

1965 Present : H. N. G. Fernando, S.P.J., and Abeyesundere, J.

**THE ATTORNEY-GENERAL, Appellant, and R. KADIRGAMAR,
Respondent**

S. C. 295/63-D. C. Colombo, 907/Z

Customs Ordinance-Section 107-Article landed without due entry or declaration- Forfeiture.

Where an article is landed without being entered in a bill of entry or some other document, or else without being declared as part of a passenger's baggage, section 107 of the Customs Ordinance automatically imposes a forfeiture of such article.

APPEAL from a judgment of the District Court, Colombo.

V. Tennekoon, Solicitor-General, with L. B. T. Premaratne, Senior Crown Counsel, and J. B. M. Perera, Crown Counsel, for Defendant-Appellant.

H. V. Perera, Q.C., with S. J. Kadirgamar, K. N. Choksy, K. Viknarajah and S. Basnayake, for Plaintiff-Respondent.

July 15, 1965. **H. N. G. FERNANDO, S.P.J.-**

After hearing views expressed by the Court, the learned Solicitor-General did not press his appeal with regard to the counter claim made by the Attorney-General. There remains only the question whether the plaintiff's camera became forfeited under section 107 of the Customs Ordinance. Mr. Perera has stated that he might have been in a position to put forward an argument based upon several provisions of the Ordinance, that, in this particular case, the article imported did not become forfeit under section 107. But upon the matters which have actually been discussed on this appeal, it appears to us that the effect of section 107 is that an article must either be entered in a bill of entry or perhaps in some other document, or else must be declared as part of a passenger's baggage upon being landed. It would appear from the evidence in this case that the plaintiff's camera was landed with neither such an entry nor a declaration of its being part of a passenger's baggage. In the result section 107 automatically imposed a forfeiture.

The decree appealed from is set aside and a fresh decree will be entered dismissing the plaintiff's action, and also dismissing the Attorney-General's counter claim. By consent there will be no order as to costs in either Court. The plaintiff will be entitled to a refund of the sum of Rs. 1,500 deposited as security.

ABEYESUNDERE, J.-I agree.

Decree set aside.

