

1948

Present : Gratiaen J.

DAVITH APPU, Appellant, and THE ATTORNEY-GENERAL,
Respondent.

S. C. 243—C. R. Colombo, 220.

Rent Restriction Ordinance—Action for ejectment brought by Crown—Right not limited by section 8, Ordinance No. 60 of 1942.

The right of the Crown to eject an overholding tenant of Crown property is not affected by the limitations placed on a landlord by section 8 of the Rent Restriction Ordinance.

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

H. W. Jayewardene, for the defendant, appellant.

V. Tennekoon, Crown Counsel, for the plaintiff, respondent.

Cur. adv. vult.

May 27, 1948. GRATIAEN J.—

The Attorney-General instituted this action against the appellant to have him ejected from certain premises of which he was a monthly tenant of the Crown. The case proceeded to trial on various issues, and the learned Commissioner of Requests entered judgment against the appellant as prayed for with costs.

The only ground on which it was sought to attack the judgment appealed from was that the learned Commissioner had rejected certain objections to the maintainability of the action for alleged non-compliance with the provisions of the Rent Restriction Ordinance, No. 60 of 1942.

Section 8 of the Rent Restriction Ordinance restricts to a considerable extent the common law right of a landlord to institute an action for the ejectment of his tenant. If, therefore, the Crown were bound by the

provisions of section 8 of the Ordinance, the present action must fail, because it has not been contended that the Crown has satisfied any of the conditions laid down by the section. In my opinion, however, the Crown's right to eject an overholding tenant of Crown property is not affected by the limitations placed on other landlords by section 8 of the Rent Restriction Ordinance. The doctrine of the English Law that no enactment shall in any way affect the right of the Crown unless it is therein expressly stated or unless it so appears by necessary implication is part of the Statute Law of Ceylon. (Section 3 of the Interpretation Ordinance, Chapter 2.) The underlying principle is that the Legislature is not presumed to have intended to deprive the Crown of any prerogative, right or property unless it expresses its intention to do so in explicit terms or unless the inference is irresistible. (Maxwell on the Interpretation of Statutes, 8th Edition, page 120.) It has been held that the Rent Restriction Acts of England do not bind the Crown. *Clark v. Downes*¹ and *Wirral v. Shaw*². Learned Counsel for the appellant submitted that there are essential differences in language between the local Ordinance and the English Acts, and that these decisions can be distinguished for this reason. I regret that I can find nothing in the local Ordinance from which one can be drawn irresistibly to the conclusion that the Crown was intended by the Legislature to be bound by the provisions of section 8. The appeal must be dismissed with costs.

Appeal dismissed.