

parties. If the lease is duly registered, it is entitled to prevail even against those claiming title from the lessor under deeds executed prior to the lease but registered subsequently. Therefore, I would respectfully adopt the views expressed by the Judges in *Carron v. Fernando et al.*<sup>1</sup> Though the appellants' Counsel attempted to distinguish it on the ground that the lease considered in that case was for a period of over ten years, it is clear from the judgments that the distinction between short and long leases was not recognized as part of the law of Ceylon.

I would dismiss the appeal with costs.

PULLE J.—I agree.

*Appeal dismissed.*

[IN THE PRIVY COUNCIL]

1949

NAGALINGAM, Petitioner, and THANABALASINGHAM *et al.*,  
Respondents

*S. C. 1-2—D. C. Point Pedro, 2198*

*Privy Council—Application for conditional leave to appeal—Refusal by Supreme Court—Application for special leave to appeal.*

**A**PPPLICATION to the Privy Council for special leave to appeal from a judgment of the Supreme Court which is reported in *50 N. L. R. 97*.

*Stephen Chapman with Kamala Tyabji for the petitioner.*

No appearance for the respondents.

In *Nagalingam v. Thanabalasingham et al.* (1949) *50 N. L. R. 396*, application was made for conditional leave to appeal to the Privy Council from a judgment of the Supreme Court dated October 13, 1948. Notice of the application served on the respondents had wrongly described the judgment in respect of which the application was to be made as being dated October 11, whereas in fact there was no judgment of that date, the correct date being October 13. The Supreme Court dismissed the application mainly on this ground, holding that the requirements of the rules set out in the Schedule to the Appeals (Privy Council) Ordinance should be strictly complied with. The petitioner, thereupon, applied to His Majesty in Council for special leave to appeal from the judgment

<sup>1</sup> (1933) *35 New Law Reports 352*.

of the Supreme Court dated October 13, 1948. The following was the order of His Majesty in Council dated May 31, 1949, granting special leave to appeal \* :—

Whereas there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 9th day of May, 1949, in the words following, viz. :—

“ WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble petition of A. Nagalingam of Polikandy, Valvettithurai, in the matter of an appeal from the Supreme Court of Ceylon between the petitioner (plaintiff) and (1) Arumugam Thanabalasingham (2) Kandavanam Vadivelu (3) Kandavanam Chelliah (4) Kandavanam Kandasamy, all of Polikandy, Valvettithurai (defendants) respondents setting forth (amongst other matters) : that the petitioner was on the 3rd February 1949 refused conditional leave to appeal to Your Majesty in Council from a judgment of the Supreme Court in proceedings in which the subject matter exceeded Rs. 5,000 so as to entitle the petitioner subject to the rules contained in the Schedule to the Appeals (Privy Council) Ordinance (Chapter 85 in the Revised Legislative Enactments of Ceylon) to an appeal as of right to Your Majesty in Council : that the grounds of the Supreme Court's refusal of conditional leave were that in technical respects the petitioner had failed to comply with the requirement of the said rules as to giving notice of an intended application for leave to appeal : that the original proceedings were instituted in the District Court of Point Pedro by the petitioner as plaintiff against the first respondent who is his younger brother claiming the partition of certain land known as Mungkodai and Mavattai : that by the plaint the petitioner allotted a half share in the land to the said respondent who accepted this as his correct share and did not file an answer : that he was not represented and did not take any part in any of the subsequent proceedings : that the second, third and fourth respondents intervened in the proceedings to claim that full title to the land in question was vested in them by virtue of a deed of gift made in favour of their father : that the Court of the District Judge awarded the major portion of the land in question to the petitioner and the first respondent : that from this decision the petitioner and also the second, third and fourth respondents appealed to the Supreme Court : that the appeals were consolidated and by judgment dated 13th October 1948 the appeal of the second, third and fourth respondents was allowed with costs and the petitioner's appeal was dismissed with costs : that the petitioner duly applied to the Supreme Court for conditional leave to appeal and his application was opposed by the second, third and fourth respondents whose main objection was that due notice of the intended application had not been given within the 14 days laid down by rule 2 of the Schedule to the Appeals (Privy Council) Ordinance : that this objection was upheld by the Supreme

\* It is not the practice of the Lords of the Judicial Committee of the Privy Council to give reasons either for granting or refusing special leave to appeal, and, in accordance with that practice, no reasons were given in this case.—Ed.

Court in a judgment dated 3rd February 1949: And humbly praying Your Majesty in Council to grant the petitioner special leave to appeal from the judgment of the Supreme Court dated 13th October 1948 and for such further and other relief as to Your Majesty in Council may seem just:

“THE LORDS OF THE COMMITTEE in obedience to His late Majesty’s said Order in Council have taken the humble petition into consideration and having heard Counsel in support thereof (no one appearing in opposition thereto) Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the petitioner to enter and prosecute his appeal against the judgment of the Supreme Court of Ceylon dated the 13th day of October 1948 upon depositing in the Registry of the Privy Council the sum of £400 as security for costs:

“AND Their Lordships do further report to Your Majesty that the proper officer of the said Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the record proper to be laid before Your Majesty on the hearing of the appeal upon payment by the petitioner of the usual fees for the same.”

HIS MAJESTY having taken the said report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed, obeyed and carried into execution.

Whereof the Governor-General or Officer administering the Government of Ceylon for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

*Application allowed.*

1949

*Present: Basnayake J.*

SAMARAKOON, Petitioner and TIKIRI BANDA, Respondent

*S. C. 421—In the Matter of an Application for a Writ of Quo Warranto against H. M. Tikiri Banda*

Quo warranto—Election of Village Committee Chairman—Bribery and treating—Remedy provided by law—Act of electing Chairman—Official act—Public Bodies (Prevention of Corruption) Ordinance—No. 49 of 1943—Section 6—Local Authorities Elections Ordinance, No. 53 of 1946—Section 10.

The act of electing a Chairman of a Village Committee is an official act within the meaning of section 6 of Ordinance No. 49 of 1943. Where, therefore, there are allegations of treating and bribery the proper remedy is under that section and a conviction will disqualify the person charged by virtue of section 10 of Ordinance No. 53 of 1946. A writ of quo warranto will not lie in such a case.