

1965

*Present : Alles, J.*

THE SOLICITOR-GENERAL, Appellant, and THANGAMANI  
PITCHAI, Respondent

*S. C. 331/1965—M. C. Balangoda, 97419*

*Price Order for a particular area—Maximum price according to the price in Colombo  
“for the time being”—Interpretation of the words “for the time being”—  
Control of Prices Act, ss. 3 (2), 4, 8 (1) (6).*

Where a Price Order applicable to Ratnapura District fixed the maximum price of a commodity at a certain rate above the price which “for the time being” had been fixed by Price Order for the Colombo Municipality—

*Held*, that the Price Order of Ratnapura contemplated not only the Price Order of the Colombo Municipality which was in existence on the date when the Ratnapura Order came into operation but also any Price Order fixing the price of the commodity for the Colombo Municipality which was in force subsequent to that date.

**A**PPEAL from a judgment of the Magistrate’s Court, Balangoda.

*N. Tittawela*, Crown Counsel, for the Solicitor-General.

No appearance for the Accused-Respondent.

*Cur. adv. vult.*

October 15, 1965. ALLES, J.—

The accused in this case was charged in the Magistrate’s Court of Balangoda with the following offence :—

“That he did on the 6<sup>th</sup> day of November, 1963, at Thumbagoda, Balangoda, within the jurisdiction of the Magistrate’s Court of Balangoda being a place within the Balangoda Urban Council area of the Ratnapura District in which Food Price Order R/30/1962 made by the Deputy Food Controller of Prices (Food), Ratnapura District, under section 4 read with section 3 (2) of the Control of Prices Act,

No. 29 of 1950, and published in Ceylon Government Gazette Extraordinary No. 13,308 of 19.9.62 read with Food Price Order No. C. 378 made by the Controller of Prices (Food) under section 4 of the Control of Prices Act, No. 29 of 1950, and published in Ceylon Government Gazette Extraordinary No. 13,808 of 1.11.63 were in operation fixing the maximum retail price above which cummin seed shall not be sold in that area, sell to K. L. Jayaweera, Food and Price Control Inspector, 17, Barnes Place, Colombo 7,  $\frac{1}{4}$  lb. of cummin seed for 28 cents, a price in excess of the maximum controlled retail price of  $24\frac{1}{4}$  cents for the said  $\frac{1}{4}$  lb. of cummin seed and thereby committed an offence under section 8 (1) of the Control of Prices Act, No. 29 of 1950, punishable under section 8 (6) of the aforesaid Act as amended by section 2 (2) of the Control of Prices (Amendment) Act No. 44 of 1957."

No evidence was led at the trial and the Magistrate felt himself bound by his order in a connected case (M.C. Balangoda Case No. 97418) and acquitted the accused. In doing so, the Magistrate took the view that Price Order R/30/1962 published in Government Gazette Extraordinary No. 13,308 of 19.9.62 could not be read with Food Price Order No. C 378 published in Government Gazette Extraordinary No. 13,808 of 1.11.63 since the latter order was subsequent in time to the order of 19.9.62. He agreed with the submission of the defence that there was no valid Price Order in operation relating to cummin seed at the time of the alleged detection and therefore acquitted the accused.

From the order of acquittal the Solicitor-General has appealed, and Crown Counsel submitted on his behalf that the learned Magistrate had misdirected himself on the law and urged that the order of acquittal should be set aside and the accused re-tried according to law.

Food Price Order R/30/1962 published in the Government Gazette of 19.9.62 (hereinafter referred to as the Ratnapura Order) fixed with immediate effect the prices above which several commodities including cummin seed could not be sold within the Ratnapura District. The Deputy Controller of Prices (Food), Ratnapura District, fixed the prices for the Ratnapura District by relating the prices which for the time being had been fixed by Price Orders under the Control of Prices Act for the Colombo Municipality, increased by a certain amount which was referred to in the Schedule to the Order. There were several such Price Orders since 1962 and the Price Order in existence at the time of the detection of the offence was Price Order C. 378 of the Colombo Municipality (hereinafter referred to as the Colombo Order) published in Government Gazette of 1.11.63. This Order permitted an increase of -03 cents per pound over the Colombo Price.

The question that arises for determination in this appeal is whether the Colombo Price Order of 1.11.63 can be applied for the purpose of ascertaining the retail price of cummin seed per pound above which this commodity could not be sold within the Ratnapura District. Crown Counsel submits that this was the Order which for the time being had fixed the price of cummin seed for the Colombo Municipality and stresses the fact that at the time of the sale and the detection of the offence (6.11.63), the relevant Colombo Order which was in operation was the Order of 1.11.63 referred to in the charge. The words 'which for the time being had been fixed' in their ordinary and natural meaning can have reference only to the time which was in contemplation when the detection was made in contravention of the Ratnapura Order. As pointed out by Kindersley, Vice-Chancellor, in *Ellison v. Thomas* (1862) 1 Ch. 867 at 869 :—

“The words 'for the time being' are capable of different interpretations, according to the context : for example, they might be used with a context shewing clearly that they were intended to point to one single period of time ; and a case was put of a person intending to give a promissory note to a company, and giving it to the secretary 'for the time being' meaning clearly the person who appeared to be the secretary at the particular time when the note became payable. It might be, according to the context, that the same words would apply to a succession of periods. Take the common case of a petition for payment of dividends to the rector of a certain parish 'for the time being', which, of course, would point, not to a single period, but a succession of periods.”

In the context in which the words are used in the Ratnapura Order of 19.9.62, it contemplated not only the Price Orders of the Colombo Municipality which were in existence on the date when the Ratnapura Order came into operation but any Price Orders fixing the price of commodities for the Colombo Municipality which were in force subsequent to that date. The Magistrate has misdirected himself in relating the Ratnapura Order not to the time at which the sale in question and the detection was made but to the date on which the Ratnapura Order was published in the Gazette, on which date the Colombo Order was obviously not in operation.

I am therefore of the view that the appeal is entitled to succeed. I set aside the order of acquittal and direct that the accused be re-tried according to law.

*Acquittal set aside.*