

1968

Present : H. N. G. Fernando, C.J.

G. P. N. SILVA, Appellant, and THE COMMISSIONER
FOR NATIONAL HOUSING, Respondent

S. C. 97/66—C. R. Colombo, 91498

National Housing Act (Cap. 401)—Section 31—“Occupier”—Ejectment of a sub-tenant or third party—Procedure.

Part V of the National Housing Act as originally enacted does not authorise the special procedure for ejectment to be utilised against a person who is not an “occupier” in the strict sense referred to in Section 31 of the Act. Such procedure therefore is not available in a case where the original occupier holding under the Commissioner sub-lets the premises or permits some other person (not being a dependant) to occupy the premises.

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

H. W. Jayewardene, Q.C., with *W. S. Weerasooria*, for the 3rd Respondent-Appellant.

Mervyn Fernando, Crown Counsel, for the Petitioner-Respondent.

May 5, 1968. H. N. G. FERNANDO, C.J.—

This is an appeal against the order made under Part V of the National Housing Act (Cap. 401) for the ejectment of the appellant from certain premises. The appellant, according to the evidence, entered into occupation of the premises as a sub-tenant under one Selvaratnam. Selvaratnam himself had apparently taken the premises from one Unambuwa. Unambuwa was the person to whom the premises were provided for occupation by the Commissioner of National Housing.

Section 31 (1) of the Act provides that Part V shall apply to every house provided by the Commissioner *for occupation by any person* and sub-section (2) of Section 31 provides that in Part V the expression ‘occupier’ will mean the person for whose occupation the house is provided. In the provisions of Part V as originally enacted the prescribed procedure for ejectment was designed to secure the ejectment of the “occupier” and his dependants. There was nothing in those provisions to deal with a case where the original occupier holding under the Commissioner sub-lets the premises or permits some other person (not being a dependant), to occupy the premises. On this ground I am compelled to hold that Part V of the Act as originally enacted does not authorise the special procedure for ejectment to be utilised against a person who is not an “occupier” in the strict sense referred to in Section 31.

It is clear from the amendments made by Act No. 36 of 1966 that the Commissioner himself has realised that there was a grave omission in the original provisions of Part V. The appeal is allowed with costs and the order of 9th September, made against the appellant, is set aside.

Appeal allowed.