

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

Bank of Ceylon,
Central Office,
York Street,
Colombo 1.

Plaintiff

C.A. No. 606 / 2000 F

Vs.

D.C. Kandy No. 19704 / MR

1. G.P.P. Wijegunawardena,
Aladeniya,
Werallagama.
2. M.C.M. Ramzan,
No. 121, Walgampaya,
Danture.

Defendants

AND NOW BETWEEN

M.C.M. Ramzan,
No. 121, Walgampaya,
Danture.

2nd Defendant Appellant

Vs

Bank of Ceylon,
Central Office,
York Street,
Colombo 1.

Plaintiff Respondent

G.P.P. Wijgegunawardena,
Aladeniya,
Werallagama.

1st Defendant Respondent

BEFORE : UPALY ABEYRATHNE, J.

COUNSEL : Defendant Appellant- Absent and unrepresented
M.N. Kanishka de Silva SC for the Plaintiff
Respondent

ARGUED ON : 18.11.2013

DECIDED ON : 10.02.2014

UPALY ABEYRATHNE, J.

The Plaintiff Respondent (hereinafter referred to as the Respondent) instituted the said action against the 1st and 2nd Defendants in the District Court of Kandy seeking to recover a sum of Rs. 142,462/- and the interest as prayed for in prayer 'a' to the plaint. The case had been heard Ex Parte against the 1st Defendant. The 2nd Defendant Appellant (hereinafter referred to as the Appellant) has filed an answer praying for a dismissal of the Respondent's action.

The case proceeded to trial on 14 issues. After trial the learned Additional District Judge has delivered a judgment in favour of the Respondent. Being aggrieved by the said judgment dated 28.08.2000 the Appellant has appealed to this court.

The Respondent has closed his case leading the evidence of one witness with the documents produced marked P 1 to P 4. The Appellant has not raised any objection to the said documents. The Appellant has closed his case without leading any evidence. The Appellant's contention was that the Respondent has not proved his case and the admittance of documents P 2 and P 3 as evidence was unlawful.

It seems that the Appellant, who had not raised any objection to the said documents P 2 and P 3 at the trial, has made an attempt to challenge the said documents. It is well settled law that a party who fails to object to a document at the time of producing such document in evidence such party is not entitled to take up any objection to such document in appeal.

In the case of Cinemas Limited Vs. Sounderarajan [1998] 2 SLR 16 it was held that "In a civil case when a document is tendered the opposing party should immediately object to the document. Where the opposing party fails to object, the trial judge has to admit the document unless the document is forbidden by law to be received and no objection can be taken in appeal - S. 154 CPC (explanation)."

In the said circumstances I see no reason to interfere with the said judgement of the learned Additional District Judge dated 28.08.2000. Therefore I dismiss the appeal of the Appellant with costs.

Appeal dismissed.

Judge of the Court of Appeal