

1964                      *Present: T. S. Fernando, J.*

K. S. ARUMUGAM, Appellant, *and* C. G. D. CAROLIS, Respondent

*S. C. 244 of 1961—C. R. Colombo, 80058*

*Rent Restriction (Amendment) Act, No. 10 of 1961—Section 13 (1) (c)—“Wanton damage.”*

The word “wanton” in section 13(1) (c) of the Rent Restriction (Amendment) Act, No. 10 of 1961, means “purposeless”, and the expression “wanton damage” means purposeless damage of the kind which irresponsible school boys and soldiers of an invading army have been known to cause on certain occasions.

**A**PPPEAL from a judgment of the Court of Requests, Colombo.

*M. Tiruchelvam, Q.C.*, with *S. Sharvananda* and *Mark Fernando*, for defendant-appellant.

*K. N. Choksy*, for plaintiff-respondent.

*Cur. adv. vult.*

October 14, 1964. T. S. FERNANDO, J.—

The only question arising at this stage in this action for ejectment instituted by a landlord against his tenant is whether certain damage to the premises let which the learned Commissioner of Requests has found was caused by the tenant is wanton damage within the meaning of that expression occurring in section 13 (1) (c) of the Rent Restriction (Amendment) Act, No. 10 of 1961.

According to the findings of the Commissioner, the tenant has partitioned the entire ground floor of the premises in such a manner as to make it impossible for any heavy articles of furniture to be taken up the staircase of the premises. Although the premises had been let to the tenant, he does not appear to have lived there himself. From the manner of partitioning it would appear that a number of other persons have been living in the premises, possibly put in there by the tenant himself. The landlord requested the tenant to quit by the end of April 1961, and it was conceded by the tenant that he himself came into personal occupation of these premises only on 10th June 1961. He could not bring in his furniture through the front entrance because of the manner—already referred to—of the partitioning of the ground floor. He therefore climbed to the roof of the lavatory, then got on to the roof of the main building, and took in through an upstairs window a number of articles of furniture hauled up to the roof with the aid of a ladder. Workmen had to get on to the roof and move about thereon to manoeuvre the entry of the furniture through the window. A lorry load of furniture appears to have been so taken in. Included in this lorry load were big boxes and a wardrobe. In the result about 250 tiles of the roof were broken and some rafters and two beams had also to be replaced. The replacement of the damage cost the landlord a sum of Rs. 265. The rent of the premises was Rs. 69.40 a month.

The word '*wanton*' in the expression '*wanton damage*' in the context in which it appears in the Rent Restriction Act should be given its ordinary meaning. According to the Oxford English Dictionary, the word '*wanton*' (adjective) literally means 'Undisciplined'. One of the meanings of the word '*wanton*' (verb) is 'to deal carelessly or wastefully (with property, resources)'. I was referred by counsel to the meaning of the adverb '*wantonly*' as 'not having a reasonable cause' to be found in Stroud's Judicial Dictionary. I find that the reference is taken from a judgment of Willes J. in *Clarke v. Hoggins*<sup>1</sup>. That learned judge was there interpreting a penal statute and he held that the mere fact of a man being instructed to deliver papers at a house of a third person was no answer to a complaint charging him with having "wilfully and *wantonly*" disturbed the party and his family by very violently knocking and ringing at the door at an unreasonable hour in the night. I do not think the citation is of much assistance in interpreting the adjective *wanton* in the statute we are here concerned with. In the

<sup>1</sup> (1862) 11 C. B. (N.S.) at pp. 551-52.  
= 142 Eng. Rep. at p. 912.

context in which we find it in the Rent Restriction Act, I think the word means 'purposeless', and the expression 'wanton damage' means purposeless damage of the kind which irresponsible school boys and soldiers of an invading army have been known to cause on certain occasions.

To partition a house in such a way that the doors thereof cannot be put to one of their ordinary uses and, having done so, to take a large quantity of heavy articles of furniture over the roof through an upstairs window causing not inconsiderable damage to the roof was, to my mind, to put the roof to irresponsible use. Notwithstanding that the tenant achieved his purpose of taking the furniture into the house, the damage caused was reckless and purposeless. It was, in my opinion, wanton damage.

I dismiss the appeal with costs.

*Appeal dismissed.*

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