

1945

Present : Soertsz S.P.J.

JOHN APPUHAMY, Appellant, and DAVID, Respondent.

174—C. R. Colombo, No. 94,677.

Landlord and tenant—Action for ejectment—Premises reasonably required for landlord's use—Rent Restriction Ordinance, No. 60 of 1943, s. 8.

Where premises are reasonably required for the use of the landlord the tenant is not entitled to stay on so long as a makeshift arrangement of some sort can be resorted to by the landlord.

A PPEAL from a judgment of the Commissioner of Requests, Colombo.

Plaintiff sued defendant, his tenant, for ejectment from a room in premises No. 215, Hulftsdorp street, on the ground that the said room was reasonably required for his principal business, namely, the supplying of meals to various persons employed in Hulftsdorp. He had vacated his former premises which were to be demolished for a fire-gap and was temporarily using a portion of premises No. 215 for preparing the meals and there was no other place suited for the purpose of dishing out the meals except the room occupied by the defendant. It was also in evidence—(a) that the premises No. 215 were very extensive and partly occupied by plaintiff and his own people, (b) that plaintiff's brother and brother-in-law used nearby premises belonging to plaintiff for a similar business, (c) that plaintiff had already converted a garage in the premises into a room, (d) that accommodation was available to the defendant in the vicinity.

The defence evidence was (a) that defendant had an extensive practice in Hulftsdorp as a Licensed Surveyor for many years and was in fact sharing the premises with an Auctioneer and Broker, (b) that the alternative accommodation available to defendant was unsuited for his purpose, (c) that a verandah or garage could provide improvised accommodation to plaintiff.

The Commissioner of Requests dismissed the plaintiff's action.

L. A. Rajapakse, K.C. (with him *M. M. Kumarakulasingham*), for plaintiff, appellant.

H. W. Jayawardene, for defendant, respondent.

May 17, 1945. SOERTSZ, S.P.J.—

I have examined the evidence in this case very carefully and I am satisfied that the plaintiff's need is greater than that of the defendant. This seems to be a case in which it can be said that the landlord reasonably requires the premises for himself. The view taken by the Commissioner appears to be that so long as some sort of makeshift arrangement can be resorted to by the landlord, the tenant is entitled to stay on. I am not disposed to endorse that view. The dice are already heavily loaded against landlords and I do not think we should resort to extreme measures to take away from him so drastically what in normal times would have been his undoubted right.

I set aside the order of the Commissioner with costs in both courts and direct that an order for ejection be entered and that it be carried out unless the defendant vacates the premises in time to enable the plaintiff to go into occupation by August 1, 1945.

Order set aside.

