

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

In the matter of an appeal made under
the Constitution of Democratic Socialist
Republic of Sri Lanka against the Judgement
dated 28.09.2020 of the Court of Appeal.

SC/APP/No.113/2021

SC.SPL.LA.No.261/2020

CA Writ Application No.395/2017

01. 88th Developers(Pvt)Ltd.
No.15/5, Circular Road
Sapumal Place,
Rajagiriya.

02. M.S.C. Perera,
Director
88th Developers(Pvt)Ltd
No.15/5, Circular Road
Sapumal Place,
Rajagiriya.

PETITIONERS

01. Urban Development
Authority of Sri Lanka
6th and 7th Floors,
“Sethsiripaya”
Battaramulla.

02. Dr. Jagath Munasinghe,
Chairman,
Urban Development
Authority of Sri Lanka,
6th and 7th Floors,
“Sethsiripaya”
Battaramulla.

03. Eng. S.S.P.Ratnayake,
Director General,
Urban Development
Authority of Sri Lanka,
6th and 7th Floors,
“Sethsiripaya”
Battaramulla.

04. N.A.S.N. Nissanka,
Director, Western Province,
Urban Development
Authority of Sri Lanka,
6th and 7th Floors,
“Sethsiripaya”
Battaramulla.

05. M.P. Ranasinghe,
Director Enforcement,
Urban Development
Authority of Sri Lanka,
6th and 7th Floors,
“Sethsiripaya”
Battaramulla.

06. Wasantha Ratnapala
Municipal Commissioner
Sri Jayawardenapura Kotte.

07. Patali Champika Ranawaka
Minister of Megapolis and
Western Development,
17th and 7th Floors,
“Sethsiripaya”
Battaramulla.

RESPONDENTS

And now Between

01. Urban Development
Authority of Sri Lanka
6th and 7th Floors,
“Sethsiripaya”
Battaramulla.

02. L.P. Harshan De Silva,
Chairman,
Urban Development
Authority of Sri Lanka,
6th and 7th Floors,
“Sethsiripaya”
Battaramulla.

03. N.P.K. Ranaweera,
Director General,
Urban Development

Authority of Sri Lanka,
6th and 7th Floors,
“Sethsiripaya”
Battaramulla.

04. N.A.S.N. Nissanka,
Director, Western Province,
Urban Development
Authority of Sri Lanka,
6th and 7th Floors,
“Sethsiripaya”
Battaramulla.

05. Lalith Wijeratne
Director Colombo Metro Region
(Former Enforcement)
Urban Development
Authority of Sri Lanka,
6th and 7th Floors,
“Sethsiripaya”
Battaramulla.

RESPONDENT-PETITIONERS-
APPELLANTS

Vs.

01. 88th Developers(Pvt)Ltd.
No.15/5, Circular Road
Sapumal Place,
Rajagiriya.

02. M.S.C. Perera,
Director
88th Developers(Pvt)Ltd
No.15/5, Circular Road
Sapumal Place,
Rajagiriya.

PETITIONERS-RESPONDENTS-
RESPONDENTS

06. Municipal Commissioner
Sri Jayawardenapura Kotte.

07. Mahinda Rajapaksa
Minister of Urban Development & Housing
17th and 7th Floors,
Suhurupaya, Subuthipura, Battaramulla.

6TH AND 7TH RESPONDENT-RESPONDENT
RESPONDENTS

Before : Hon. Jayantha Jayasuriya, PC, CJ
Hon. Murdu N.B. Fernando, PC, J
Hon. S. Thurairaja,PC, J

Counsel : Milinda Gunetilleke, PC, ASG with S.Wimalasena, DSG for the
Respondents-Appellants.

Faisz Musthapha, PC with Faiza Marker and Bishran Iqbal
instructed by Tharmaraja Tharmaja for the Petitioner-Respondent.

Neville Abeyratne, PC with Ms, Kaushalya Abeyratne Dias
instructed by Aruni Gunerathne for the 6th Respondent-
Respondent in SC Appeal 113/21.

Written Submissions: Petitioner-Respondent on 24.01.2022
Argued on : 04.07. 2023 13.09.2023, 01.12.2023 and 08.08.2024
Decided on : 12.11.2024

Jyantha Jayasuriya, PC, CJ

Respondents-Petitioners-Appellants (hereinafter referred to as “Appellants”) by these proceedings impugn the judgement of the Court of Appeal in case CA/WRIT/385/2017, delivered on 28.09.2020. The learned justices of the Court of Appeal in the impugned judgement have recognised that the main dispute between the parties is reflected in another writ application, namely CA/WRIT/85/2018. Judgements in both these matters had been delivered on the same day and the appellants impugned both judgements before this Court. The judgement of the Court of Appeal in CA/WRIT/85/2018 is challenged before this Court in SC Appeal 112/2021 and these proceedings (SC Appeal 113/2021) relate to the Court of Appeal Judgment in CA/WRIT/385/2017.

Hearing of these two appeals namely SC Appeal 112/2021 and SC Appeal 113/2021 were taken up together before this Court in view of the interrelationship between the matters urged in them. Whilst the main issue in SC Appeal 112/2012, is the legality of the Quit Notice dated 28th December 2017, issued by the Urban Development Authority (the first respondent appellant in both appeals) under State Lands (Recovery of Possession) Act in relation to Lot 1 and Lot 14 of PPCo 5534, in this appeal (SC Appeal 113/20121), issues revolve on a letter directing the petitioner- respondents (petitioners in the Court of Appeal – hereinafter referred to as the “respondents”) to stop construction in Lot 14 of PPCo 5534 and the cancellation of an approval for a building plan which has initially been issued in favour of the respondents by the Local Government Authority. Both these impugned documents pre date the impugned Quit Notice issued in 2017.

The Court of Appeal in SC/WRIT/85/2018, held in favour of the respondents and quashed the Quit Notice first and thereafter granted relief to the respondents by quashing the two letters mentioned above by the judgment delivered on the same day in CA/WRIT/358/2017. Appellants impugned both these judgments of the Court of Appeal.

We considered all material presented and the submissions of counsel in the course of hearing of both matters that were taken up together and by our judgment in SC Appeal 112/2021 allowed the appeal and set aside the judgment of the Court of Appeal. Therefore, the Quit Notice issued by the UDA against the respondents remains valid. The decisions impugned by the respondents in CA/WRIT/358/2017 predate the Quit Notice and are steps that were taken by the UDA and other agencies as a prelude to the Quit Notice. As the Quit Notice is now restored by the judgment of this Court in SC Appeal 112/2021, it is irrational to allow the judgment of the Court of Appeal that quashed the prior steps to be in force. Hence, we allow the appeal and set aside the impugned judgment of the Court of Appeal dated 28.09.2020 in CA/WRIT/395/2017.

Chief Justice

Murdu N.B. Fernando , PC.
I agree

Judge of the Supreme Court

S.Thurairaja, PC.
I agree

Judge of the Supreme Court