

remitted and of so remitting are, if one visualises the state of the country in the 1830's or 1840's, that the land is dealt with as private property, but the notoriety the land had gained as temple land dies hard and continues to be used by all and sundry.

I do not, therefore, think that the mere description of the land in language suggesting that it belongs to the Chithamparam Temple in the deeds relating to the lands adjoining the disputed land can be regarded as legal proof of the title of the temple to the land. While a description of a parcel of land in the deeds relating to the adjoining properties may furnish corroboration of title, I do not think that those descriptions by themselves are entitled to weight as though they constituted direct evidence of legal title. The result is that the right of the third party under whom the first defendant claims to have possessed the land has not been established nor the fact that the first defendant did in fact hold under the third defendant.

The first defendant has therefore failed to substantiate his defence, while the plaintiff's case is amply supported by the evidence led in these proceedings.

The judgment of the learned District Judge is therefore affirmed and the appeal is dismissed with costs.

PULLE J.—I agree.

Appeal dismissed.

1950

Present: Jayetileke S.P.J. and Pulle J.

SANGARALINGAM PILLAI *et al.*, Appellants, and MOHAMADU,

Respondent

S. C. 509—D. C. Colombo, 16,589

Rent Restriction Ordinance—Premises of which a director of a company is owner—Tenant cannot be ejected to expand business of the company—Ordinance No. 60 of 1942, Section 8 (c).

A director of a company is its paid servant and cannot avail himself of the provisions of section 8 (c) of the Rent Restriction Ordinance to claim a building, which is owned by himself, for the purpose of carrying on the business of the company therein.

APPPEAL from a judgment of the District Court, Colombo.

F. A. Hayley, K.C., with V. A., Kandiah, for plaintiffs appellants.

S. J. V. Chelvanayagam, K.C., with M. H. A. Aziz, for defendant respondent.

Cur. adv. vult.

February 22, 1950. JAYETILEKE S.P.J.—

This is a case arising under the Rent Restriction Ordinance, No. 60 of 1942. The plaintiffs who are the owners of premises No. 235, Norris Road, Colombo, sued the defendant, who is carrying on business in the

said premises as dealer in rubber, for ejection from the said premises. The plaintiffs' case is based upon the allegation that the said premises are "reasonably required for the purposes of their business" within the meaning of s. 8 of the Ordinance. The evidence of the 2nd plaintiff shows that he and the other plaintiff are the directors of A. S. S. Sangaralingam & Co., an incorporated company, with limited liability, which carries on business at premises Nos. 213/215, Norris Road, Colombo, in motor accessories and groceries, and that the premises occupied by the defendant are required for the purpose of expanding the business of the company. The learned Additional District Judge took the view that the premises were not required by the plaintiffs for their own business but for the business of the company and that the case did not come within the terms of s. 8 of the Ordinance. He accordingly dismissed the plaintiffs' action with costs. The present appeal is against that judgment. At the argument before us, Mr. Hayley contended that a company is incapable of carrying on business physically and that its business is ordinarily managed by the directors. He contended further that the business of the plaintiffs is to manage the business of the company. It is correct to say that one of the duties of a director of a trading company is to manage the business. But what is the true position of a director? In *re Faure Electric Accumulator Company*¹ Kay J. said "The office of director is that of a paid servant of a company".

I shall now turn to the Ordinance to see whether the business carried on by a paid servant of a company comes within the terms of s. 8. The section reads:—

8. Notwithstanding anything in any other law, no action or proceedings for the ejection of the tenant of any premises to which this Ordinance applies shall be instituted in or entertained by any court, unless the Assessment Board, on the application of the landlord, has in writing authorised the institution of such action or proceedings:

Provided, however, that the authorisation of the Board shall not be necessary in any case where—

- (a) rent has been in arrear for one month after it has become due; or
- (b) the tenant has given notice to quit; or
- (c) 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;

The material words are "the premises are reasonably required . . . for the purposes of his (landlord's) business." These words seem to me to refer to the landlord's own business. Strange results would follow if that were not so. For instance the manager of every business might say that he requires a building owned by himself for the purpose of carrying on the business of which he is the manager. I am clearly of opinion that such a case could not possibly be within the terms of s. 8. The appeal fails and is accordingly dismissed with costs.

PULLE J.—I agree.

Appeal dismissed.

¹ (1888) 40 Ch. Div. 141.