

1968

Present : Abeyesundere, J.

M. NAVAS, Appellant, and A. S. MOHAMED, Respondent

S.C. 64/1967—C.R. Colombo, 85406

Rent Restriction (Amendment) Act, No. 12 of 1966—Scope of section 4 (1) (c)—Averments of arrears of rent for more than 3 months and “reasonable requirement”—Consent decree—Interpretation—Rent Restriction Act, s. 12 A.

In this action falling under section 12A of the Rent Restriction Act (as amended by section 2 of Act No. 12 of 1966), consent decree was entered recognizing the fact that the tenant was in arrears of rent for more than three months. Another ground averred in the plaint was that the premises were “reasonably required” by the landlord. The terms of settlement provided for the payment of the amount of the arrears of rent by setting off against it the sum of Rs. 1000 deposited as security by the tenant and the amount of the taxes paid by him.

Held, that section 4 (1) (c) of the Rent Restriction (Amendment) Act No. 12 of 1966 could not prevent proceedings from being taken to enforce the decree for ejection of the tenant.

APPEAL from an order of the Court of Requests, Colombo.

C. Ranganathan, Q.C., with *A. Sivagurunathan*, for the Plaintiff-Appellant.

V. Thillainathan, for the Defendant-Respondent.

March 29, 1968. ABEYESUNDERE, J.—

This action was instituted by the plaintiff for the ejectment of the defendant from the premises described in the plaint on the ground that the defendant was in arrears of rent for the period 1st June, 1960 to 30th June, 1963 and also on the ground that those premises were reasonably required for use and occupation as a residence by the plaintiff and his family. Issue 1 relates to the first of those grounds and issue 2 relates to the second of those grounds. The case was settled and decree was entered in accordance with the terms of settlement. The plaintiff applied for the enforcement of the decree and the application was resisted by the defendant on the ground that Section 4 (1) (c) of the Rent Restriction (Amendment) Act, No. 12 of 1966, prevented proceedings from being taken for the enforcement of the decree. The learned Commissioner of Requests by his order dated 7.3.67 has held that the decree cannot be enforced. The plaintiff has appealed from that order.

The learned Commissioner of Requests has stated in his order as follows :

“ In view of the provisions of Section 4 (1) of Act No. 12 of 1966, I hold that the decree entered in this case having been entered on the grounds of reasonable requirement, which is not one of the grounds provided for under Section 2, cannot be enforced and execution proceedings cannot be continued.”

Section 2 referred to by the learned Commissioner of Requests in the passage quoted above is intended to refer to Section 12A inserted in the principal Act by Section 2 of the Rent Restriction (Amendment) Act, No. 12 of 1966. Section 12A prohibits the institution of an action for the ejectment of a tenant of any premises to which the principal Act applies and the standard rent of which for a month does not exceed Rs. 100 unless where the ground on which ejectment is sought is one of the grounds specified in that Section. The instant action was instituted on two grounds and one of them was that the rent of the premises in suit was in arrears for more than three months. That ground is one of the grounds specified in Section 12A. Admittedly the premises in suit are those to which the Rent Restriction Act applies and the standard rent of which for a month does not exceed Rs. 100. Therefore Section 12A applies to the premises in suit.

Section 4 of the Rent Restriction (Amendment) Act, No. 12 of 1966, deems to be null and void an action for the ejection of a tenant from any premises to which the Rent Restriction Act applies if that action was instituted on or after 20th July, 1962 and before 10th May, 1966 (which is the date of commencement of Act No. 12 of 1966) and which was pending on 10th May, 1966. The instant action was instituted within the period specified in Section 4 and was also pending on 10th May, 1966. The question that has to be determined is whether the provisions of Section 4 of the Rent Restriction (Amendment) Act No. 12 of 1966 apply to that action. It is correct that Section 4 does not expressly save any action instituted within the period mentioned in that Section and pending on the date of commencement of the amending Act. Section 12A was, by the very provisions of Section 4, brought into operation retrospectively with effect from 20th July, 1962, and it would be rendering the provisions of Section 12A inoperative during the retrospective period if Section 4 is interpreted to deem to be null and void an action instituted for the ejection of a tenant on any of the grounds specified in Section 12A. This Court has already held in a number of other cases that Section 4 of the amending Act does not apply to an action instituted for the ejection of a tenant on any of the grounds specified in Section 12A. Therefore the test as to whether paragraph (c) of Section 4 (1) of the Rent Restriction (Amendment) Act, No. 12 of 1966, prevents the enforcement of the decree of consent entered in the instant action is whether the action was instituted on any of the grounds specified in Section 12A. Undoubtedly one of the grounds on which the action was instituted is a ground stated in Section 12A. Therefore Section 4 of the amending Act does not apply to the instant action. The learned Commissioner of Requests has misdirected himself in examining the decree in order to determine whether or not Section 4 of the amending Act applies to the instant action.

Counsel appearing for the respondent urged that the decree of consent entered in this action was bad as it was not entered on any of the grounds on which an action for the ejection of a tenant may be instituted under the Rent Restriction Act. His submission is clearly wrong for the reason that the terms of settlement recognise the fact that the defendant was in arrears of rent for more than three months and those terms provide for the payment of the amount of those arrears by setting off against it the sum of Rs. 1000 deposited as security by the defendant and the amount of the taxes paid by him. It is on the basis of that set off that the terms of settlement state that the defendant has paid rent and damages up to 30th June, 1966.

For the aforesaid reasons I set aside the order appealed from and hold that the decree entered in this action is enforceable. The appellant is entitled to the costs of the appeal.

Appeal allowed.