

cultivator in an adjoining paddy field, Ulludu Hewage Karunaratne, Registrar of Lands, Anuradhapura, and K.V. Somapala, Licensed Surveyor gave evidence.

On the conclusion of witness testimony, and after considering the submissions made by learned Counsel for the contending parties, on 5th October 1994 the learned District Judge entered judgement in favour of the Respondents, answering *inter alia* issues 6, 7 and 11 in the affirmative, and issues 8, 9, 10, 12 and 13 in the negative, with the answer to issue 14 being "රු 15,000 ක්". The essence of the decision of the learned District Judge is contained in the following passage of his judgement:-

පැමිණිල්ල සහ විත්තිකරු ඉදිරිපත් කර ඇති සියලු සාක්ෂි සහ ලේඛන සුපරීක්ෂාකාරීව විශ්ලේෂණය කර බැලුවේ. අදාළ වෘත්තීය වස්තුව පැමිණිල්ලේ උපලේඛනයේ සඳහන් වෘත්තීය වස්තුව හා මානක දිසානායක මහතාගේ චාරිතුවේ සඳහන් වෘත්තීය වස්තුව එකක් බව තීරණය කරමි. අදාළ වෘත්තීය වස්තුව සඳහා පැමිණිල්ලේ ඉදිරිපත් කර ඇති ඔප්පුවලට අනුව පැමිණිල්ලේ පැමිණිලිකරුවන් හිමිකම් ලබා ඇති බව තීරණය කරමි.

The final order embodied in the judgement of the learned District Judge, if my conjecture be correct, was for the ejectment of the Appellants from the land described in the schedule to the petition, presumably on the basis of a declaration of title to the said land in favour of the Respondents, and damages in a sum of Rs. 15,000 until the quiet and peaceful possession of the land is delivered to the Respondents, with no order for costs, expressed by the learned District Judge in cryptic precision in the following manner:-

මේ අනුව පැමිණිල්ලේ නිරවුල් බුක්තියක් මේ දක්වා කන්නයක් වෙනුවෙන් රු. 15,000- ක වන්දියක් හිමිවන බව තීරණය කරමි. නඩු ගාස්තු පැමිණිල්ල සහන ලබන නිසා අවශ්‍ය නැත.

මේ අනුව පැමිණිල්ලේ වාසියට තීරණය කරමි. තීරණය ප්‍රකාශය ඇතුළත් කරන්න

By its judgement dated 1st December 2004, the Court of Appeal has affirmed the aforesaid decision of the District Court, observing that it is "abundantly clear that the land claimed by the Defendants (Defendant-Appellants-Appellants) is the same land which is described in the schedule to the plaint (petition)". It is important to note that the Court of Appeal concluded as follows:-

Since this is an action for declaration of title it would be pertinent to consider the decision in *Wanigaratne vs Juwanis Appuhamy* (1962) 65 NLR 167 where in the Supreme Court has held that, "in action *rei vindicatio* the Plaintiff must prove and establish his title." This legal principle has been followed in our Courts right along. In the instant case the learned Judge has duly considered the un-contradicted evidence of the 1st Plaintiff in relation to acquisition of title and has arrived at the finding according to the deeds produced by the 1st Plaintiff, the Plaintiffs had acquired title to the subject matter. I conclude that this is a correct finding on the evidence which had been available before the District Court.

This Court has granted special leave to appeal on several substantial questions of law, but before setting out these questions, it may be useful to mention that in upholding the title of the Respondents to the land described in the schedule to the petition, the District Court and Court of Appeal relied on Deed No. 6165 dated 9th February 1987 (P1) and the prior deeds respectively bearing Deed No. 6024 dated 29th February 1944 (P3), Deed No. 6121 dated 12th May 1944 (P4), Deed No. 6468 dated 10th December 1944 (P5) and Deed No. 7167 dated 8th August 1946(P6) produced in evidence, which admittedly establish that the ownership of the aforesaid four acre land had been transmitted from the original owner Alavapillei Sanarapillai through some