

1948

Present : Nagalingam J.

JONES, Appellant, and SENARATNE, Respondent.

*S. C. 97—C. R. Colombo, 10,178.**Rent Restriction—Premises required by landlord—Purposes of employment—Meaning of word employment—Ordinance No. 60 of 1942—Section 8 (c).*

Plaintiff, the Superintendent of the Boys' Industrial Home, Wellawatta, belonging to the Methodist Church sued the defendant in ejectment on the ground that the premises were required as a residence for the Works Manager of the institution.

Held, that it could not be said that the premises were required for the purposes of the plaintiff's employment within the meaning of section 8 (c) of the Rent Restriction Ordinance.

A PPEAL from a judgment of the Commissioner of Requests, Colombo.

A. M. Charavanamuttu, for the defendant, appellant.

E. B. Wikramanayake, for the plaintiff, respondent.

Cur. adv. vult.

June 29, 1948. NAGALINGAM J.—

This appeal involves the construction of an oft interpreted provision of the Rent Restriction Ordinance against the background of a new setting presented by fresh circumstances. The facts which give rise to this piece of litigation are not in dispute. The plaintiff, who is the Superintendent of the Boys' Industrial Home and Orphanage, Wellawatta, sues the defendant in ejectment from certain premises of which the defendant has been and is a monthly tenant. The premises belong to

the Methodist Church and the title is vested in the trustees thereof. One of the predecessors in office of the plaintiff let the premises in question to the defendant about six or seven years ago and the defendant has continued to occupy the premises, paying rent to successive superintendents in office. The premises stand on the ground on which the Boys' Industrial Home and Orphanage is established and are stated to have been constructed as a residence for the Works Manager of the institution, but as the previous works manager was a bachelor and did not require the premises in question, they were let to the defendant. The present works manager, however, is said to be a married man who now finds it necessary to have housing accommodation close to the institution. In these circumstances the plaintiff deemed it necessary to terminate the tenancy of the defendant, which he did by notice duly given in that behalf.

The defence is that in view of the provision of section 8 (c) of the Rent Restriction Ordinance, the plaintiff's claim for ejectment cannot be maintained in law. This sub-section declares that a tenant can be sued for ejectment where

“ the premises are, in the opinion of the Court, reasonably required for occupation as a residence for the landlord or any member of the family of the landlord or for the purposes of his trade, business, profession, vocation or employment.”

On the facts as set out above, it may be doubted whether the plaintiff is in fact the landlord of the defendant. For it is not every receipt of rent that induces the relationship of landlord and tenant. It is elementary to state that an agent employed by the owner of premises to receive rent on the latter's behalf does not thereby constitute himself the landlord of the tenant, much less can it be said that the contract of tenancy subsisting between the owner and the tenant is severed thereby. Besides, the Superintendent of the Boys' Industrial Home and Orphanage is not a corporation sole. As this aspect of the matter has not been put in issue between the parties in the lower court and has not been made the subject even of a ground of appeal, I do not think I need take any further notice of it.

Assuming, therefore, that the plaintiff is the landlord of the defendant, obviously the premises are not required for occupation as a residence for the plaintiff or for any member of his family. It is, however, said that the second limb of the sub-section applies, and though not every member of that limb, the last of them. It is conceded that it cannot be contended that the premises are required for the purposes of the trade, business, profession or vocation of the plaintiff himself because he carries on no trade, business, profession or vocation on his own for the purposes of which the premises can be said to be required by him. The Boys' Industrial Home and Orphanage is not an institution belonging to the plaintiff and conducted and managed by him for his own benefit. The institution in truth is one the ownership of which is vested in the trustees of the Methodist Church and is managed for their benefit and profit. The works manager for whom the premises are said to be required must

indeed himself have to look for his remuneration not to the plaintiff, the superintendent, but to the Methodist Church, and in the event of a breach of contract relating to his services he would have to look for redress not to the plaintiff but to the trustees of the church.

It is argued, however, that while all this may be so, the last member of the limb, namely, the term "employment", is one which is a word of larger import which would entitle the plaintiff to maintain this action. The possessive pronoun "his", it is admitted, must qualify the word "employment", so that the plaintiff must show that the premises are reasonably required for the purposes of *his employment*. See the case of *Abeyewardena v. Amaradasa*¹. The word "employment" is capable of more than one meaning. One of such meanings is, as given by Webster, "occupation, profession or trade", and by the Shorter Oxford Dictionary, "business or occupation." In this sense the word is fully synonymous with the term "trade", "business" and "profession" used earlier in the limb. A second sense is, both according to Webster and the Shorter Oxford Dictionary, "the state of being employed". This definition, again, approximates to the meaning attached to the word in the first sense referred to above. A third sense in which the word is used is "the act or action of employing". Counsel for the respondent urges that the word "employment" in the sub-section does duty in all the three senses above referred to and that, if regard is had to the third of the senses aforesaid, then the provision that the premises are reasonably required for the purposes of his (landlord's) employment would, in its application to the facts of the present case, signify that the premises are required for the purposes of the plaintiff's act or action of or in employing the works manager. The question is whether this construction should prevail. If this construction is upheld, the rule of *eiusdem generis* will be violated, for while every other word in the context, namely, "trade" "business", "profession" and "vocation" all relate to the state of employment of the landlord himself, the specific construction contended for in regard to the term "employment" would result in that term being given not the meaning of "the state of being employed" but of "the act or action of employing", an idea not involved in any other word in the context. Furthermore, the act or action of or in employing the works manager cannot be regarded as that of the plaintiff himself. The plaintiff in employing the works manager acts for and on behalf of the trustees of the church, and the employment must properly be considered to be the employment by the trustees of the works manager; in other words, it would be correct to say that what the submission amounts to is that the premises are required for the purposes of the trustees' employment of the works manager and not of the plaintiff's employment of the works manager. On this ground, too, the contention must fail.

In this view of the matter it must follow that the plaintiff has failed to establish his claim to terminate the tenancy of the defendant. The appeal is therefore allowed and the plaintiff's action dismissed with costs both in this Court and the Court below.

Appeal allowed.

¹ (1945) 46 N. L. R. 309.