

UDUGAMKORALE
v
MARY NONA AND ANOTHER

SUPREME COURT
BANDARANAYAKE, J.
EDUSSURIYA, J. AND
JAYASINGHE, J.
SC APPEAL NO. 78/2002
CA NO. 435/89(F)
DC MATARA CASE NO. 109/RE
21ST FEBRUARY, 2003

Landlord and Tenant – Judgment for the landlord – Lack of clarity in issues and apparent contradiction in the answers to issues – Judgment which is well reasoned may be sustained notwithstanding such weakness - Long delay in delivery of judgment irrelevant, if no questions of demeanor of witnesses are involved.

The original plaintiff instituted action in the District Court seeking ejectment of the 1st defendant and the 2nd defendant on the ground that the 1st defendant who was the plaintiff's tenant had sublet the premises in suit to the 2nd defendant.

Held :

1. Although the issues raised in the case were not very clear, and the answers to the issues appeared to be contradictory, on the basis of the pleadings the matters in issue are very clear and the judgment gave adequate reasons in conformity with section 187 of the Civil Procedure Code. In the circumstances the judgment should be upheld.

2. The fact that the judgment was delivered two years after the conclusion of the trial did not vitiate it in view of the fact that the judgment has not referred to the demeanor of witnesses.

APPEAL from the judgment of the Court of Appeal.

S. Mandaleswaran with *P. Peramunagama* for substituted plaintiff- appellant.
Vidura Gunaratne for 2nd defendant-respondent.

Cur.adv.vult.

March, 26, 2003.

EDUSSURIYA, J.

The plaintiff-appellant (appellant) instituted action in the District Court of Matara seeking the ejection of the 1st defendant-respondent and the 2nd defendant-respondent on the ground that the 1st defendant-respondent who was the appellant's tenant had sublet the premises in suit to the 2nd defendant-respondent. 1

After trial the learned District Judge entered judgment in favour of the appellant. In appeal, the Court of Appeal set aside the judgment of the District Court on the grounds (1) that the issues are not clear and that it is the duty of the Court to frame issues, (2) the answers to the issues in the judgment appear to be contradictory and (3) that the judgment was dictated two years after the conclusion of the trial. 10

On the first point mentioned above, it is seen on a reading of the pleadings and the issues, that the matters in issue are very clear. On the second point mentioned above, namely, that the answers to the issues given in the judgment appearing to be contradictory, it is seen on a reading of the judgment that any contradictions that may arise on the reading of the answers to the issues pale into insignificance. As far as the third point is concerned, namely, the judgment being dictated two years after the conclusion of the trial, it must be said that at no point in the course of the judgment has the learned District Judge referred to the 20

demeanour of the witnesses. The findings are based on the oral and documentary evidence placed before court.

It must also be mentioned that the answers to issues in a judgment are almost always monosyllabic and are a follow up on the matters in issue discussed, dealt with and decided in the body of the judgment. Hence the decision of the case must be arrived at by a careful reading of the body of the judgment and not on a superficial reading of the answers to the issues. 30

In this connection I will refer to section 187 of the Civil Procedure Code which states;

“that the judgment shall contain a concise statement of the case, the points for determination, the decision thereon and the reasons for such decision”.

I have perused the evidence and the judgment of the learned District Judge and found that there is no reason or cause for any confusion in view of the fact that the learned District Judge has categorically held (1) the appellant had rented out the premises in suit to the 1st defendant, (2) that during the period the 1st defendant ran a business therein the 2nd defendant had assisted the 1st defendant, (3) that after a period of time the 1st defendant had left and the 2nd defendant had run a business therein without the knowledge of the plaintiff-appellant and that therefore the 1st defendant had sublet the premises to the 2nd defendant-respondent. 40

The learned District Judge has also set out in the course of the judgment the reasons for his so holding; that although the 2nd defendant claimed to have entered into a contract of tenancy with the plaintiff-appellant the 2nd defendant had failed to substantiate that position by producing rent receipts or any document to prove tenancy. Further, the learned District Judge has also set out therein that he cannot accept the evidence of the 2nd defendant-respondent that even after the letter of demand had been sent that he had been told by the plaintiff-appellant to allow the rent to accumulate. 50

For the abovementioned reasons I set aside the judgment of the Court of Appeal directing a trial *de novo*, and restore the

judgment of the District Court. The plaintiff-appellant is also entitled to costs in a sum of Rs. 3150/-.

BANDARANAYAKE, J. - I agree.

JAYASINGHE, J. - I agree.

*Appeal allowed; judgment of
the District Court restored.*