

1953

Present : Swan J.

D. G. A. ARIYARATNE, Appellant, and L. H. A. DE SILVA,
Respondent

S. C. 204—C. R. Galle, 28,275

Rent Restriction Act, No. 29 of 1948—Section 13 (3)—Construction.

Where a landlord has obtained an order of ejection against his tenant on the ground that the premises in question are reasonably required for his use and occupation, the provisions of section 13 (3) of the Rent Restriction Act requiring him to enter into occupation within a month do not preclude him from making alterations and improvements to suit his needs.

APPPEAL from a judgment of the Court of Requests, Galle.

H. V. Perera, Q.C., with *M. H. A. Aziz* and *S. H. Mohamed*, for the defendant appellant.

N. E. Weerasooria, Q.C., with *H. W. Jayewardene* and *W. D. Gunasekera*, for the plaintiff respondent.

Cur. adv. vult.

¹ (1951) 52 N. L. R. 380.

² (1946) 47 N. L. R. 45.

March 25, 1953. SWAN J.—

The only issue in this case was whether the premises in suit were reasonably required for the use and occupation of the plaintiff. This issue was answered by the learned Commissioner in the plaintiff's favour; and, on the evidence I do not think he could have held otherwise. The chief point taken by learned Counsel for the appellant is that the plaintiff was not entitled to an order of ejectment inasmuch as he intended to pull down the building and erect another in its place. One could hardly call it demolition and reconstruction, because the plan filed shows only alterations to the existing building, may be of an extensive nature. Mr. Perera's contention is that a landlord must preserve the "structural integrity", if one may use that expression, of the premises. This contention is based on Section 13 (3) of the Rent Restriction Act which provides that, if a landlord who has obtained a decree in ejectment or the member of whose family for whose benefit the decree has been granted does not enter into occupation within a month, or having entered into occupation vacated the premises without reasonable cause within a year the former tenant could apply to be restored to possession. I do not think that this provision means that the landlord cannot alter and improve the premises to suit his needs. It is merely a safeguard against the obtaining of a decree in ejectment under false pretences of reasonable requirement. That end is primarily secured by Section 13 (2) which requires the Court to direct in the decree that no person other than the landlord or the member of his family, whose name must be specified in the decree, shall enter into occupation of the premises upon the vacation thereof by the tenant or upon the ejectment therefrom of the tenant.

The appeal is dismissed with costs.

Appeal dismissed.

