1945 *Present:* **Wijeyewardene J.**

PRICE CONTROL INSPECTOR, RATNAPURA, Appellant,
and AHAMED, Respondent.

860—M. C. Ratnapura, 43,561.

Control of Prices—Sale of Koduwa fish and tablets of Sunlight soap—Maximum controlled price governs any quantity or number respectively—Orders made under Control of Prices Ordinance, No. 39 of 1939, s. 3.

Where the accused sold a quarter pound of Koduwa fish for 30 cents and a twin tablet of Sunlight soap for 45 cents when the controlled maximum retail price per pound of Koduwa fish was 82 cents and the controlled maximum retail price for two tablets of Sunlight soap was 86 cents.

Held, that the accused had offended against the Orders made by the Controller of Prices under section 3 of the Control of Prices Ordinance. The Orders in question control the prices of *any quantity* of Koduwa fish or *any number* of tablets of soap and not of any particular quantity or number.

Sub-Inspector of Police, Kandy v. Wassira (1945) 46 N. L. R. 93, distinguished.

APPEAL against an acquittal by the Magistrate of Ratnapura.

T. K. Curtis, C.C., for the complainant, appellant.

H. W. Jayawardene for the accused, respondent.

Cur. adv. vult.

September 6, 1945. WIJEYEWARDENE J.—

The accused, a trader in dried fish and Sunlight soap, was charged with having sold on March 8, 1945, (*a*) a quarter pound of Koduwa dried fish for 30 cents in breach of the Order published in *Gazette* No. 9,356 of January 19, 1945, and (*b*) a twin tablet of Sunlight soap for 45 cents in breach of the Order published in *Gazette* No. 9,305 of August 25, 1944. The Orders mentioned in the charge are Orders made by the Controller of Prices by virtue of the powers vested in him by section 3 of the Control of Prices Ordinance, No. 39 of 1939, as amended by the Defence (Control of Prices) (Supplementary Provisions No. 2) Regulations.

The evidence led by the prosecution stands uncontradicted and that evidence proves the sale of a quarter pound of Koduwa fish for 30 cents and a twin tablet of Sunlight soap for 45 cents. The Magistrate accepted that evidence but accuitted the accused as he thought the principle underlying the decision in *The Sub-Inspector of Police, Kandy v. Wassira* [1] governed this case.

The present appeal has been preferred with the sanction of the Attorney-General against that order of acquittal.

The learned Magistrate has misdirected himself on the question of law. The case of *The Sub-Inspector of Police, Kandy v. Wassira* (*supra*) is clearly distinguishable from the present case. The relevant Order that had to be construed in that case fixed " the maximum prices above which bread shall be not sold in 16 oz. loaves and 8 oz. loaves " (*vide Gazette* No. 9,276 of June 2, 1944). It was accordingly held in that case that the price of a 4 oz. loaf was not regulated by that Order. The Orders to be considered in this case show clearly that they control the prices of any quantity of Koduwa fish or any number of tablets of soap. Clause (ii) of the Order in *Gazette* No. 9,356 read with the First Schedule shows that the article whose price is regulated is Koduwa fish and not any particular quantity of Koduwa fish. Clause (iv) (*b*) shows that the sale of *any quantity* of Koduwa fish less than one hundred-weight for the purpose of consumption or use is to be regarded as a sale by retail. Column 5 in the First Schedule read with Column 4 of the Second Schedule gives the maximum retail price per pound in Kuruwiti Korale as 82 cents and that is intended merely to afford a basis for the calculation of the maximum retail price of a quantity of Koduwa fish in that locality. That Order, therefore, fixes the maximum retail price which the accused could have charged for a quarter pound of Koduwa fish at 20½ cents. Similarly the Order in *Gazette* No. 9,305 fixes the maximum retail price for two tablets of Sunlight soap at 36 cents.

I set aside the order appealed against, and convict the accused on the charge framed against him. I remit the proceedings to the Magistrate and direct him to pass an appropriate sentence.

Order of acquittal set aside.

[1] *(1945) 46 N. L. R. 93.*