

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

*In the matter of an Appeal in terms of Section 5(C) of
the High Court of the Provinces (Special Provisions)
Act No. 19 of 1990 as amended by Act No. 54 of 2006
read with Article 128 of the Constitution of the
Democratic Socialist Republic of Sri Lanka*

SC Appeal No. 62/ 2024

SC HCCA LA 280/2023

CP/HCCA/100/2020(F)

DC Matale No. 10345/MR

Dharmakeerthige Dikhene Gedara Wasantha

Kumara Sirisena

Dikhena, Makulemada,

Owilikanda, Matale.

PLAINTIFF

Vs.

Dayarathna Wedagedara

No. 103, Udawehigala, Matale

DEFENDANT

AND BETWEEN

Dayarathna Wedagedara

No. 103, Udawehigala, Matale

DEFENDANT-APPELLANT

Vs.

Dharmakeerthige Dikhene Gedara Wasantha

Kumara Sirisena

Dikhena, Makulemada,

Owilikanda, Matale.

PLAINTIFF-RESPONDENT

AND NOW BETWEEN

Dharmakeerthige Dikhene Gedara Wasantha
Kumara Sirisena
Dikhena, Makulemada,

**Appearing through his power of attorney
holder**

Dharmakeerthi Devage Dikhene Gedara
Dhammika Nalinda Sirisena
178/1, Kandy Road, Kohóbiliwela, Matale

PLAINTIFF-RESPONDENT-APPELLANT

Vs.

Dayarathna Wedagedara
No. 103, Udawehigala, Matale

DEFENDANT-APPELLANT-RESPONDENT

Before: Yasantha Kodagoda PC., J.

Arjuna Obeyesekere J.

Dr. Sobhitha Rajakaruna J.

Counsel: Suriya Bandara Gunasekara for Plaintiff-Respondent-Appellant

Ershan Ariaratnan for the Defendant-Appellant-Respondent

Written Submissions: Plaintiff-Respondent-Appellant – 10 July 2024

Defendant-Appellant-Respondent – 25 June 2024

Argued on: 28 August 2025

Decided on: 02 April 2026

Dr. Sobhitha Rajakaruna J.

This Court granted Leave to Appeal on the following Question of Law set out in paragraph 8(c) of the Petition dated 7 July 2023:

“Did the High Court of Civil Appeals of the Central Province, holden in Kandy err in law by holding that Petitioner had failed to disclose a cause of action recognized by law against the Respondent?”

The Plaintiff-Respondent-Appellant (“Plaintiff”) instituted action in the District Court of Matale against the Defendant-Appellant-Respondent (“Defendant”), seeking, inter alia, a declaration that the Defendant was liable to pay the Plaintiff a sum of Rs. 500,000/-. In his answer filed in the District Court, the Defendant denied each and every averment in the Plaintiff except for the jurisdiction of the court, the residences of the parties, and the contents of paragraph 2 of the Plaintiff. While placing the burden of proof of the remaining averments on the Plaintiff, the Defendant raised no specific defence in the answer

At the commencement of the trial, both parties marked an admission admitting the contents of paragraph 2 of the Plaintiff. Accordingly, parties admitted the following facts: the Plaintiff had remitted money earned abroad to his brother for the purchase of the subject land; the land was purchased for Rs. 500,000.00 under deed of transfer No. 11647, attested by Mr. A.P. Cyril Wimalasena, Notary Public, on 5 March 2010 (marked as ‘Pa 1’); and the title had been examined prior to the purchase. A second survey was also conducted in accordance with the schedule in P1, and the Plaintiff proceeded with the transaction after satisfaction with the identification by the licensed surveyor. It appears that by virtue of the said deed, ‘Pa 1’, the Defendant transferred his purported title to the property described in the schedule, to the Plaintiff.

The Plaintiff further alleged that, after acquiring the property, he incurred additional expenses of Rs. 150,000.00 for improvements. Subsequently, a third party claimed title to the property.

In response, the Plaintiff's brother lodged a police complaint on 6 October 2010 (information book extract marked as 'Pa5'). Following these events, the Defendant executed a promissory note dated 6 December 2011 (marked as 'Pa 3'), undertaking to pay the Plaintiff the full consideration payable under deed of transfer marked 'Pa 1' on or before 5 December 2010, in consideration of the transfer of the subject land to the Defendant. This was due to the Plaintiff's inability to enjoy quiet possession and clear title as promised, through the said deed of transfer.

Through cross-examination, it emerged that the Plaintiff had conducted a second survey prior to purchasing the land as per the schedule marked as ' V 1' of the said deed marked ' Pa 1' and proceeded with the transaction after being satisfied with the identification of the property by the respective Licensed Surveyor. The defence suggested that no fraud had occurred and that the Plaintiff had not suffered any loss, and further asserted that the matter had already been addressed in a related Magistrate's Court proceeding. These suggestions, however, were rejected by the Plaintiff. Evidence was also produced to show that despite the undertaking extended by the Defendant by 'Pa 3', he failed to return the assured sum of money to the Plaintiff.

Further, it was established through cross-examination and evidence, including testimony from the Plaintiff's father and intermediaries, that the Plaintiff's possession was disturbed by the third party's claim. The parties then met with the Notary who attested deed 'Pa 1', at which point the Defendant executed the aforesaid written undertaking 'Pa 3' promising repayment. Despite this undertaking, the Defendant failed to repay the sum.

The District Court noted that the Defendant's own evidence acknowledged the dispute over the property and confirmed the execution of the undertaking to rectify the situation. Given the warranty of title in the deed and the Plaintiff's inability to obtain lawful possession due to the competing claim, the District Court held that a valid cause of action arose for recovery of the purchase price of Rs. 500,000.00. The claim for Rs. 150,000.00 in improvements was rejected for lack of clear, independent evidence quantifying such expenses. The claim for damages for loss of use of the purchase money (Rs. 350,000.00) was deemed excessive and reduced to Rs. 250,000.00, with legal interest from the date of filing until payment in full. Costs were awarded to the Plaintiff.

The Plaintiff framed seven issues at the trial, while the Defendant framed only one, inquiring whether he was entitled to the relief sought in his answer. Anyhow, no claim in reconvention was raised. The Defendant's prayer primarily sought dismissal of the plaint with costs. Notably, the Defendant failed to set out in detail, plainly, and concisely the matters of fact and law and the circumstances of the case relied upon for his defence, as required under Section 75(d) of the Civil Procedure Code ('CPC'). Although he denied the averments relating to the execution of 'Pa 3' and placed the burden of proof on the Plaintiff, he neither pleaded any specific defence concerning 'Pa 3' nor framed any related issue.

At the appeal stage, the Defendant challenged 'Pa 3' on the grounds that it was not duly executed and was allegedly fraudulent under the Prevention of Frauds Ordinance No. 7 of 1840. He contended that no cause of action had accrued against him.

Under 'Pa 3', the Defendant agreed to comply on or before 5 December 2010. The letter of demand ('Pa 2'), dated 14 December 2010, set out the circumstances of the Plaintiff's inability to take full possession, noting that the land sold under 'Pa 1' differed from what was intended, that the Defendant had admitted fault, and that subsequent demands for repayment had been made. Based on the special circumstances of this case and considering the evidence led at the trial, it is observed that the letter of demand, though not expressly referring to 'Pa 3', effectively demanded repayment of Rs. 500,000.00 together with other alleged losses.

Section 5 of the CPC defines "cause of action" as the wrong for the prevention or redress of which an action may be brought, including the denial of a right, refusal to fulfil an obligation, neglect to perform a duty, or infliction of an affirmative injury. Upon careful examination of the Plaint as a whole and the issues framed on behalf of the Plaintiff, I am satisfied that the Plaintiff disclosed a substantive cause of action against the Defendant based on the latter's failure to fulfil his obligations under the undertaking in 'Pa 3', executed by the Defendant on 6 October 2010.

Based on the circumstances of this case and after carefully evaluating the evidence, I hold that the Plaintiff was entitled to maintain the action in the District Court without first seeking to invalidate deed 'Pa 1' through separate proceedings. Irrespective of any liability under the

conveyance, the Defendant remained bound by the express conditions in 'Pa 3'. No adequate evidence was adduced at trial to establish that 'Pa 3' was signed under duress or coercion.

The provisions of the said Prevention of Frauds Ordinance (particularly Section 2 and related sections) are intended to prevent frauds and perjuries, as stated in its preamble, and should not be invoked to conceal the truth or defeat justice. Similarly, the defence filed in a district court action constitutes a vital element of the case, particularly where the defendant has admitted a document that strikes at the very root of the plaintiff's claim, as in the present matter.

The Defendant failed even to frame an issue contesting the existence of a cause of action. Instead, only a bare and imprecise issue was framed, suggesting that the Defendant could obtain the reliefs prayed for in the Answer against the Plaintiff. In reality, however, the prayer in the Answer seeks nothing more than the dismissal of the Plaint, with no specific relief claimed against the Plaintiff. Trial and appellate courts, among other considerations, ought to focus carefully on the issues actually framed when reaching their determination. Likewise, I am of the view that the provisions of the CPC should not be misconstrued or stretched in a manner that distorts or defeats the plaintiff's genuine grievance.

Notwithstanding the foregoing, the High Court primarily considered the implications of deed 'Pa 1' and concluded that the Defendant's liability as vendor arises only upon judicial eviction or extra-judicial eviction otherwise than by due process of law. It relied on findings that the land was clearly identified by metes and bounds, that the Plaintiff took possession upon execution of P1, and that no complaint of judicial or extra-judicial eviction was averred in the plaint. However, the High Court has not considered the evidentiary value in relation to the document marked 'Pa 3'.

Thus, I hold that the High Court erred in law in this regard. The cause of action pleaded and established arose principally from the Defendant's breach of the separate undertaking in P3, which was executed to address the defect in title and possession. The Plaintiff disclosed a recognised cause of action, and the High Court's conclusion to the contrary constitutes an error of law.

I find no reason to set aside the decision of the District Court including its findings on damages caused to the Plaintiff in addition to the main claim of Rs 500,000/-. Based on such circumstances I proceed to answer the aforesaid Question of Law upon which this Court granted Leave to Appeal, in favour of the Plaintiff. However, based on the reasons given above and the special circumstances of this case, it is much more appropriate that the Plaintiff take steps to formally transfer the subject land to the Defendant as described in 'Pa 3'. Hence, I set aside the Judgement of the High Court (dated 26 May 2023) and affirm the judgement of the District Court (dated 23 August 2023). The Appeal is allowed to the extent indicated above. Each party shall bear its own costs in respect of the proceedings before this Court.

Judge of the Supreme Court

Yasantha Kodagoda PC, J.

I agree.

Judge of the Supreme Court

Arjuna Obeyesekere J.

I agree.

Judge of the Supreme Court