

1968

*Present : Abeyesundere, J.*I. S. S. DEEN, Appellant, *and* M. A. HALIM, Respondent*S. C. 54/67—C. R. Kandy, 18326/RE**Rent Restriction (Amendment) Act, No. 12 of 1966—Scope of s. 4 of Rent Restriction Act, as amended by Act No. 12 of 1966, s. 12A.*

Section 4 of the Rent Restriction (Amendment) Act No. 12 of 1966 must be interpreted as not applying to an action instituted on any of the excepted grounds specified in section 12A of the Rent Restriction Act as amended by Act No. 12 of 1966. Accordingly, it is not applicable to an action seeking to eject a tenant on the ground of his being in arrears of rent for a period of more than three months.

APPEAL from an order of the Court of Requests, Kandy.

M. T. M. Sivardeen, for the plaintiff-appellant.

Nimal Senanayake, for the defendant-respondent.

March 2, 1968. ABEYESUNDERE, J.—

This action was instituted on 8th June 1964 for the recovery of arrears of rent due from the defendant to the plaintiff for a period of more than three months and for the ejectment of the defendant from the premises in suit. The parties agreed that the arrears of rent and damages up to end of October, 1964 were Rs. 174/48, and, with the consent of the parties, judgment was entered for the plaintiff ordering ejectment of the

defendant and granting the plaintiff damages in Rs. 174/48 up to October, 1964, and thereafter Rs. 20/28 per month. But the defendant was allowed to stay in the premises until 31st March, 1966. On 23rd March, 1966 an application was made on behalf of the defendant to extend the date of vacation of the premises by the defendant by another three months. With the consent of the parties the court ordered that writ of ejectment was not to issue till 15th June, 1966.

On 11th June, 1966, the proctor for the defendant, relying on the Rent Restriction (Amendment) Act, No. 12 of 1966, filed a motion praying that no further steps be taken in execution of writ. The proctor for the plaintiff agreed that the motion filed by the proctor for the defendant be inquired into. After inquiry the learned Commissioner of Requests by order dated 13.3.67 held that the plaintiff was precluded by the aforesaid Act from taking execution proceedings in the action.

The reasoning of the learned Commissioner is that, even if an action for the ejectment of a tenant is instituted on any of the grounds specified in Section 12A of the Rent Restriction Act as amended by Act No. 12 of 1966, Section 4 of the amending Act has the effect of declaring such action to be null and void. The said Section 4 provides that, if an action instituted on or after 20th July, 1962, and before 10th May, 1966 (which is the date of commencement of the amending Act), for the ejectment of a tenant from any premises to which the Rent Restriction Act applies, it shall, if such action is pending on 10th May, 1966, be deemed to have been null and void. The action of the plaintiff was instituted within the period specified in Section 4 of the amending Act and was pending on 10th May, 1966. It is correct that actions instituted on any of the grounds specified in Section 12A are not specifically saved by any provision in section 4 of the amending Act. But Section 4 of the amending Act must not be interpreted in such a way as to render ineffective section 12A which by virtue of the provisions of the said Section 4 is deemed to have come into operation on 20th July, 1962. If Section 4 is held to apply even to an action instituted on any of the grounds specified in Section 12A, it will have the effect of deeming that action to be null and void and the effect thereof will be that Section 12A is rendered ineffective. I am therefore of the view that Section 4 of the amending Act must be interpreted as not applying to an action instituted on any of the grounds specified in Section 12A.

For the aforesaid reasons I set aside the order of the learned Commissioner of Requests dated 13.3.67. The plaintiff-appellant is entitled to his costs of the appeal and also to his costs of the inquiry in the Court of Requests.

Order set aside.