

**JEEWANANDA AND ANOTHER  
VS.  
LAND REFORM COMMISSION AND OTHERS**

COURT OF APPEAL,  
SRISKANDARAJAH, J.  
CA 1708/2004.  
JULY 14, 2000.

*Land Reform Commission Law No. 1 of 1972 - Decision to transfer vested land to - Ande cultivators - Advance deposited - Handing over of (Possession) terminated - No hearing given - Validity ? - Principles of natural Justice - Legitimate expectation.*

The petitioners were the ande cultivators, when the land was vested in the 1st respondent under the Land Reform Law. A decision was made by the 1st and 2nd respondents to transfer ownership of paddy lands vested in the 1st respondent by sale to the ande cultivators of such land. After considering the applications to purchase, the petitioners were directed to deposit an advance until the Government Valuation is received. This sum was deposited and possession was handed over. The petitioners contended that the 2nd

respondent Chairman of the LRC without any valid reason informed the petitioners that the handing over of the possession was being terminated and further contended that the said decision was made without giving the petitioners a hearing, and sought to quash the said notice.

The respondents contended that, possession was handed over to consider the sale of the lands subject to the approval of the Commissioners and Government valuation, but before the formalities were fulfilled for the transfer the petitioners have transferred the possession of a portion of the land to 3rd parties, and hence they are not entitled to the land.

**HELD:**

The petitioners have a legitimate expectation that the deed of sale will be executed after the formalities are fulfilled. The withdrawal of the possession of the land is not due to the lack of any qualification, requirements or a policy change but due to the allegation that the petitioners had violated a condition that the possession should not be handed over to 3rd parties. This is an allegation where the petitioner could have explained to the satisfaction of the respondents if an opportunity was given to them.

*Per Sriskandarajah, J.*

"An administrative body may in a proper case, be bound to give a person who is affected by the decision, an opportunity of making representations. When a person has a legitimate expectation that he could purchase a property under the provisions of a statute he shall be given an opportunity to present his case before an adverse decision is made against his expectation".

**APPLICATION** for a Writ of Certiorari.

**Cases referred to :**

1. *Latiff vs. Land Reform Commission* - 1984 1Sri LR118
2. *Schmidt vs. Secretary of State for Home Affairs* 1969-2 Ch. 149 at 170
3. *Ridge vs. Baldwin* 1994 AC 40
4. *Gunawardane and Wijesooriya vs. Minister of Local Government, Housing and Construction and Others* 1992 Sri LR 26  
*A. S. M. Perera, P. C. with Buddhika Wickremasinghe for the Petitioner Viraj Dayaratne S. C. for the 1st and 2nd Respondents Saliya Pieris for the 3rd Respondent.*

*cur. adv. vull.*

August, 31, 2006

**SRISKANDARAJAH, J.**

The Petitioners are brothers and were the Ande Cultivators of an extent of two roods each of one acre land called Wetakeiya Kumburasituated within the Grama Sevaka Division of Minnana which (Sri Skandarajah, J) Land was vested in the 1st Respondent Commission Law No. 1 of 1972. It is admitted by the Petitioners and the 1st and 2nd Respondents that a decision had been made by the 1st Respondent Commission to transfer ownership of paddy lands vested in the 1st Respondent by sale to the Ande Cultivators of such land. Circulars issued to this effect are marked as P1 and P1A. Accordingly the Petitioners who are entitled to purchase about two roods of land each respectively shown in the Plan drawn by M. Samarasekera, Licensed Surveyor and Leveller, made applications to purchase the said lands under Section 22(1)(A) of the Land Reform Commission Law No. 1 of 1972 as amended. After consideration of the application and after the receipt of necessary recommendations and observations the former Chairman of the 1st Respondent had by his letters No. 15/6/53/180 dated 15.09.2003 requested the Petitioners to deposit an advance of Rs. 25,000/- each until the Government valuation is received. The Petitioners deposited the said sum and on the request of the former Chairman of the 1st Respondent (P8 and P8A), the Director, District Land Reforms Authority, Ratnapura handed over the possession of the said two lands to the Petitioners on 26.09.2003. The documents relating to the handing over of the said lands are annexed as P9 and P9A.

The Petitioners contended that the 2nd Respondent without any valid reason by his letter of July, 2004 (P12 and P12A) informed the Petitioners that the handing over of the possession of the respective lands to the Petitioners was being terminated. The said decision was made without giving the Petitioners a hearing therefore the said decision is in violation of the principles of natural justice and it is arbitrary. For these reasons the Petitioners sought a writ of certiorari to quash the decision made by the 2nd Respondent by his letter of July, 2004 marked P12 and P12A.

The 1st and 2nd Respondent contended that the possession of the said land was handed over to the Petitioners to consider the sale of the said lands subject to the approval of the Land Reform Commission and Government valuation. But before the formalities were fulfilled for the transfer of the said land the 1st and 2nd Petitioners transferred the possession of a portion of the said lands to 3rd parties which is evident from the deeds marked P 11 and P 10. By this transfer the said Petitioners have violated the provisions of the Land Reforms Commission Law and hence they are not entitled to the said lands.

It is admitted that the 1st and 2nd Respondent did not call for explanation or requested the Petitioners to show cause why the possession of the lands which were handed over to the Petitioners were terminated and no inquiry was held in this regard.

In *Latiff vs. The Land Reform Commission* <sup>(1)</sup> when allowing an application for a writ of certiorari to quash an order of revocation of a determination to alienate, H. A. G. De. Silva, J. with Abeywardena, J. agreeing held :

“In deciding to revoke the determination to alienate, the respondent-Commission has in P5 given as the only reason for its decision the withdrawal of the earlier approval given by the Minister. The respondent-Commission in its statement of objections avers that any recommendation made by the Advisory Board or any approval of the Minister has no force or effect in law. This is quite true, but, that is the only reason given in P5 for the revocation of the determination to alienate. No opportunity has been given to the petitioner to show cause against such a proposed revocation. Though this is an instance of the exercise of an administrative function there was an obligation on the respondent-Commission to act fairly.”

Lord Denning *M. R. in Schmidt vs. Secretary of State for Home Affairs* <sup>(2)</sup> at 170 observed :

“The speeches in *Ridge vs. Baldwin* <sup>(3)</sup> show that an administrative body may, in a proper case, be bound to give a person who is affected by their decision an opportunity of making representations. It all depends on whether he has some right or interest, or I would add some legitimate expectation of which it would not be fair to deprive him without hearing what he has to say.”

When a person has a legitimate expectation that he could purchase a property under the provisions of a statute he should be given an opportunity to present his case before an adverse decision is made against his expectation. This was the principle laid down in *Gunawardana and Wijesooriya vs. Minister of Local Government, Housing and Construction and Others* <sup>(4)</sup>. In this case, Wadugodapitiya, J. with Deeratne J, and Gunawardana J agreeing held :

“In the instant Appeals there were in fact two applications and, it would follow that the 2nd respondent was indeed under a duty to inform the appellants of the fact that he had taken a decision to divest. In fact, the dictates of the principles of natural justice would demand as much.

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The facts clearly show that the appellants did in fact have a legitimate expectation of purchasing the premises in question and that a decision to divest would have affected them adversely.”

In the instant case the Petitioners have a legitimate expectation that the deed of sale will be executed after the formalities are fulfilled. The withdrawal of the possession of the said land is not due to the lack of any qualification, requirements or a policy change but due to the allegation that the Petitioners had violated a condition that the possession of the land should not be handed over to 3rd parties. This is an allegation where the petitioners could have explained to the satisfaction of the 1st and 2nd Respondent if an opportunity was given to them.

As the Petitioners were not given a hearing in this regard before arriving at the impugned decision the 1st and 2nd Respondents have acted in violation of the rules of natural justice. Therefore this Court issues a writ of Certiorari to quash the decision made by the 2nd Respondent which is communicated by the letters dated July, 2004 marked P 12 and P12A. The application of the Petitioners is allowed without costs.

*Application allowed.*

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