Mani Subrat Jain vs Raja Ram Vohra on 19 November, 1979

Equivalent citations: 1980 AIR 299, 1980 SCR (2) 141, AIR 1980 SUPREME COURT 299, (1980) 2 SCR 141 (SC), (1980) 1 RENCR 325, 1980 UJ(SC) 60, (1980) 1 RENCJ 337, 1980 (1) SCC 1, (1980) RENTLR 25, (1980) ILR SC 27

Author: V.R. Krishnaiyer

Bench: V.R. Krishnaiyer, R.S. Pathak

PETITIONER:
MANI SUBRAT JAIN

Vs.

RESPONDENT:
RAJA RAM VOHRA

DATE OF JUDGMENT19/11/1979

BENCH:
KRISHNAIYER, V.R.
BENCH:
KRISHNAIYER, V.R.
PATHAK, R.S.

CITATION:
1980 AIR 299 1980 SCR (2) 141
1980 SCC (1) 1
CITATOR INFO :
R 1981 SC2001 (1,6)
R 1987 SC 248 (4)

ACT:
East Punjab Urban Rent Restriction Act, 1949 Section 2(1), 3,-Tenant"- Meaning of-Scope of.

HEADNOTE:
The appellant, an Advocate, tenanted a' building belonging to tho respondent. The respondent sued the appellant for possession of the premises and by a compromise, the Appellant agreed to vacate the premises by a certain date. A decree in terms thereof was passed. Then the Act came into being which by extension of its operation applied to Chandigrah with effect from 4-11-1972.

It was contended that (i) had the decree been passed but a few days later, the Act would have admittedly

interdicted the eviction because of Section 13 thereof; and had the decree been made and executed a day before the extension of the Act, the years of litigative procrastination of eviction might have been impossible. The salvation of the appellant is certain if he be a "tenant" within the meaning of the Act and his eviction is certain if the definition of tenant does not cover him in its amplitude and (ii) that the effect of compromise decree is that the tenancy of the appellant has been terminated.

Accepting the appeal,

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HELD: An advocate, under this Act, enjoys special protection. lt is too platitudinous to preach and too entrenched to shake the proposition that rent control legislation in a country of terrible accommodation shortage is a beneficial measure whoso construction must be liberal enough to fulfil the statutory purpose and met frustrate it. So construed, the benefit of interpretative doubt belongs to the potential evictee unless the language is plain and provides for eviction. That intendment must, by interpretation, be effectuated. This is the essence of rent control jurisprudence. [143 E-G]

The expression 'tenant includes a 'tenant' continuing in possession after the termination of the tenancy in his favour'. It thus includes, by express provision, a quondam tenant whose nexus with the property is continuance in possession. The fact that a decree or any other process extinguishes the tenancy under the general law of real property does not terminate the status of a tenant under the Act having regard to the carefully drawn inclusive clause. Subudhi's case [1968] 2 S.C.R.. 559 related to a statute where the definition in s. 2(5) of that Act expressly included "any person against whom a suit for ejectment is pending in a court of competent jurisdiction" and more pertinent to the point specially excluded "a person against whom a decree or order for eviction has been made by such a court." [144 E-G]

(ii) The text, reinforced by the context, especially of section 13, convincingly includes ex-tenants against whom decrees for eviction might have been passed,

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whether on compromise or otherwise. Nobody has a case that the appellant is not continuously in possession. The conclusion is inevitable that he remains tenant and enjoys immunity under section 13 (1) of the Act. The execution proceedings, must therefore fall, because the statutory road-block cannot be removed. [A conflict is best resolved by the parties as both sides in the present case have produced an enlightened settlement by an agreement to sell the property in dispute by the respondent to the appellant. [144 G-H]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 818 of Appeal by Special Leave from the Judgment and order dated 10-4-1978 of the Punjab and Haryana High Court in Civil Revision No. 458 of 1978 (O & H) G. L. Sanghi, B. Datta, K. K. Manchanda and Ishwar Chand Jain for the Appellant.

P. Govindan Nair and N. Sudhakaran for the Respondent. The Judgment of the Court was delivered by KRISHNA IYER, J.-The Holmesian homily that the life of the law is not logic but experience directs our humane attention, in this appeal against an order in execution for eviction of an advocate in Chandigarh, affirmed by court after court, to a reading of the textual definition of 'tenant' [s.2 (i)] in the context of the broad embargo on ejectment of urban dwellings in s. 13 of the East Punjab Rent Restriction Act, 1949 (hereinafter referred to as the Act).

Chandigarh, a blossom in the desert, has served as the capital of two States; and, with explosive expansion, thanks to the marvellous human resources of Punjab & Haryana, become a crowded, though not yet chaotic, city with chronic accommodation scarcity. Consequently, laissez faire law, in the matter of landlord's right to evict his tenant, was subject to the act with effect from 4-11-1972. From then on, tenant could be dispossessed except on the ground set out in s. 13. But if a landlord had already obtained a decree for eviction earlier to this dateline, was he to be restrained by s. 13 which forbade even execution of decrees against tenants, or was he free from the statutory fetters because the defendant had ceased to be a tenant on the passing of the decree, having forfeited his status by the destructive effect of a com promise, as in this case?

An advocate, under this Act, belongs to a 'scheduled' class of tenants whose dwellings enjoy special protection. The appellant advocate tenanted a building belonging to the respondent. The latter sued for possession and the former, with refreshing realism, entered into a compromise and agreed to vacate by a certain date on certain terms regarding rent which do not bear upon the dispute before us, A decree in terms thereof was passed on 9-10-1972. Then came the Act, which by extension of its operation, applied to Chandigarh with effect from 4-11-1972. Had the decree been passed but a few days later, the Act would have admittedly interdicted the eviction because of s. 13. Had the decree been made and executed a day before the extension of the Act, the years of litigative procrastination of eviction might have been impossible. These mystic 'might-have-beens' are gambles of time which spill beyond our jurisdiction and statutory cognisance. The salvation of the appellant is certain if he be a 'tenant' within the meaning of the Act. His eviction is certain if the definition of 'tenant' does not ensconce him in its amplitude.

Decisions of peripheral relevance, but of different kernel, have been cited on both sides, and the one which has tilted the scales in the Chandigarh jurisdiction in favour of decree-holder-landlord is Subudhi's case. Precedents are law's device to hold the Present prisoner of the Past and must bind only if squarely covered. Subudhi's case decided under the Orissa House-Rent Control Act, 1958, is not one such. The key word is 'tenant' and if under the Act the appellant fills the bill definitionally he is immune from eviction when read with s. 13. Subudhi (supra) turns on a significantly different definition which cuts down the wide connotation by a tail-end qualification. The semantic sweep of

s. 2 (i) in our Act, by clear contrast takes in a wider group and we have no indication in that judgment whether a provision like s. 13 which makes the restriction applicable also to decrees was present in the Act there debated. Therefore, we side-step those rulings and go straight to the two provisions and their meaning in the statutory setting.

It is too platitudinous to preach and too entrenched to shake, the proposition that rent control legislation in a country of terrible accommodation shortage is a beneficial measure whose construction must be liberal enough to fulfil the statutory purpose and not frustrate it. So construed, the benefit of interpretative doubt belongs to the potential evictee unless the language is plain and provides for eviction. That intendment must, by interpretation, be effectuated. This is the essence of rent control jurisprudence.

Section 2(i) reads:

> "tenant" means any person by whom or on whose account rent is payable for a building or rented land and included a tenant continuing in possession after the termina-
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> tion of the tenancy in his favour, but does not include a person placed in occupation of a building or rented land by its tenant, unless with the consent in writing of the land lord, or a person to whom the collection of rent or fees in a public market, cart-stand or slaughter house or of rents for shops has been farmed out or leased by a municipal, town or notified area committee:
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> (emphasis added) In this context, we may also read s. 13 (1) which is integral to and makes impact upon the meaning of s. 2(i) even if there be any marginal obscurity.
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> 13. Eviction of tenants-(1) A tenant in possession of a building or rented land shall not be evicted therefrom in execution of a decree passed before or after the commencement of this Act or otherwise and whether before or after the termination of the tenancy, except in accordance with the provisions of this Section, or in pursuance of an order made under section 13 of the Punjab Urban Rent Restriction Act, 1947, at subsequently amended.

(emphasis added) The expression 'tenant' includes 'a tenant continuing in possession after the termination of the tenancy in his favour'. It thus includes, by express provision, a quondam tenant whose nexus with the property is continuance in possession. The fact that a decree or any other process extinguishes the tenancy under the general law of real property does not terminate the status of a tenant under the Act having regard to the carefully drawn inclusive clause. Even here, we may mention by way of contrast that Subudh's case (supra) related to a statute where the definition in s. 2 (5) of that Act expressly included "any per son against whom a suit for ejectment is pending in a court of competent jurisdiction" and more pertinent to the point specially excluded "a person against whom a decree or order for eviction has been made by such a court." We feel no difficulty in holding that the text, rein forced by the context, especially s. 13, convincingly includes ex-tenants

against whom decrees or eviction might have been passed, whether on compromise or otherwise. The effect of the compromise decree, in counsel's submission, is that the tenancy has been terminated. No body has a case that the appellant is not continuously in possession. The conclusion is inevitable that he remains a tenant and enjoys immunity under s. 13(1). The execution proceedings must, there fore, fail because the statutory road-block cannot be removed. Indeed, an application under the Act was filed by the landlord-defendant which was dismissed because the ground required by the Act was not made out.

We have been told by counsel, and supporting citations have been brought to our notice, that the High Court at Chandigarh has taken the contrary view for some time. It is better to be ultimately right rather than consistency wrong. The interpretation we have given in s. 2(i) is strengthened by our conviction that a beneficial statute intended to quieten a burning issue affecting the economics of the human condition in India should be so interpreted as to subserve the social justice purpose and not to subvert it. Even apart from this value-vision, the construction we have adopted is sustainable.

We have laid down the law on the disputed questions raised before us, but we are not called upon to make any decree pursuant to our decision because, taking the clue from certain observations of the court in the course of the arguments, the parties have come together and reached a fair solution of the problem revolving round the house property. A conflict is best resolved by the parties pursuading themselves to see the ability of continued dispute and enlightened by the law settled the controversy in a manner that promotes the interests of both. We find that both sides in the present case have produced an enlighten settlement and put in the court an agreement to sell the property covered by the appeal by the landlord to the tenant. A copy of the agreement has been put in the record which is annexed as appendix to this Judgment.

In this view we dispose of the appeal by formally dismissing it because there is no longer any relief needed in this appeal.

ORDER The Judgment having been delivered counsel for the respondent represented that the Agreement, which has been made and appendixed to the Judgment be treated as an undertaking mutually between the parties to the Court. Counsel on both sides have no objection to this course and so we record the Agreement incorporated in the judgment as an undertaking to the Court made by the parties in regard to their respective obligations.

N.K.A. Appeal dismissed