

1962

Present : Abeyesundere, J.

H. COORAY, Appellant, and M. H. PEIRIS (Building Inspector,
Municipal Council), Respondent

S. C. 1072—M. C. Kandy, 7075

*Housing and Town Improvement Ordinance—Section 13 (1) (a)—Conviction there-
under—Sentence.*

When a person is convicted of the offence of contravening section 13 (1) (a) of the Housing and Town Improvement Ordinance, the Court has no jurisdiction to impose a daily fine in anticipation of the offence being continued after conviction.

APPEAL from a judgment of the Magistrate's Court, Kandy.

N. Senanayake, for accused-appellant.

H. W. Jayewardene, Q.C., with *W. D. Gunasekera*, for complainant-respondent.

November 27, 1962. ABEYESUNDERE, J.—

The accused in this case was convicted of the offence of contravening Section 13 (1) (a) of the Housing and Town Improvement Ordinance and was sentenced to pay a fine of Rs. 300 and to “ a daily fine of Rs. 25 for every day on which the offence is continued ”.

The Section referred to enables a daily fine of Rs. 25 to be imposed for every day on which the offence is continued after conviction. The continuing of the offence after conviction is itself an offence which if proved will make the person committing that offence liable to the daily fine referred to. The learned Magistrate had no jurisdiction to impose the daily fine in anticipation of the offence being continued after conviction.

I, therefore, set aside such part of the sentence passed on the accused as relates to “ a daily fine of Rs. 25 for every day on which the offence is continued ”. The conviction is affirmed.

Conviction affirmed. Sentence partly set aside.