

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: CA 10/2014

Appeal from Rent Board Decision 12/2012

[2016] SCSC 74

JEAN LOW

Appellant

versus

SHANMOUGA SUNDARAM PILLAY

Respondent

Heard: 28th January 2016

Counsel: Mr. Anthony Derjacques for appellant

Mr. Padi Pardiwalla for respondent

Delivered: 28th January 2016

JUDGMENT

Karunakaran J

[1] This is an appeal from the Judgment of the Rent Board. The Appellant (hereinafter called the landlord) applied to the Rent Board for eviction against the Respondent (hereinafter called the tenant) based on a number of grounds sprouting from a lease agreement the parties had entered into on the 01st October 2010. In passing I should mention that the amended application before the Rent Board sought the following prayers:

- a) To order the Respondent to rectify all the deficiencies mentioned in the inspections reports;

- b) To order the Respondent to pay the additional sum Seychelles Rupees Two Thousand [Rs 2000] for each month that the Respondent fails to vacate; and
- c) To evict the Respondent from the said premises.

[2] In my considered view the prayers (a) and (b) above are not relevant to an application for eviction since the Rent Board has no jurisdiction to make any order of the nature sought under paragraph (a) and (b) of the prayers. I carefully perused the amended application wherein the landlord has raised a number of issues involving questions of facts but nowhere has he specifically pleaded any ground citing the exact sections of law, which empower the Rent Board to make an eviction order, although one can speculate that there are few grounds appear to have been pleaded in the amended petition but of no relevancy. After hearing the case, the Rent Board dismissed the application stating that the landlord did not establish any of the grounds to justify eviction in terms of Section 10 of the Rent Control Act. Being dissatisfied with the decision of the Rent Board, the Appellant has filed his appeal raising the following grounds;

- 1) the Rent Board in its finding failed to hold that the premises were not being used by the tenant in a tenant like manner.
- 2 It also failed to hold that the tenants occasioned were entered a state of disrepair and deterioration beyond ordinary wear and tear allowable by the law.
- 3) It failed to hold that the penalty fees were not paid by the tenant to the lessor; and
- 4) It erred in its finding that nuisance to the neighbours was not proven as against the tenant.

[3] Although the Appellant has pleaded all these grounds finally he conceded that only ground (d) that is nuisance, deterioration and the failure of the tenant to properly maintain the premises is the only valid grounds under Section 10(1) (b) of the Control of Rent and Tenancy Agreement Act.

[4] I carefully examined the submission made by both counsel in this matter. The only ground which the Appellant relies upon is the nuisance and deterioration by the tenant in

respect of the property in question. First of all, I note there is no evidence on record to establish neither nuisance nor deterioration by the tenant as rightly submitted by Mr. Pardiwalla. All the issues involve questions of facts and the appellate Court in the normal circumstances will not interfere with the finding on facts by the trial Court unless there are special circumstances which warrant to interfere with those findings.

[5] In this matter I find the Rent Board has acted in accordance with evidence and none of the findings by the Rent Board be faulted for any reason whatsoever. I also find the Appellant has failed to establish any of the grounds under Section 10 of the Rent Control Act before the Rent Board. In the circumstances I find this appeal has no merits. It is accordingly dismissed. I make no order as to cost.

Signed, dated and delivered at Ile du Port on 28th day of January 2016

D Karunakaran
Judge of the Supreme Court