the Schedule to the Rent Restriction Act, but his action was dismissed. During the pendency of the landlord's present appeal to the Supreme Court, section 3 of the Local Authorities (Special Provisions) Act No. 4 of 1969 was enacted with retrospective effect.

*Held*, that the Urban Council acted within its powers in increasing the annual value of the premises in 1963. The premises were “excepted premises” for the purpose of the Rent Restriction Act and the termination by the plaintiff of the defendant's tenancy was valid.

**A** PPEAL from a judgment of the Court of Requests, Panadura.

*H. E. P. Cooray*, for the plaintiff-appellant.

*N. E. Weerasooria*, Q.C. with *G. D. C. Weerasinghe*, for the defendant-respondent.

*Cur. adv. vult.*

March 12, 1970. SIVA SUPRAMANIAM, J.—

The plaintiff, a landlord, instituted this action to eject the defendant, his tenant, from the premises, the subject of the tenancy, on the ground that the tenancy had been determined by a valid notice to quit. He claimed that the premises were "excepted premises" under the Rent Restriction Act. It is conceded that if the premises are "excepted premises" the plaintiff is entitled to succeed.

The premises in question are situated within the limits of the Urban Council of Moratuwa. The defendant's original contract of tenancy was with the plaintiff's mother and from 1st November 1967 the defendant attorned tenancy to the plaintiff. The annual value of the premises had been increased by the Urban Council of Moratuwa from time to time after the commencement of the defendant's tenancy. Nevertheless, until the year 1963 the amount of the annual value was such that the premises continued to be governed by the provisions of the Rent Restriction Act. From 1963 the annual value was raised to Rs. 1,026 on an objection to the previous assessment lodged by the landlord.

In terms of the Regulation 2 contained in the Schedule to the Rent Restriction Act, residential premises in a town within the meaning of the Urban Council Ordinance, the annual value of which exceeds Rs. 1,000 falls within the category of "excepted premises". Moratuwa is a town within the meaning of the Urban Councils Ordinance and the premises in question consequently became "excepted premises" when the annual value was raised to Rs. 1,026 in 1963.

It was, however, contended by the defendant that the Urban Council had no legal right to increase the annual value in such a way as to take the premises which were rent controlled out of the operation of the Rent Restriction Act. The learned Commissioner, following the decision of the Privy Council in *Port of Spain Corporation v. Gordon Grant Co. Ltd.*<sup>1</sup>, held that it was illegal for the Urban Council to have increased the annual value so as to take away the premises in question from the operation of the Rent Act. He accordingly found that the premises were not "excepted premises" and dismissed the plaintiffs' action.

<sup>1</sup> (1955) A. O. 389.



Subsequent to the decision of the case in the lower Court, the law has been amended by the Local Authorities (Special Provisions) Act No. 4 of 1969. Section 3 (1) of that Act provides for the amendment of section 249 of the Urban Councils Ordinance by the addition of the following subsection:—

“In determining for the purposes of this Ordinance the annual value of any premises to which the Rent Restriction Act applies, and in assessing the annual rent of such premises for the purpose of such determination, an Urban Council shall not have regard to the provisions of that Act.”

Under s. 3 (2) the aforesaid amendment shall be deemed to have come into operation on 1st January 1949.

The Urban Council of Moratuwa, therefore, acted within its powers in increasing the annual value of the premises to Rs. 1,026 in 1963. The premises are “excepted premises” for the purpose of the Rent Restriction Act and the termination by the plaintiff of the defendant’s tenancy was valid.

I set aside the judgment and decree entered by the learned Commissioner and enter judgment for the plaintiff as prayed for with costs in both Courts.

*Appeal allowed.*

