

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: CA 13/2014

Appeal from Magistrates Court Decision 101/2014

[2015] SCSC 265

ISLAND TRADING LTD
HEREIN REP BY MR JOE CHUNG FAYE
Appellant

versus

BODCO LIMITED
HEREIN REP BY MR BASIL SOUNDY
Respondent

Heard: 27th July 2015
Counsel: Mr. Ally for appellant
Mr. Ferley for respondent
Delivered: 27 July 2015

RULING

D. Karunakaran, Acting Chief Justice

[1] This is an appeal from the judgment of the Rent Board given on the 25th of February 2014 in Case number 36 of 2013, whereby the Rent Board made an order of eviction against the Appellant. Being aggrieved by the said decision of the Rent Board the Appellant has filed this appeal before this Court raising a number of grounds. Having filed the notice of appeal and the grounds the Appellant also filed the motion seeking the leave of this Court

to adduce further evidence at the hearing of the appeal in view of the fact that the Appellant was not able to adduce certain evidence at the hearing before the Rent Board.

[2] Before I Proceed to consider the merits of the appeal as well as the motion for leave to adduce further evidence in this matter, having carefully perused the records of the proceedings I am satisfied that the judgment delivered by the Rent Board in this matter is fundamentally defective. I say so because the judgment should have been made, delivered and duly signed by the members constituting the quorum, which heard the matter in the Rent Board. Unfortunately it appears only the Chairperson of the Rent Board has made, delivered and signed this judgment. The parties might feel that a legal technicality based on the procedural irregularity may not cause injustice to them. However, in the long run, if the procedural law is eschewed and avoided or flouted in any legal proceedings, it would undermine “rule of law” and “judicial process”, which is detrimental to the legal system and society at large.

[3] In the circumstances, I find that judgment delivered by the Rent Board in this matter is fundamentally defective. Therefore, I set aside the said judgment and order the Rent Board to rehear this matter de novo.

[4] Appeal is allowed accordingly. Before I conclude I should mention that when a glaring procedural irregularity committed by the Rent Board appears on the face of the record, this Court cannot turn a blind eye and approve such irregularities. For these reasons, I allow this appeal for the reason stated earlier. I remit the case to the Rent Board for re-hearing of this matter, accordingly.

Signed, dated and delivered at Ile du Port on 27 July 2015



D Karunakaran
Acting Chief Justice