

Satya Narain Vs. Bajrang Lal

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Court : Rajasthan

Decided On : Apr-21-1994

Reported in : AIR1994Raj178; 1994(2)WLC353; 1994(2)WLN43

Judge : P.K. Palli, J.

Acts : Rajasthan Premises (Control of Rent and Eviction) Act, 1950 - Sections 13(1)

Appeal No. : Civil Second Appeal No. 190 of 1980

Appellant : Satya Narain

Respondent : Bajrang Lal

Advocate for Def. : D.R. Bhandari and; Vinay Jain, Advs.

Advocate for Pet/Ap. : N.P. Gupta and; R. Chouhan, Advs.

Disposition : Appeal dismissed

Judgement :

1. Bajrang Lal, landlord plaintiff filed a suit for eviction of Satya Narain tenant in respect of the shop in Question situated in Bhiloara. The rate of rent admitted to be Rs. 45/- per month. It is said that one Sharda Bai was the owner landlord of the shop in question and vide a sale deed Ex. 1 dated 22-8-1972 said Sharda Bai sold out the shop in question to the plaintiff and thereafter the defendant appellant has

become the tenant for the shop in question. Ex. 2 is the rent note which the tenant is stated to have executed in favour of Sharda Bai and after the purchase a notice was given by the landlord, which is Ex. 3 and there was another notice given by Sharda Bai to the tenant which is Ex. 4, stating that she had sold out the shop in question to the plaintiff. Exs. 5 and 6 are the postal receipt and acknowledgment. Ex. 8 are the proceedings from a suit where the tenant had admitted the status of Sharda Bai. The plaintiff sought the eviction of the tenant defendant on the ground of reasonable and bona fide necessity and that he required the suit premises for the own use and occupation and in reply the tenant denied that Sharda Bai had any concern with the shop in question or that she was the landlord.

2. Learned Court under issues Nos. 6 and 8 observed that there was convincing evidence on the record that the defendant was the tenant of the plaintiff and the defendant had accepted in the statement that Sharda Bai was the landlord and that he was estopped from denying the title and the plea taken by the tenant in the written-statement that one Sita Ram is also the owner of the shop in question along with Sharda Bai was not acceptable. Reliance was placed on portion A to B in Ex. 8 which is an admission on the part of the tenant particularly when Sita Ram himself has denied this aspect that he is the landlord of the premises in question: Further the receipts of rent Exs. A1 to A3 & A7 to A9 have been accepted and admitted by the tenant and signatures of Sharda Bai are accepted. Taking into consideration all these factors, documents and attending circumstances a firm finding was written by the trial court that Sharda Bai is the owner of the premises in question and thereby issues Nos. 6 and 8 were held in favour of the plaintiff. On the question of issue No. 1 relating to the execution of the sale-deed after analysing the evidence on record the learned Court found that the shop in question stands sold out by Sharda Bai and that the plaintiff had become its owner on the strength of the sale-deed 22-8-1972 Ex.1. On issues Nos. 2 and 9 whether the suit premises are bona fide required for the plaintiffs own use and occupation and whether the balance of convenience is in favour of the defendant. The learned Court found both these issues in favour of the defendant tenant and against the plaintiff landlord. Consequently the suit was dismissed.

3. Aggrieved against the decision of the learned Additional Munsif and Judicial Magistrate an appeal was taken to the District Judge and there an amendment was sought so as to plead the ground of eviction as given in Section 13(1)(f) of the Rajasthan Premises (Control of Rent and Eviction) Act, 1950 (referred to hereinafter as 'the Act'). Section 13(1) (f) reads as under :--

'13. Eviction of tenants -- (1) Notwithstanding anything contained in any law or contract; no Court shall pass any decree; or make any order, in favour of a landlord whether in execution of a decree or otherwise, evicting the tenant so long as he is ready and willing to pay rent therefor to the full extent allowable by this Act, unless it is satisfied --

(f) that the tenant has renounced his character as such or denied the title of the landlord and the latter has not waived his right or condoned the conduct of the tenant; or

4. The amendment was allowed, the order has become final, the matter proceeded on the amended pleadings, no evidence is said to have been led thereafter and the appeal was disposed of by the learned District Judge and the same was accepted. It is against this decision of reversal by the learned first appellate court that the tenant has come up in second appeal.

5. It was, thus, the ground of Section 13(1)(f) of the Act. i.e. the denial of the title of the landlord which was pressed in service for seeking the eviction of the defendant tenant now appellant. It may also be usefully referred to at this stage that the amendment to allow the additional ground was challenged by the tenant by the tenant Satya Narain in this Court and the revision petition was dismissed vide order dated 1-8-1978 and it was thereafter the appeal was heard and decided. Two issues appear to have been subsequently framed by the learned first appellate court embracing the provisions of Section 13(1)(f) of the Act. It would be useful to observe here in the written statement filed by the defendant tenant, it was clearly mentioned therein that Sharda Devi is not the landlord and the averment is denied. In para 2 of the plaint, the plaintiff had stated that the disputed shop was owned by Smt. Sharda Bai who was its landlord and that the defendant was her tenant at the rate of Rs.45/- per month for a period of 11 months. Now, this fact

mentioned in para 2 of the plaint was specifically denied by the tenant meaning thereby that the title of the landlord was denied. A plain reading of the aforesaid provision makes it clear that in the event of the tenant denying the title of the landlord then the tenant makes him liable for eviction. It is enough for the landlord to show that the tenant has renounced his character or denied the title and that the latter has not waived his right or condoned the conduct of the tenant. It may further be mentioned that it would be sufficient even if the title has been denied partially. There is nothing in the section which requires denial to its full extent. Again in para 28 of the written-statement it is said that the property is ancestral of Sitaram and that Sarda Bai had no right, title or interest in it. The cumulative effect of all these averments in the written-statement clearly leads to the conclusion that the appellant tenant clearly denied the title of the owner landlord i.e. Smt. Sharda Bai.

6. There is Ex. 8 another important material on the record that is, in the judicial proceedings between the parties, wherein the defendant tenant has accepted Smt. Sharda Bai as the owner landlord which amounts to an admission on his part. Ex. 2 is the rent-note that can be read with advantage in this respect which document has been admitted by the tenant appellant. In spite of this important admission, the tenant appellant had the courage to deny the status of the owner landlord.

7. Learned counsel appearing for the appellant had vehemently argued that the status of the landlord has not been specifically denied and that some more averments ought to have been stated denying the title specifically. I am afraid this contention cannot be permitted to be raised in view of the averments contained in the proceedings coupled with the conduct of the appellant and further voluminous documentary evidence consisting of admission on his part. No further words were necessary to plead denial and, in my opinion, the appellant tenant falls within the mischief of Section 13(1)(f) of the Act which has been reproduced above. Not only it was a case of denial of title of the landlady i.e. Smt. Sharda Bai who was admittedly the owner, the defendant tenant has further made it an additional plea that this property belongs to one Sitaram which fact has even been denied by said Sitaram. I am further of the opinion that the defendant appellant is further, by his conduct estopped from denying the title of the landlord on the principle of estoppel.

8. The counsel appearing for the appellant tenant has brought my attention to Smt. Bela Das v. Samrendra Nath Bose, (1975 RCJ 141 (SC)): (AIR 1975 SC 398); Shiv Narain v. Bai Kishan (1979 (2) RCJ 30 (Raj)); Mool Chand v. Poonam Chand (1987 (1) RLR 96); Raja Mohammad Amir Admad Khan v. Municipal Board of Sitapur, AIR 1865 SC 1923.

9. I have carefully and minutely gone through the aforesaid decisions. None of these decision is even remotely applicable to the facts and circumstances of the present case. The question in these cases was not of clear denial.

10. Learned counsel appearing for the respondent landlord has invited my attention to Tej Bhan Madan v. II Additional District Judge, AIR 1988 SC 1413. In this case the tenant who was served with prior notice of sale both by the vendor as well as the purchaser declined to attorn to the tenancy in favour of the purchaser and assailed not only the derivative title of the purchaser to the property but also the validity of the sale. It was held that this conduct amounted to denial of title and that the tenant was precluded from doing so on the general principle of estoppel between the landlord and tenant.

11. My attention has also been invited to a decision of the learned Single Bench of this Court in Heera Nand v. Abdul Sattar, 1975 WLN (UC) 430 wherein identically the provisions of Section 13(1)(f) were being examined. In this case also, it was held that the provisions do not postulate that the title must be denied to its full extent partial denial of title was sufficient to attract the provisions. The tenant in this case had admittedly paid the rent and attorned to the ladies who sold the shop to one Abdul Sattar. To say, they alone were not the owners of the shop and they had no right to sell the shop is definitely a denial of their title and in the situation the tenant had made himself liable for eviction under Clause (f) of Sub-section (1) of Section 13 of the Act.

12. Another decision brought to my notice is reported in Narsingh Das v. Mst. Amar Kanwar, 1968 RLW 222 wherein the same clause of Section 13(1) came to be interpreted and it was observed that Section 13(1)(f) in respect of denial the term was unqualified.

13. Yet another decision has been brought to my notice which reported in Mool Chand v. Ishwar Lal, 1973 RLW 333 : (AIR 1974 Raj 163) wherein the tenant who repudiated the title of the landlord was not held entitled to protection. Reference may be made to the observations appearing in para 15 which is reproduced hereunder:--

'To my mind, Clause (f) of Sub-section (1) of Section 13 of the Act shall take in even renouncements occurring prior to the determination of the tenancy as well as those after it. There are no words of limitation in the section to restrict the operation of this clause to renouncements occurring after the determination of tenancy only.'

14. After having heard the learned counsel for the parties and after having scanned the pleadings and the material placed on record and after carefully examining the case law cited at the Bar I find no fault with the decision arrived at by the learned first appellate court. There is hardly any occasion to take a different view.

15. In the result, the appeal fails and is consequently dismissed with no orders as to costs.

16. Since the premises in question is a shop, the appellant tenant is granted a period of three months from today to handover the vacant possession of the suit premises to the landlord provided all the arrears of rent till date are deposited/paid to the landlord within three weeks from today.

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