

**IN THE COURT OF APPEAL OF THE DEMOCRATIC  
SOCIALIST REPUBLIC OF SRI LANKA**

Rambukkanage Neela Nandani Fernando,  
No 141, Galle Road,  
Sarikkalimulla, Panadura.

**Plaintiff**

C.A. No. 923 / 2000 F

**Vs.**

D.C. Pandura No. 365 / RE

Weerasuriya Mahawattage Fransis  
Fernando,  
No 91, Galle Road, Sarikkalimulla,  
Pananura.

**Defendant**

**AND NOW BETWEEN**

Rambukkanage Neela Nandani Fernando,  
No 141, Galle Road,  
Sarikkalimulla, Panadura.

**Plaintiffs Appellant**

**Vs**

Weerasuriya Mahawattage Fransis  
Fernando,  
No 91, Galle Road, Sarikkalimulla,  
Pananura.

**Defendant Respondent**

BEFORE : UPALY ABEYRATHNE, J.  
COUNSEL : Appellant - absent and unrepresented  
Respondent - absent and unrepresented  
DECIDED ON : 20.01.2012

UPALY ABEYRATHNE, J.

The Plaintiff Appellant (hereinafter referred to as the Appellant instituted the said action against the Defendant Respondent (hereinafter referred to as the Respondent) in the District Court of Panadura seeking to eject the Respondent from the land described in the schedule to the plaint. The Appellant had instituted the said action on the ground that the said premises were reasonably required for occupation as a residence for the Appellant and the members of her family.

The Respondent, in his answer, took up the position that he had been in occupation of the said premises as a tenant and had pleaded a dismissal of the Appellant's action. After trial the learned District Judge had dismissed the Appellant's action.

Both parties had admitted that the premises in suit were governed by the Rent Act No 7 of 1972. It was the position of the Respondent that since the Appellant had acquired title to the premises in dispute after the specified date contained in Section 22(7) of the Rent Act the Appellant could not have and maintain the action under said Section. The Respondent had further pleaded that he was the tenant of Abdul Rahim Marikkar since 17.02.1973.

It is apparent from the evidence of the case that the Appellant had purchased the said property by deed No 8261 dated 12.04.1985. The Appellant, in his evidence had admitted that the Respondent was in occupation of the premises in the said land when she purchased the land from Abdul Rahim Marikkar Mohomad Gaus who was the son of said Abdul Rahim Marikkar.

It is clear from the said evidence that the Appellant had purchased the premises in suit on a date subsequent to the specified date. In the said circumstances I see no reason to interfere with the judgement of the learned District Judge dated 29.08.2000. Therefore I dismiss the appeal of the Appellant with costs.

*Appeal dismissed.*

Judge of the Court of Appeal