

1946

*Present : Soertsz S.P.J.*

**PAKTSUN, Appellant, and HAMID (PRICE CONTROL INSPECTOR), Respondent.**

**1,219—M. C. Colombo, 1,546.**

*Catering establishment—Change of locality or ownership—Effect of—Defence (Restriction of Meals) (No. 3) Regulations, 1944, Regulation 2 (1).*

The question whether, for the purpose of regulation 2 (1) of the Defence (Restriction of Meals) (No. 3) Regulations, 1944, a catering establishment which was in existence before September 1, 1939, can be regarded as retaining that status after it has changed its locality or its ownership depends on the facts of each case.

**A PPEAL from a conviction by the Magistrate of Colombo.**

**H. V. Perera, K.C. (with him S. N. Rajaratnam), for the accused, appellant.**

**T. K. Curtis, C.C., for the complainant, respondent.**

*Cur. adv. vult.*

March 19, 1946. SOERTSZ S.P.J.—

The sole question in this case is whether the Free China Hotel can fairly be described as a continuation of a catering establishment in existence before September 1, 1939, or whether it is a new catering establishment,

that is to say an establishment not in existence on September 1, 1939. If the latter is the case, it is quite clear that the meals in respect of which complaint has been made, are meals served in contravention of the Restrictions of Meals Regulations applicable to catering establishments not in existence on September 1, 1939. There is no rule of thumb and indeed no such rule can be laid down for determining whether a catering establishment is new in the sense already indicated or not. A catering establishment may change its locality or its ownership or even both locality and ownership after September 1, 1939, and still remain to be classified for the purpose of these regulations a pre-first September 1939 establishment. It must all depend on the facts of each case. In this case, in view of the change in venue, in ownership, in the manner of its opening, or the change in the kind of catering, in the class of clientele, in the volume of business transacted, in comparison with the business carried on at No. 60, Rifle street, the Magistrate was not merely entitled to take the view he did, but could hardly have taken any other view.

I dismiss the appeal.

*Appeal dismissed.*

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