

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

In the matter of an application for Special Leave to Appeal from the Judgment dated 10.11.2017 of the Court of Appeal under and in terms of Article 128(2) of the Constitution of the Democratic Socialist Republic of Sri Lanka and the Supreme Court Rules 1990.

SC/APPEAL/80/2020

SC/SPL/LA/293/2017

CA (Writ) 07/2014

AND NOW BETWEEN

1. Dodangoda Liyanage Sitha
Ariyawathi Jayasinghe,
No. 422, Anwarama, Mawanella.
2. Munamalpe Gamage Chamini
Priyangika Gamage,
No. 422, Anwarama, Mawanella.
3. Munamalpe Gamage Nilanga
Priyanthi,
No. 471, Anwarama, Mawanella.

Petitioners- Appellants

Vs.

1. The Chairman, People's Bank
No. 75, Sir Chittampalam A

Gardiner Mawatha, Colombo 03.

2. The People's Bank,
No. 75, Sir Chittampalam A
Gardiner Mawatha, Colombo 03.
3. Mrs. K.W.M.L. Senadheera,
The People's Bank,
No. 75, Sir Chittampalam A
Gardiner Mawatha, Colombo 03.
4. Kallara Wijethunga Mudiyansele,
Mallika Sarojini,
The People's Bank,
No. 75, Sir Chittampalam A
Gardiner Mawatha, Colombo 03.
5. D.R. Wasantha, Nanayakkara,
No. 416, Anwarama, Mawanella,
(formerly known as 406, Anwarama
Mawanella).
6. Hon. Minister of Finance,
Ministry of Finance, Colombo 01.

Respondent-Respondents

Before : Mahinda Samayawardhena, J.
Menaka Wijesundera, J.
Sampath K. B. Wijeratne, J.

Counsel : Pulasthi Hewamanna with Upendra Welgama and Ms. Fadhila Fairoze instructed by Ms. Niluka Dissanayake for the Petitioner-Appellants.
Dr. Sunil Abeyratne instructed by Yamuna Athauda for the 1st to 4th Respondent-Respondent.
Ms. Sureka Ahmed, SSC, for the 6th Respondent-Respondent.

Written

Submissions : Latest written submissions on behalf of the Petitioner-Appellants on 1st of June, 2026.
Latest written submissions on behalf of the 1st to the 4th Respondent-Respondents on 4th of June, 2026.

Argued on : 07.05.2026

Decided on : 27.07.2026

MENAKA WIJESUNDERA J.

The instant appeal has been filed to set aside the judgment dated 10.11.2017 of the Court of Appeal, in Writ Application No. 07/2014.

When this matter was supported for leave, this Court has granted leave under (a) and (c) of paragraph 20 of the petition dated 21st of December 2017 of the appellant, and they are as follows;

- a) *Did the Court of Appeal fail to consider the effect of the judgment of the learned District Court Judge marked X21 and the findings thereon on the maintainability of the Land Redemption Department inquiry and subsequent determination?*
- c) *Has the Court of Appeal failed to consider the effect of Section 71(2)(d) of the Finance Act No. 11 of 1963 (as amended)?*

The instant matter at hand relates to a land situated in Mawanella, which is in extent 3.21 perches and was at one point owned by Karunawathie Hettiarachchi, the mother of the 5th Respondent, who had transferred the said land by a

conditional transfer dated 23.06.1987 (*marked and produced as X8*) to one John Jayasinghe, subject to the condition that Karunawathie Hettiarachchi would purchase it back on the expiration of one year at the purchase price, with interest.

However, upon the expiry of the one-year period, Karunawathie Hettiarachchi had failed to fulfil the condition stipulated in the transfer. Consequently, the aforementioned John Jayasinghe became the owner of the land and thereafter transferred it to Monamale Gamage Mahindadasa by Transfer Deed No. 3885 dated 14.11.1988, marked and produced as **X9**. As claimed by the Appellants, the aforementioned Mahindadasa had lived on the said property, running a boutique as his occupation.

Hence, the Petitioner-Appellants (hereinafter referred to as the Appellants) became the rightful owners of the said land as the above mentioned Mahindadasa had passed away intestacy and the Petitioners were his legal wife and the two daughters.

Thereafter, Karunawathie Hettiarachchi had made an application to the Land Redemption board of the Peoples bank on 14.12.1988 seeking a redemption of the said property under the provisions of the Finance Act.

Thereafter, Karunawathie Hettiarachchi instituted action against the said John Jayasinghe, seeking a declaration that she was the lawful owner of the said land. She further sought an order directing that the proceedings before the Land Redemption Board of the People's Bank be held in abeyance and that she be permitted to fulfil the conditions stipulated in the conditional Transfer Deed, on the basis that the said John Jayasinghe had been evading payment in respect of the land.

The learned District Judge had heard the case and had dismissed the action on the basis that the Plaintiff, Karunawathie Hettiarachchi, made no effort to fulfill the conditions in the conditional transfer, and therefore the said John Jayasinghe became the lawful owner of the said land, and the said judgment had not been appealed by Karunawathie Hettiarachchi.

In the meantime, the application before the Land Redemption Board had been revived and the Board held that the land should be acquired by the People's Bank because the Appellants had property other than the land in question to be used as a residence, and that the Appellants failed to establish that the above-mentioned Karunawathie's income exceeded Rs. 25000 per month.

The main contention of the Appellants is that the judgment of the District Court is a final judgment by a competent Court of law. Therefore, the Land Redemption Board of the People's Bank had no authority to override the same.

But upon perusal of the submissions of both parties, the above-mentioned Karunawathie had owned the land and the house on it and she had made a conditional transfer to John Jayasinghe, which she had failed to honour.

Hence, the above mentioned John Jayasinghe had transferred the land to one Mahindadasa by a deed of transfer for a valuable consideration and thereafter the above mentioned Karunawathie had petitioned the Land Redemption Board of the People's Bank and the District Court.

The District Court had dismissed the action of the above-mentioned Karunawathie on the basis that she had failed to fulfill the terms of the conditional transfer but the Land Redemption Board, after inquiring, had held that the land and the house should be acquired.

The said decision had been challenged by the Appellants, stating that their predecessor was a bona fide purchaser; thus, their rights had been looked after by Section 71(2) of the relevant Act, which is the Finance Act No. 11 of 1963.

The learned judges of the Court of Appeal have held that the subsequent amendment to the said Act, which is Section 71(2)(c)(ii) of the Finance Act No. 11 of 1963, provides that a bona fide purchaser is not covered and the acquisition by the bank is not illegal and ultra-vires.

Section 71(2)(c)(ii) of the Finance Act, No. 11 of 1963, as substituted by section 2 of the Finance and Ceylon State Mortgage Bank (Amendment) Law, No. 16 of 1973, provides:

"(ii) the transfer of such premises to such other person had been made for a consideration which was substantially less than the market value of such premises on the date of the transfer."

In the case of ***Mahindasoma v Gunawardena and others*** C.A. No. S.C. 229/78 Justice Seneviratne held that;

"Some light is thrown on this issue when we consider the provisions of the Finance Act, No. 11 of 1963 section 71 (2) (c) (ii) which deals with the acquisition under this Act of a land purchased bona fide for valuable consideration by a purchaser of such premises from the person to whom such premises were sold or transferred. Section 71 (2) specifically lays down a provision for land to be acquired if the Bank is satisfied of the conditions

set out above that is section 71 (2) (c) (ii). This provision has been dropped from the current law that is Law No. 16 of 1973. There is no doubt that the legislature has done this with a purpose that is not to permit even a bona fide purchaser to deprive the transferee who gave a land on a conditional transfer of the land. We hold that the relevant Law No. 16 of 1973 does not prevent the Bank from following the property transferred to the plaintiff in this case for acquisition on the application made by Suriyaarachchi who gave the conditional transfer”

The Appellants raised the issue that the Land Redemption Board of the People's Bank is a statutory body and that it cannot override the decisions of a competent Court and the learned Court of Appeal Justices have failed to consider the same.

Upon perusal of the impugned judgment of the Court of Appeal, the learned judges have not drawn their attention to the said judgment of the District Court, which I think, should not have been so.

The question I would wish to address at this point is whether the District Court decision had any bearing on the subsequent decision of the Board of Review. It is my considered opinion that it has not, for the reason that the said judgment had not decided on the title of the land in question but had only said that the plaintiff of the plaintiff should be dismissed as she had failed to fulfill the terms of the conditional transfer deed.

Accordingly, in my view, the relief sought and the relief granted in the aforesaid District Court action are not determinative of, nor do they have any bearing upon, the decision of the Board of Review of the Bank. Nevertheless, those proceedings ought to have been adverted to by the learned Judges of the Court of Appeal.

But their reasoning with regard to the analysis of the relevant law, in my opinion, has not caused any miscarriage of justice because they have clearly said that the amendment brought to Section 71(2)(c)(ii) had been removed by the 1973 amendment to the said Act.

The Appellants claimed that, according to the earlier provisions in the Finance Act No. 11 of 1963, it protected bona fide purchasers if the property was to be acquired. However, by the Finance and Ceylon State Mortgage Bank (Amendment) Law No. 16 of 1973, subsections (1) and (2) of Section 71 of the Finance Act, 1963, were repealed. As a result, the statutory protection previously afforded by those provisions ceased to apply, and any party objecting to an application for acquisition was thereafter required to prove that the Petitioner

owned other residential property and that the Petitioner's monthly income exceeded Rs. 25,000.

Hence, the learned Justices of the Court of Appeal have held that there was no illegality in the order made by the Land Redemption Board in view of the amendment to the said provisions. Accordingly, I see no merit in the submissions of the Counsel for the appellant.

As such, while answering the two questions of law mentioned above in the negative, the instant appeal is dismissed without costs.

JUDGE OF THE SUPREME COURT

Mahinda Samayawardhena, J.

I agree.

JUDGE OF THE SUPREME COURT

Sampath K. B. Wijeratne, J.

I agree.

JUDGE OF THE SUPREME COURT