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

Siriwardhana Mudiyanselage
Tikiri Banda Siriwardhana,
No. 18, Maha Mega Uyana,
Wewarauma,
Kurunegala.
(Deceased)

Jayamaha Hitihamillage
Seelawathi,
No. 311/9, St. Michelle View,
Gangarama Vihara Mawatha,
Dampe, Madapatha, Piliyandala.
Substituted Defendant-Respondent-Appellant

**SC/APPEAL/67/2016**
**WP/HCCA/GAM/286/2009(F)**
**DC GAMPAHA 43238/L**

Vs.

Modara Acharige Imesha Modara
Priyadarshani,
No. 402/D,
Sri Subodha Mawatha,
Kelaniya.
Substituted Plaintiff-Appellant-Respondent

Before: Janak De Silva, J.
Mahinda Samayawardhena, J.
Menaka Wijesundera, J.

Counsel: Kushan D' Alwis, P.C., with Chamath Fernando and Linuri Munasinghe for the Substituted Defendant-Respondent-Appellant.

M.C. Jayaratne, P.C., with Nishani Hettiarachchi and Dananjaya Jayasundara for the Substituted Plaintiff-Appellant-Respondent.

Argued on: 23.07.2025

Written submissions:

by the Substituted Defendant-Respondent-Appellant on 27.08.2025.

by the Substituted Plaintiff-Appellant-Respondent on 10.10.2025.

Decided on: 20.03.2026

**Samayawardhena, J.**

The plaintiff sold the parcels of land described in the schedule to the plaint (hereinafter referred to as "the land") to the defendant by deed marked P1 dated 29.08.1997 and deed marked P2 dated 06.04.1998. Her position is that, although the land was sold for Rs. 3,600,000/-, she received only Rs. 800,000/-. The plaintiff filed this action against the defendant in the District Court of Gampaha seeking a declaration that she is entitled to recover the balance selling price of Rs. 2,800,000/- together with legal interest. In the alternative, she sought to recover the said balance on the doctrine of *laesio enormis*. During the course of the trial, she confined her relief to the alternative claim based on *laesio enormis*.

The defendant sought the dismissal of the plaintiff's action on the basis that the land was sold by deeds P1 and P2 for a total sum of Rs. 800,000/- and nothing more.

After trial, the District Judge dismissed the plaintiff's action with costs. On appeal, the High Court of Civil Appeal of Gampaha set aside the judgment of the District Court and allowed the appeal. Hence this appeal by the defendant.

This Court granted leave to appeal on the following questions of law:

(a) *On the facts and circumstances of this case, did the High Court misdirect itself in holding that the cause of action had accrued to the plaintiff on the basis of the doctrine of laesio enormis?*
(b) *Even if the doctrine of laesio enormis is applicable, did the High Court err in law by failing to take into consideration that the plaintiff was well aware of the value of the land at the time she transferred the same to the defendant?*
(c) *Did the High Court fail to set out any legal basis or cogent reason to set aside the judgment of the District Court?*
(d) *Did the High Court err in law:*
    (i) *in holding that the witness Jagath Liyanarachchi was an expert as a valuer/architect/quantity surveyor?*
    (ii) *in acting upon his report marked P3 notwithstanding that the report had been prepared approximately three years after the date of the sale of the land?*

*Laesio enormis* (Latin for "enormous loss") is a doctrine originating in Roman law which permits a seller to rescind a contract of sale if immovable property has been sold, without the seller's knowledge, for less than half of its true value at the time of the sale. The burden of proving that the price received was less than half of the true value of the property rests on the seller who seeks to avoid the sale.

In *Jayawardene v. Amerasekera* (1912) 15 NLR 280 at 281–282, Lascelles C.J., with the agreement of Wood Renton J. (as he then was), stated:

> *It is clear to me that the plaintiff cannot possibly succeed on her claim to have the sale cancelled on the ground of enormis læsio. I agree with the learned District Judge that the evidence by which it is sought to prove that the lands were sold for less than half their true value is far from convincing. But even assuming this to have been proved, the plaintiff would not necessarily be entitled to the benefit of the doctrine of enormis læsio. It is not the law that where a proprietor, who is in a position to know the value of his property, sells it for less than half of what is afterwards held to be its true value, he is entitled to come into Court and claim rescission. It is clearly laid down in Voet 18.5.17 that a proprietor who knows the value of his property is not entitled to rescission merely by reason of the fact that the price at which he has sold the property is less than half its true value. The proprietor, in such a case, has only himself to thank for any loss he may have suffered. As Voet puts it, "Neque damnum intelligatur esse, quod quis suâ culpâ sentit." The case is otherwise where the property is sold at a price grossly disproportionate to its true value. In that case the law is on the side of the party who stands to lose by the transaction, and not on the side of the party who stands to make an unconscionable profit.*
>
> *The plaintiff in this case was accustomed to the management of coconut property, and was by no means wanting in Business capacity. She must be taken to have known the value of her property, and is therefore not entitled to rescission, even if it is proved that the property was sold for something less than half its value.*

Prof. C.G. Weeramantry, in his treatise *The Law of Contracts*, Vol. I, sections 332–336, gives an account of the doctrine of *laesio enormis*.

At section 332 he states:

> *Though the civil law permits the parties to make as good a bargain as they can, yet it states that a gross inequality between the price*

*which has been paid and the true value of an article implies something in the nature of fraud or undue influence, and on that account allows the one party or his heirs to call upon the other either to rescind the contract and return the purchase money or the property sold, as the case may be, or to correct the price by paying a just value for the article. This inequality between the value of the thing and the price paid is termed laesio enormis.*

*A contract may be avoided by court on the ground of laesio enormis either when the purchaser pays more than double the true value of the thing or the vendor sells the thing for less than half its value. The person sued has the option of restoring the thing or paying what is wanting to make up the just price. (Voet 18.5.11.; Levisohn v. Williams (1875) Buch 108; Norman's Purchase & Sale, 2nd ed., p. 577. See also the 3rd ed., p. 522) Where the consideration is less than half (or more than twice) the true value of the property, the sale is voidable on the ground of laesio enormis unless there is some special consideration present in the case which bars the application of the principle. (Ponnupillai v. Kumaravetipillai (1963) 65 NLR 241, P.C.) The difference in price must exist at the time of the transaction and not thereafter. (Wijesiriwardene v. Gunasekera (1917) 20 NLR 92; Gooneratne v. Don Philip (1899) 5 NLR 268)*

In section 335, Prof. Weeramantry sets out instances where the doctrine of *laesio enormis* does not apply. One such instance is:

*Where the aggrieved party was aware, or ought to have been aware, of the true value at the time of making the contract. (Jayawardene v. Amerasekera (1912) 15 NLR 280; Sobana v. Meera Lebbe (1940) 5 CLJ 46; Roff & Co. v. Moseley (1925) TPD 101; Hoffman v. Prinston (1928) TPD 627)*

At section 336 he further states:

> *The burden is on the person claiming the benefit of the doctrine to prove the true value of the thing in question. This may be done by expert evidence or by proving the market value at the time and place of sale. (Norman, Purchase & Sale, 2nd ed., p. 576)*

In this case, the District Judge, in a well-reasoned judgment, held with the defendant on two principal grounds:

(a) the plaintiff failed to prove that the land had been sold for less than half of its true value at the time of the sale; and
(b) the plaintiff knew the true value of the land at the time of the sale, even assuming that the price paid was less than half its value.

I must accept that the District Court did not analyse the evidence of Jagath Liyanarachchi, who was called by the plaintiff as an expert witness on the valuation of land, as the District Judge took the view that he could not be regarded as an expert witness.

The High Court set aside the judgment of the District Court on the basis that the rejection of the evidence of that witness on the ground that he was not an expert witness was erroneous. The High Court accepted the evidence of the said witness that the value of the land was Rs. 6,000,000/- and thereby held that the plaintiff was entitled to succeed on the doctrine of *laesio enormis*.

For the purposes of this appeal, it is unnecessary to determine whether the said witness could properly be regarded as an expert witness. Let me assume that he was an expert witness and assess his evidence on that basis.

As stated earlier, the deeds of transfer P1 and P2 were executed on 29.08.1997 and 06.04.1998 respectively. The evidence of this witness was that when he visited the land on 18.06.2000 the value of the land was Rs. 6,000,000/-. Even assuming that this evidence is correct, it

reflects the value of the land not at the time of the execution of P1 and P2 but at the time he inspected the land nearly three years after the sale.

It is common ground that after the purchase the defendant developed the land with the intention of subdividing it into blocks and selling them in smaller parcels. That was his business. For the purpose of the application of the doctrine of *laesio enormis*, the consideration for which the land was sold must be shown to have been less than half its true value at the time of the sale and not at some later point in time. This has not been proved to the satisfaction of the Court. The High Court did not address its mind to this aspect.

On the other hand, there was ample evidence that the plaintiff knew the true value of the land at the time of the execution of P1 and P2. She was not an uneducated person. She was a teacher by profession. It was her own evidence that she informed the notary that the value of the land was Rs. 3,600,000/- at the time of the execution of the two deeds. The doctrine of *laesio enormis* applies only where the seller, at the time of the sale, did not know and could not reasonably have known the true value of the property, and discovered that value only subsequently. The High Court did not address this aspect at all.

For the aforesaid reasons, the judgment of the High Court cannot be allowed to stand. I answer all the questions of law on which leave to appeal was granted in the affirmative. I set aside the judgment of the High Court dated 19.01.2015 and restore the judgment of the District Court dated 22.09.2009. The appeal is accordingly allowed, but without costs.

Judge of the Supreme Court

Janak De Silva, J.
I agree.

Judge of the Supreme Court

Menaka Wijesundera, J.
I agree.

Judge of the Supreme Court