

APPELLATE CIVIL

Before *Shamsher Bahadur, J.*

HINDU RAO,—Appellant

versus

SHORI LAL,—Respondent.

S.A.O. 98-D of 1961.

1962
January, 2nd.

Delhi Rent Control Act (LIX of 1958)—Section 9—Standard rent fixed in accordance with the statements of the landlord and tenant—Whether can be objected to in appeal by the tenant.

Held, that the Delhi Rent Control Act, no doubt, enjoins, a Rent Controller to settle a dispute with regard to standard rent between a landlord and a tenant but it cannot be inferred therefrom that a tenant is prevented from abandoning the dispute at any stage of a proceeding and agreeing that the rent proposed by the landlord should be determined as the proper standard rent. It is not open to the tenant to file an appeal objecting to the rent so fixed without making an allegation that he had been overborne or overreached in any manner by the landlord in making the statement. His appeal must be dismissed on the principle that one is not at liberty to reprobate what he has already approbated.

Second Appeal from the order of Shri Diali Ram Puri, reversing that of Shri Charan Dass Bajaj, Additional Rent Control Tribunal, Delhi, dated the 7th June, 1961; Rent Controller, Delhi, dated the 1st October, 1960 and ordering re-decision in accordance with law.

RAJ KISHEN, ADVOCATE, for the Petitioner.

MELA RAM, ADVOCATE, for the Respondent.

ORDER

SAMSHER BAHADUR, J.—This is a landlord's petition for revision from the appellate order of the Rent Control Tribunal remitting the dispute relating to the fixation of standard rent for rededecision of the Rent Controller.

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The tenant, who had taken the suit premises on an agreed rent of Rs. 45 per month on 1st of July, 1958, applied to the Rent Controller for fixation of its standard rent on 27th of August, 1959. On the 1st October, 1960, the parties made statements before the Rent Controller, the landlord agreeing to charge Rs. 31-4-0 per month as rent with effect from 1st September, 1959, and the tenant expressing his willingness to pay it. The Rent Controller, in accordance with their statements, made the following order :—

“The respondent having agreed to charge the applicant Rs. 31-4-0 per mensem with effect from 1st September, 1959, the petition is dismissed as infructuous.”

The tenant filed an appeal to the Rent Control Tribunal and without any allegation being made that he had been overborne or overreached in any manner by the landlord in making the statement on 1st of October, 1960, it was contended that the Additional Rent Controller should have independently determined the standard rent of the premises in accordance with the law. The argument commended itself to the Rent Control Tribunal which set aside the order of the Rent Controller and remanded the case to him for rededecision in accordance with the law. In my opinion, this petition must succeed on the principle that one is not at liberty to reprobate what he has already approbated. It is true that the Act enjoins a Rent Controller to settle a dispute with regard to standard rent between a landlord and a tenant but it cannot be inferred therefrom that a tenant is prevented from abandoning the dispute at any stage of a proceeding and agreeing that the

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rent proposed by the landlord should be determined as the proper standard rent. As pointed out by a Division Bench of Dixit and Vyas, JJ., in *Popatlal Ratansey v. Kalidas Bhavan* (1), there is a clear distinction, which cannot be overlooked, between an agreement which is embodied in a lease and the decision which is embodied in a consent decree. What is embodied in a consent decree is the decision of the Court as to standard rent. Such a decision or judgment of the Court would estop the tenant from contending in a subsequent application under the Act that the standard rent to which he had previously agreed was not the fair rent. This principle of law was accepted in the two single Bench judgments given by Gajendragadkar, J. (now Justice of the Supreme Court) and Shah, J. (now Justice of the Supreme Court) in two unreported decisions mentioned at page 6 of *Popatlal Ratansey's case* (1). The matter came up recently before Chief Justice Khosla in *Sat Parkash v. Parkash Chand*, Civil Revision No. 648 of 1960, and it was held by him in that judgment of 6th of April, 1961, that a tenant, who has agreed to a consent order regarding fixation of standard rent, cannot re-agitate the same question in subsequent proceedings. The Single Bench decisions of this Court in *Ladha Ram and others v. Khushi Ram* (2) and *Niranjan Singh v. Murti Shri Bhagwan Ram* (3), were distinguished by Chief Justice Khosla on the ground that the second application was moved in those cases by a person other than the one who had actually entered into a compromise. I am in respectful agreement with the view expressed by Chief Justice Khosla and would accordingly allow this petition for revision, restore the order of the Rent Controller and set aside that of the appellate Tribunal. As there is some authority in favour of the view taken by the appellate Tribunal, I would leave the parties to bear their own costs.

B.R.T.

(1) A.I.R. 1958 Bom. 1
 (2) 1955 P.L.R. 188
 (3) 1955 P.L.R. 530