

UGANDA / JUDGMENT

Rex v Meghji and Another (Criminal Appeals Nos. 9 & 10 of 1943 (Consolidated))

[1943] EACA 55 (1 January 1943)

[1943] EACA 55**COURT**

East African Court of Appeal

BEFORE

Lucie-Smith, J. (Kenya), Sheridan CJ

CASE / FILE NUMBER

Criminal Appeals Nos. 9 & 10 of 1943 (Consolidated)

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APPELLATE CRIMINAL

BEFORE SIR JOSEPH SHERIDAN, C. J., AND LUCIE-SMITH, J.

REX. Respondent.

\$ \cdot \$ \$ v \$.

(1) KARAMSHI MEGHJI, partner of KARAMSHI & COMPANY, Appellant (Original Accused No. 1)

(2) NATHU PUNJA SHAH, partner of KARAMSHI & COMPANY, Appellant (Original Accused No. 2)

Criminal Appeals Nos. 9 & 10 of 1943 (Consolidated)

Defence Regulations¹-Price Control-Hotel-keeper-Retailer-Certificate of Controller

The facts appear from the Judgment.

\$ \text{for all } A. \\$ B. \text{ Patel (Trivedi with him) for both appellants.}

Stacev. Crown Counsel, for the Crown.

JUDGMENT (22-4-43). — Two points were argued before us in these consolidated appeals. The first is that Mohanlal, a hotel-keeper to whom the rice in question was sold by the accused, was a consumer and that consequently no offence was committed, the transaction not being one between a wholesaler and retailer. The question then is was Mohanlal a consumer or a retailer. "Consumer" is defined by the Defence (Price of Goods) Regulations, 1941, as meaning "Any person who purchases or offers to purchase goods for his own use or consumption and not for re-sale".

An ingenious argument that a hotel-keeper was not a retailer but a consumer was put forward by Mr. A. B. Patel, an argument which was not put forward at the trial. "Retailer" is defined in the Regulations as meaning "a trader who sells goods to a consumer". It seems to us that of the two definitions a hotelkeeper comes within the second definition. He carries on a trade or business for profit and when he buys goods (rice in this case) in wholesale quantities for the purpose of supplying meals to his customers, his position is that of a trader selling goods to a customer. And so we agree with the learned Magistrate in finding that "Mohanlal as a hotel-keeper selling goods to a customer is a retailer". Another point, also raised for the first time on appeal, is that the certificate issued by the Price Controller fixing the maximum wholesale price for the rice is invalid for the reason that it was issued under Regulation 5 of the 1941 Regulations. In our opinion there is no substance in this point. The offence charged was in respect of a contravention of the price fixed under the 1939 and 1941 Regulations. The certificate purports to have been issued in pursuance of Regulation 5 of the 1941 Regulations, but it cannot be seriously contended that this inaccurate recital of the authority for issuing the certificate invalidates the certificate. Regulation 20 of the 1942 Regulations and not Regulation 5 of the 1941 Regulations should have been recited. (See Regulation 29 of the 1942 Regulations.) The certificate is **prima facie** evidence of the fact certificated and there was no evidence to the contrary. (See Regulation 18 of the 1941 Regulations.) No other point was argued. The appeals are dismissed and the sentences confirmed.

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