

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N A P P E A L

FROM THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

B E T W E E N :

V. M. PEER MOHAMED Appellant
(Defendant)

- AND -

10 THE GREAT EASTERN LIFE ASSURANCE Respondent
COMPANY LIMITED (Plaintiff)

CASE FOR THE RESPONDENT

RECORD

- 20 1. This is an appeal from a judgment of the Court of Appeal of the Republic of Singapore (WEE CHONG JIN, C.J., LAI KEW CHAI and F.A. CHUA, J.J.) dated 9th September 1982, dismissing with costs the Appellant's appeal from a judgment of T. KULASEKARAM, J. in the High Court of the Republic of Singapore dated 23rd June 1981, whereby it was ordered that the Respondent should recover from the Appellant possession of certain land and premises known as No. 449 East Coast Road, Singapore ("the Premises").
Pg.39 1.35 -
Pg.42 1.1
Pg.34 1.13 -
Pg.36 1.21
- 30 2. T. KULASEKARAM, J. allowed the Respondent's appeal from a judgment of His Honour Mr. DALIP SINGH in the District Court of the Republic of Singapore dated 2nd May 1978, dismissing the Respondent's claim for possession of the Premises, with costs, for the reasons set forth in the learned District Judge's Grounds of Judgment.
Pg.21 11. 16-
23
Pg.22 1.23 -
Pg.27 1.39
- 3. The question for decision is whether the Appellant was at any material time the tenant of the Premises.
- 4. The learned District Judge made certain findings of fact which have not been overturned

RECORD

on appeal:-

- Pg.23 11 3-12 (1) The Respondent is the owner of the Premises.
- Pg.23 11 13-22 (2) The Respondent let the Premises to one D. ABDULLAH ("the Original Tenant") on a monthly tenancy at some time prior to 9th December 1953.
- Pg.23 11 23-55 (3) The Respondent terminated the Original Tenant's tenancy of the Premises by notice on 31st December 1976. 10
- Pg.27 11 28-31
- Pg.5 11.11-15 (4) The Appellant (who pleaded that he paid the rent for the Premises since 1954) paid such rent on behalf of the Original Tenant.
- Pg.24 11.37-39
- Pg.27 11.26-28
- Pg.10 1.42- (5) The Appellant (contrary to the purport of his evidence) never made any attempt to have the tenancy of the Premises put into his name.
- Pg.11 1.11.
- Pg.24 11.24-42
- Pg.48-50 5. The Appellant, throughout this litigation, has relied upon the terms of an Agreement under seal dated 9th December 1953 and made between the Original Tenant (1) and one MURUGAIYAN (2) and the Appellant (3) ("the 1953 Agreement") as grounding his claim to be the tenant of the Premises. Thus, the Appellant so pleaded in his Defence, so deposed when he gave evidence before the learned District Judge, so contended in his Petition of Appeal to the Court of Appeal, and so argued by his Counsel at the hearing before the Court of Appeal, whose judgment specifically stated:- 20
- Pg.5 11.11-15
- Pg.10 11.31-35
- Pg.38 11.37-44 "The sole issue in this appeal is whether on the true construction of [the 1953 Agreement] the tenancy of the premises had been transferred by way of assignment to the Appellant by [the Original Tenant]." 30
- Pg.41 11.1-5
- Pg.49 11.3-11 6. The Respondent submits that issue was rightly decided in favour of the Respondent. It is manifestly the case that, as both KULASEKARAM, J. and The Court of Appeal held, the 1953 Agreement was drawn in terms which were wholly inconsistent with that document having effected an assignment by the Original Tenant to the Appellant of the former's tenancy of the Premises. Thus, while Clause 1 contained an express assignment to the Appellant of "all furniture and fixtures contained in the " Premises, the 40 50

10 said Clause did not refer to any assignment of the Premises themselves. Further, by Clause 3, the Appellant undertook "to have the tenancy transferred into his name". Moreover, from the execution of the 1953 Agreement, the Appellant was by Clause 4 to be entitled to any rent from sub-tenants of the Premises - an otiose provision if the tenancy was intended to be assigned to him by the 1953 Agreement itself.

20 7. If (contrary to the Respondent's respectful submission) it is open to the Appellant to contend that either there was an assignment by estoppel, binding the Respondent or there was a grant of a sub-tenancy of the Premises by the Original Tenant to the Appellant in or after 1953, the Respondent humbly submits that there is no material before their Lordships which supports either of such contentions.

8. On 22nd November 1982, the Court of Appeal of the Republic of Singapore made an order granting the Appellant leave to appeal to Her Majesty in Council.

30 9. The Respondent submits that this appeal should be dismissed with costs for the following, amongst other,

R E A S O N S

- 40 1. BECAUSE, as the High Court and the Court of Appeal have rightly held, the 1953 Agreement did not constitute an assignment by the Original Tenant to the Appellant of the former's tenancy of the Premises.
2. BECAUSE there is no other basis upon which the Appellant can rely to establish that he was at any material time a tenant of the Premises.
3. BECAUSE the judgments of both KULASEKARAM, J. and the Court of Appeal were right.

GERALD GODFREY
ALAN SEBESTYEN

No. 15 of 1983

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THE GREAT EASTERN LIFE
ASSURANCE COMPANY LIMITED

Respondent
(Plaintiff)

CASE FOR THE RESPONDENT

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