

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

Weerasinghe Arachchige Premadasa,  
No 13A, Kanda Liyadda Paluwa,  
Ganemulla.

Plaintiff

C.A. No. 1117 / 2000 F

Vs.

D.C. Galle No. 12495 / P

1. Hetti Arachchige Sepali  
Wickremaratne,  
Dorape, Angulugaha.
2. Weerasinghe Arachchige Ariyadasa,
3. Piyadasa Wijesiri Gunawardena,
4. Weerasinghe Arachchige Lili,  
All of Dhanduwana,  
Dorape, Angulugaha.

Defendant

**AND NOW BETWEEN**

Weerasinghe Arachchige Premadasa,  
No 13A, Kanda Liyadda Paluwa,  
Ganemulla.

Plaintiff Appellant

Vs

1. Hetti Arachchige Sepali  
Wickremaratne,  
Dorape, Angulugaha.
2. Weerasinghe Arachchige Ariyadasa,
3. Piyadasa Wijesiri Gunawardena,
4. Weerasinghe Arachchige Lili,  
All of Dhanduwana,  
Dorape, Angulugaha.

Defendant Respondent

BEFORE : UPALY ABEYRATHNE J.

COUNSEL : Appellant was absent and unrepresented  
Nilanga Udalagama for the 2<sup>nd</sup> Defendant  
Respondent

ARGUED ON : 01.11.2013

DECIDED ON : 26.11.2013

UPALY ABEYRATHNE, J.

The Plaintiff Appellant (hereinafter referred to as the Appellant) instituted the said action against the Defendant Respondents (hereinafter referred to as the Respondents) in the District Court of Galle seeking to partition the land described in the schedule to the plaint. The 2<sup>nd</sup> 3<sup>rd</sup> and 4<sup>th</sup> Defendant Respondents (hereinafter referred to as the Respondents) filed their statements of claim praying for a dismissal of the Appellant's action. After trial the learned District Judge has dismissed the action. Being aggrieved by the said judgment dated 26.07.2000 the Appellant has preferred the instant appeal to this Court.

According to the Appellant Weerasinghe Arachchige Charlis was in possession of the land to be partitioned and after the demise of said Charlis his title had devolved on his two children Weerasinghe Arachchige Darmasena and Weerasinghe Arachchige Leelawathie and said Darmasena and Leelawathie has transferred their rights to the Appellant by a deed of transfer bearing No 6678

dated 11.10.1990. Thereafter the Appellant by deed bearing No 8753 dated 04.01.1994, has transferred undivided  $\frac{1}{2}$  shares to the 1<sup>st</sup> Defendant Respondent.

The Respondents' position was that their father Weerasinghe Arachchige Jemis and mother W.A. Caralain were in possession of the said land and after the death of their father and mother they were in possession of the said land.

At the trial the Appellant has closed the case leading his evidence. He has not led evidence of his predecessors in title to prove a prescriptive title. I have carefully examined the evidence of the Appellant. Since the Appellant has relied upon a prescriptive title of his predecessors in title, burden was on the Appellant to prove it. But the Appellant has failed to discharge his burden on a balance of probability.

In the aforesaid circumstances I find no reason to interfere with the judgement of the learned Additional District Judge dated 26.07.2000. Therefore I dismiss the instant appeal of the Appellant with costs.

*Appeal dismissed.*

Judge of the Court of Appeal