

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

N. K. Nanda Manike,
Ankelipitiya,
Padiyapelella.

Plaintiff

C.A. No. 718 / 2000 F

Vs.

D.C. Nuwaraelliya No. 296 / L

1. W. P. Gunapala,
2. W. P. Dayawathie,
Both of Medawatta Colaniya,
Ragala, Halgranoya.
3. Assistant Government Agent,
Divisional Secretariat,
Nildandahinna.

Defendants

And Now Between

1. W. P. Gunapala,
2. W. P. Dayawathie,
Both of Medawatta Colaniya,
Ragala, Halgranoya.

1st & 2nd Defendant-Appellants

Vs

N. K. Nanda Manike,
Ankelipitiya,

Padiyapelella.

Plaintiff-Respondent

3. Assistant Government Agent,
Divisional Secretariat,
Nildandahinna.

3rd Defendant Respondent

BEFORE : UPALY ABEYRATHNE, J.
COUNSEL : A.A. De Silva PC with Jayalath Hissalla for
the 1st and 2nd Defendant Appellants
S. Gamage for the Plaintiff Respondent
ARGUED ON : 20.11.2012
DECIDED ON : 04.07.2013

UPALY ABEYRATHNE, J.

The Plaintiff Respondent (hereinafter referred to as the Respondent) instituted the said action against the 1st and 2nd Defendant Appellants (hereinafter referred to as the Appellants) and the 3rd Defendant Respondent for a declaration that she is the permit-holder of the land described in the schedule to the plaint. The Respondents filed a joint answer denying averments in the plaint and prayed for a dismissal of the Respondent's action. The case proceeded to trial on 10 issues. After trial the learned District Judge has delivered a judgment in favour of the Respondent. Being aggrieved by the said judgement dated 24.10.2000 the Appellants have preferred the present appeal to this court.

Both parties have admitted that the subject matter was a state land. Although the Appellants have claimed title to the land in dispute they have not produced a land permit or any other document to prove their ownership. But the Respondent, at the trial, has produced a land permit dated 25.06.1987 issued to her under Section 19 (2) of the Land Development Ordinance marked V 1 and a Preliminary Plan No. Nu 748 dated 29.07.1982 made by the Survey General Department marked V 2. According to the said land permit Lot No. 13 depicted in the said Plan No P.P. Nu. 748 situated at Ragala village have been granted to the Respondent.

The Appellant's position was that by a letter dated 30.08.1980 the Respondent had transferred the said land to the Appellant for a sum of Rs. 3,000/-. Said letter has been produced marked V 1. It appears from V 1 that N.K. Nandawathie Menike has given her consent to transfer a land No 11 to her sister W.G. Dayawathie. Accordingly said documents clearly shows that, by V 1, the said land No. 13 described in the land permit P 1 has not been transferred to the Appellant by the Respondent. In any event a land obtained under Section 19 (2) of the Land Development Ordinance cannot be transferred by V 1.

Hence I see no reason to interfere with the said judgement of the learned District Judge dated 24.10.2000. Therefore I dismiss the appeal of the Appellant with costs.

Appeal dismissed.

Judge of the Court of Appeal