JAMAICA

IN THE COURT OF APPEAL

MISCELLANEOUS APPEAL NOS. 1, 2, & 3/89

BEFORE: THE HON. MR. JUSTICE CAREY, J.A.
THE HON. MR. JUSTICE DOWNER, J.A.
THE HON. MR. JUSTICE GORDON, J.A. (Ag.)

VIRGO ENTERPRISES LIMITED
C.S. WILSON
SYLVESTER DENNIS

V.

NEWPORT HOLDINGS LIMITED
RENT ASSESSMENT OFFICER

Mrs. Margaret Forte for Virgo Enterprises

Miss Susanne Dodd for C.S. Wilson & Sylvester Dennis

Michael Hylton for Newport Holdings Limited

5th, 6th & 7th April &
15th May, 1989

CAREY, J.A.:

These appeals have been taken together because they involve a common ground and counsel sensibly agreed, in the interest of expedition, to this course. All the appellants are tenants of the respondent and occupy commercial buildings at the Harbour View Shopping Centre in the parish of St. Andrew in respect of which "Certificates of Exemption " under Section 3(1) (e) of the Rent Restriction Act have been issued pursuant to applications by the respondent. As they are entitled to do, the

appellants applied to the Rent Assessment Board for the Corporate Area for a review of the decisions of the Rent Assessment Officer on the following grounds:

> "(a) There was no notification by any of the parties that the premises were being assessed and up to present there has been no notification.
>
> (b) That the value of the premises at August, 1980 was not of the value of $6.00 or above so as to grant it an exemption."

At the hearing before the Board, the proceedings took a somewhat unusual course in that the tenants, as a preliminary point, challenged the validity of the "certificate of exemption" on the ground that they were issued in breach of natural justice. Specifically, it was said, the tenants were never notified that their premises were being assessed; no opportunity was given to the tenants to be heard, and there ought to have been a hearing. The Board held that the certificate was valid, but on the application of counsel, granted leave to take these points of law before this Court.

In order to consider these submissions, I propose to set out some of the statutory provisions in the Rent Restriction Act. Before doing so, however, it is right to point out that prior to 1983, commercial property let at a rental of not less than two dollars and fifty cents per square foot per annum were not subject to the control of the Act. We understand from counsel for the respondent that these premises were thus outside the provisions of the Act and thus were non-controlled. The effect of that status, is that the landlord is at liberty to increase the rental without the sanction of the Rent Assessment Board. In 1983 by an amendment to the Act, commercial and public premises were no longer automatically dehors the Act but a certificate of exemption was needed from an Assessment Officer by the landlord thereof. The relevant provisions, so far as

necessary, are in the following form:

> "3.—(1) This Act shall apply, subject to the provisions of section 8 to all land which is building land at the commencement of this Act or becomes building land thereafter, and to all dwelling-houses and public or commercial buildings whether in existence or let at the commencement of this Act or erected or let thereafter and whether let furnished or unfurnished:
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> Provided that this Act shall not apply to—
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> (e) a public or commercial building which, pursuant to an application by a landlord for a certificate of exemption, an Assessment Officer certifies—
>
> (i) exceeds one thousand square feet in area and is, for the time being, designed to be used primarily as a warehouse; or
>
> (ii) is of such a valuation at the prescribed date as to warrant being let at such standard rent (exclusive of any amount payable for service) as the Minister may, by order, prescribe; or
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> (iii) is constructed after 31st August, 1980, or having been in construction before that date, is completed thereafter;
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> (iv) is constructed prior to the 31st August, 1980 and purchased, in a transaction at arm's length by another person after that date but not later than the 31st October, 1982."

The valuation which the Minister prescribed pursuant to Section 3(1) (e)(ii) is contained in the Rent Restriction (Public and Commercial Buildings - Exemption) Order 1983. Paragraph 2 so far as material, states:

> "2. Any public or commercial building which an Assessment Officer certifies would have been of such a valuation at the 31st day of August, 1980, as to warrant being let at that date at a rent of—

"(a) $6.00 or more per square foot, where such building is in the urban and suburban districts of the Corporate Area (as defined in the Second Schedule to the Kingston and St. Andrew Corporation Act); or

(b) $4.00 or more per square foot, where such building is in any area outside the urban and suburban districts of the Corporate Area as so defined,

is exempt from the provisions of the Act."

In the result, commercial and public buildings are exempt from the control of the Act if at the base date, i.e., 31st August, 1980 the existing rental in respect of those premises being within the Corporate Area, was in excess of $6.00 per square foot.

The Assessment Officer, who is the official designated by the Act to certify that public or commercial buildings are exempt from the Rent Restriction Act is a public officer, for he is appointed by the Governor General (see Section 9(8) (b)). In relation to the performance of his duties in considering applications for certificates, the Act provides as follows: [Section 3(1B) (a)].

"(1B) In relation to paragraph (e) of the proviso to subsection (1)—

(a) an Assessment Officer may require information to be furnished to him by a tenant as well as by a landlord;"

As well, the Act sets up a regime for dealing with decisions of an Assessment Officer by the Rent Assessment Board. Both the landlord and the tenant have the right to invoke the machinery provided. Section 11 enacts, so far as is material, as follows:

"11. (1A) The Board shall have power to review any decision of an Assessment Officer under this Act and make such order as it thinks just and, for that purpose, may obtain, if it thinks fit, a fresh valuation of any premises.

(1B) Without prejudice to the generality of subsection (1A), the Board may exercise any of the powers of the Assessment Officer.

> "(2) Before making any order, a Board shall give all interested parties an opportunity of being heard and of adducing evidence.
>
> (3) Evidence shall be given on oath and the proceedings of a Board shall be deemed to be judicial proceedings for the purposes of the Perjury Act."

From this, it is apparent that the Board exercises judicial functions but of even greater significance is the power given to the Board to perform any of the powers of the Assessment Officer. The Board could, therefore, itself, act as a valuer or an inspector which means that it is free to act not only as the arbiter in an adversarial sense, but also as an inquisitor or investigator, where the circumstances require such a course of action.

It is against that background of statutory provisions that it has been contended that the Assessment Officer breached the rules of natural justice. As was pointed out at the hearing before the Board, what the assessment Officer actually did in the present case was a valuation exercise. He was given a base date and relying on his expertise and referring to a valuation and inspection report prepared by officers of the Board, he calculated the rental existing at that date. In my view, he is engaged in a purely mechanical exercise. The contention which was strongly urged before the Board that there should have been notification of the application and the opportunity for a hearing, is wholly inappropriate in such a situation.

Apart from that material, if he requires further information, the law authorises him to call upon either the landlord or the tenant. If he does not require such information, he need not. What is perfectly clear, therefore, is that the Act never contemplated any hearing whether of a formal or informal character. There is no warrant, on the true construction of the statute, for suggesting, as the appellants did, that the

Assessment Officer is bound to hear the tenant whether information is required or not. The Assessment Officer is at liberty to seek information from either the tenant or the landlord but he is not bound to hear evidence from them.

With respect to his duties under Section 3(1)(e) (ii), the Assessment Officer is either engaged in measuring a building, ascertaining the date of the construction of the building or valuing it. He is not hearing two sides to a controversy or an issue. No issue is joined between the tenant and the landlord when the latter seeks a certificate of exemption. I would suggest that there is an issue joined at that point in time when the tenancy itself, is adversely affected, e.g., by an increase in the rental of the premises. Until the landlord uses the certificate of exemption in a manner inimical to the interests of the tenant, I do not think the tenant is an aggrieved person entitled to apply for a review by the Board. It is at that point, that the law provides a safeguard in the form of the quasi-judicial Board. I am satisfied that Parliament never intended that the Assessment Officers' consideration of an application for a certificate of exemption should be conducted as a sort of mini-trial or preliminary hearing. It is perfectly true that public officers are expected to carry out their public duties fairly, but I am wholly unconvinced that failure to notify the tenant of the filing of an application for a certificate operates in any way unfairly to the tenant. Certain, it is, that there is no legislative requirement for notification of the tenant.

That this is the proper approach to this question, can be gleaned from certain observations of Lord Wilberforce in Wiseman v. Borneman [1969] 3 All E.R. 275 at page 295:

> "It is necessary to look at the procedure in its setting and ask the question whether it operates unfairly to the tax-payer to a point where the courts must supply the legislative omission."

There the question being debated before the House of Lords was whether the tribunal appointed under Section 28 of the Finance Act was bound to give the tax-payer an opportunity of dealing with the certificate and any counter-statement of the Commissioner of Inland Revenue, and of adducing evidence.

There seemed to be an underlying fallacy in the arguments advanced before us that there was unfairness because the application was made without affording the tenant an opportunity to be heard, granted that his contractual obligations as a tenant might be jeopardised. It may fairly be asserted that there is nothing inherently unjust in reaching a decision which has adverse consequences to one party in his absence. Typical examples are ex parte applications to a Court or an application to a Justice of the Peace for a warrant to arrest some person.

The Court will be constrained to intervene, however, where the procedure is insufficient to achieve justice. Lord Reid in his speech in Wiseman v. Borneman (supra) at page 277 made this point:

> "Natural justice requires that the procedure before any tribunal which is acting judicially shall be fair in all the circumstances, and I would be sorry to see this fundamental general principle degenerate into a series of hard and fast rules. For a long time the courts have, without objection from Parliament, supplemented procedure laid down in legislation where they have found that to be necessary for this purpose. But before this unusual kind of power is exercised it must be clear that the statutory procedure is insufficient to achieve justice and that to require additional steps would not frustrate the apparent purpose of the legislation."

or as Lord Morris puts it at page 278:

> "But ultimately I consider that decision depends on whether in the particular circumstances of this case the tribunal acted unfairly so that it could be said that their procedure did not match with what justice demanded."

If one looks at the procedure provided by Parliament and bears in mind the safeguard of a review by the Rent Assessment Board, I am of opinion that there is no legislative omission which we are called upon to supply.

There is one final comment which should be made and it is a matter of regret that this course of taking these points as a preliminary point was adopted. The review was sought on the two grounds earlier mentioned, viz., (i) no notification of an application to assess; (ii) value now at $6.00 or above. The Board has, in addition, powers of a Valuation Officer. Had the Assessment Officer given notice to the tenant and heard him and arrived at the same decision, the tenant would doubtless apply for a review. The procedure adopted has been wasteful of time and doubtless costs. Then the matter may again come before this Court on appeal from the ultimate decision of the Board.

In order to reinforce the view I have formed of this case, I think some observations of Ormrod, L.J., in Norwest Holst v. Department of Trade and Ors. [1978] 3 All E.R. 280 at p. 294 might be recalled. The learned Lord Justice expressed himself thus at page 291:

> 'The phrase 'the requirements of natural justice' seems to be mesmerising people at the moment. This must, I think, be due to the apposition of the words 'natural' and 'justice'. It has been pointed out many times that the word 'natural' adds nothing except perhaps a hint of nostalgia for the good old days when nasty things did not happen. If, instead, we omit it and put the question in the form stated in Fisher v. Keane (1878) 11 Ch D 353: have the ordinary principles of justice been complied with?

> "it at once becomes much more realistic and even mundane. It is just possible that the pleader in the present case might have hesitated a little longer if he had been deprived of the use of that romantic word 'natural'. Another source of confusion is the automatic identification of the phrase 'natural justice' with giving the person concerned an opportunity of stating his side of the story, and so on. In many cases, of course, the two are synonymous but not by any means in all.
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> There is no doubt, as Lord Denning MR has said, that this rule of the common law is a most powerful weapon to prevent injustice, but like all powerful weapons it can cause great damage if it is not used skilfully and properly. As Byles J said in Cooper v. Wandsworth Board of Works [1863] 14 CBNS 180 at 194.'..... the justice of the common law will supply the omission of the legislature', but it is not to be used to frustrate the intention of the legislature."

For these reasons, I came to the conclusion that the preliminary point was misconceived and that there was no breach of the rules of natural justice in the failure to notify the tenant or allow him an opportunity to be heard. I would venture a suggestion, however. After a certificate of exemption has been granted, I think sitting tenants should be advised so that they may advise themselves at the earliest possible time.

DOWNER, J.A.:

At the very commencement of the proceedings on 17th May, 1988 before the Rent Assessment Board for Kingston and Saint Andrew (Chairman - Miss Sonia Jones) counsel for the tenants challenged the competency of the Board to review the Certificate of Exemption issued by the Assessment Officer pursuant to the proviso to Section 3 of The Rent Assessment Act (The Act). The contention was that as the Certificate of Exemption was null and void, there could be no basis for a review. The effect of their submissions was that the Assessment Officer would have to start proceedings again so that if a certificate were to be issued, it would be a valid one. The Chairman overruled that submission but instead of hearing and determining the merits of the case she acceded to the tenants request that her order should go on appeal to this Court. Such appeals are permitted by virtue of Section 11(12) of the Act.

The Act provides a comprehensive system of control for rented property including public or commercial buildings but there are exemptions stipulated in Section 3 of the Act. The material sections in the proviso read as follows:

> "Provided that this Act shall not apply to--
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> .....
>
> (e) a public or commercial building which, pursuant to an application by a landlord for a certificate of exemption, an Assessment Officer certifies--
>
> (i) exceeds one thousand square feet in area and is, for the time being, designed to be used primarily as a warehouse; or
>
> (ii) is of such a valuation at the prescribed date as to warrant being let at such standard rent (exclusive of any amount payable for service) as the Minister may, by order, prescribe; or ....."

It is notorious that premises controlled by The Act are rented at a low rate. If there was to be de-control there

would be a dramatic rise in rentals beyond the means of most tenants because of the shortage of premises for rent. On the other hand, low rentals discourage private investment in bricks and mortar and preclude proper upkeep. To permit market forces to operate, there are exemptions from the provisions of the Act. One such area is public and commercial buildings at prescribed rentals. The relevant statutory instrument is The Rent Restriction (Public and Commercial Buildings) Exemption Order 1983, paragraph 2(a) which reads:

> "2. Any public or commercial building which an Assessment Officer certifies have been of such a valuation at the 31st day of August, 1980, as to warrant being let at that date at a rent of—
>
> (a) $6.00 or more per square foot, where such building is in the urban and suburban districts of the Corporate Area (as defined in the Second Schedule to the Kingston and St. Andrew Corporation Act); or
>
> .....
>
> is exempt from the provisions of the Act."

A pivotal figure in the administration of the Act is the Assessment Officer who determines the standard rent of controlled premises where the Act applies, and he also issues Certificates of Exemption where the Act does not apply. See Section 10A(1). Such Certificates of Exemption were issued in respect of all three tenancy agreements under consideration and the thrust of the submissions before the Board and in this Court was that the Assessment Officer did not notify the tenant that there was an application for Exemption Certificates or that they were issued. Such discourtesy, it was urged, was unfair and in breach of the rules of natural justice. It was in those circumstances that Mrs. Forte and Mrs. Dodd contended that the Certificate of Exemption was null and void. The record of C.S. Wilson at

page 4 discloses that the landlord duly applied for a Certificate of Exemption on May 25, 1983, and before issuing his Certificate of Exemption the Assessment Officer had before him an Inspector's Report dated 6th September, 1983 and a Valuation Report referring to an inspection of December 4, 1985. The effect of the Certificate of Exemption is that the Valuation Base Date was certified August 31, 1980, pursuant to the Exemption Order (supra). It is pertinent to reiterate that both these reports were prepared under the authority of the Act.

By virtue of Section 9(8) of the Act, the Valuation Officers, the Inspectors and Assessment Officers are appointed by the Governor General to assist in the work of the Board. Section 14(1) of the Act sets out the powers and duties of valuation officers. He is empowered to enter any controlled premises to ascertain the value of the property for the purpose of the Act and the Inspector is empowered to make inspections to ensure compliance with the Act and perform such other functions as may be assigned to him by the Assessment Officer.

It is against this background that the Certificate of Exemption at page 29 of the Record must be examined and it stated that the Harbour View Shopping Centre is of such a valuation as to warrant it being let at six dollars ($6.00) or more per square foot and was dated 13th January, 1986. We must again turn to other specific powers of the servants of the Board. Section 3(1F) of the Act relates that -

> "(a) an Assessment Officer may require information to be furnished to him by a tenant as well as by a landlord;"

It is clear that if that Officer has the requisite information from the Valuer and the Inspector to grant exemption he need not trouble himself to obtain further information.

Further, both the Valuation Officer and the Inspector may also by virtue of Section 14 require information from the landlord and tenant and it seems that it would only be in the last resort that Assessment Officer may wish to carry out the primary functions of requiring information himself from the landlord or tenant. On the plain reading of the words in section 3 (1B) it does seem that the submission on behalf of the tenants that they must be notified that an Exemption Certificate was being issued or that the Assessment Officer ought to have accorded them a hearing, was untenable. But the submissions went further and it was argued that the justice of the common law would supply the "omission of the legislature" to provide that there was a right to be notified and a right to be heard at that stage of the proceedings.

Of the cases cited the most important one was Wiseman v. Borneman [1969] 3 All E.R. 275. The principle as regards natural justice was that where there is a right to a hearing on the merits there is no duty to accord a right of hearing at the initial stage to decide whether a prima facie case exists. In that case the tax-payer was not permitted to see, and answer the counter statement of the commissioners where it was decided after considering his initial objection, that a prima facie case had been made out against him. The conclusion was that the commissioner had not acted unfairly nor in breach of the rules of natural justice. The tax-payer of course would have a full hearing before the final decision and there were further rights of the appeal.

It is pertinent to quote the words of Lord Reid at p. 277:

> "It is, I think, not entirely irrelevant to have in mind that it is very unusual for there to be a judicial determination of the question whether there is a prima facie case. Every public officer who has to decide whether to prosecute or raise proceedings ought first to decide whether there is a prima facie case but no one supposes that justice requires that he should first seek the comments of the accused or the defendant on the material before him. So there is nothing inherently unjust in reaching such a decision in the absence of the other party."

When the circumstances of the instant case are considered, how can it be contended that the Assessment Officer acted unfairly? He was carrying out an administrative function, subject to review by the Board and he followed the form of the statute. The statutory provisions for review fully satisfied the requirements of natural justice once the tenants apply for a review.

To further illustrate the underlying principle that if there are provisions for review, this initial decision to grant a Certificate of Exemption will not be regarded as unfair, it is pertinent to refer to instances of ex parte applications. More is how Lord Wilberforce in Wiseman v. Borneman (supra) illustrates the matter at page 286:

> "Thirdly, it is true, as the judgments in the Courts of Appeal [1967] 3 All E.R. 1045 point out, that ex parte applications are frequently made to the courts and granted without hearing the party affected, but merely to say this, overlooks that procedure invariably exists, and is where necessary invoked, for enabling the party affected rapidly to seek annulment or amendment of the order made against him."

The other case cited was Northwest Holst Ltd. v. Department of Trade [1978] 3 All E.R. 280. There it was stressed that the principles of natural justice must be kept flexible and adopted to circumstances. Lord Denning, M.R., illustrates this point at p. 292:

> "There are many cases where an inquiry is held, not as a judicial or quasi-judicial inquiry, but simply as a matter of good administration. In these circumstances there is no need for any preliminary notice of any charge, or anything of that sort. Take the case where a police officer is suspected of misconduct. The practice is to suspend him pending enquiries. He is not given notice of any charge at that stage, nor any opportunity of being heard. The rules of natural justice do not apply unless and until it is decided to take proceedings. Other instances can be given in other fields. For instance, the Stock Exchange may suspend dealings in a company's shares. They go by what they know, without warning the company before hand."

That the basic rights are in the forefront of the Court's thinking is brought out in R. v. Barnett and Camden Rent Tribunal [1972] 1 All E.R. 1185 which made a distinction between a body whose determination affected an aggrieved party's basic rights and a body whose duty it was to make a reference. Salmon, L.J., stated at 1189:

> "In a case such as the present, no decision is taken by the authority invested with a power which vitally affects the basic rights of the individual. The only decision taken by the council is to refer the matter to the rent tribunal so that the tribunal may consider whether or not the rent is too high. The party concerned (i.e. the landlords) have every opportunity of appearing before the tribunal, and it is the decision of that tribunal which affects their basic rights."

The learned Lord Justice emphasised that he was not claiming that the jurisdiction of the local authority could not be challenged but that could only be done on limited grounds. To illustrate this further, on page 1189, he said:

> "It is of course conceded that the local authority must act bona fide. It is not here suggested that there has been any mala fides on the part of the local authority. Moreover, I consider that it is implicit in this Act that when the local authority make a reference to the tribunal they shall not act frivolously or vexatiously. In my judgment, unless the landlords can show either mala fides or that the council acted frivolously or vexatiously it is impossible to say that the council in referring the matter to the rent tribunal were acting ultra vires."

If these principles are applied to the present case, it will be seen that it is the Board on review which has the power to determine the tenants basic rights. Further, as there is no allegation of bad faith against the Assessment Officer, there is no basis to set aside his Certificate by this Court. It is significant to note that the draftsman stipulated the right to a hearing before the Board in the words of the statute. It is useful to set out the terms of Section 11 to see its full scope and effect:

> "11.—(1) At meetings of a Board, the decision of the majority of the members shall prevail:
>
> Provided that if no majority decision is reached, the decision of the Chairman shall prevail."

Here it is to be noted that the Chairman is invariably a lawyer so that the composition of the Board is like the old Quarter Sessions with a legal chairman. Then (1A) reads:

> "(1A) The Board shall have power to review any decision of an Assessment Officer under this Act and make such order as it thinks just and, for that purpose, may obtain, if it thinks fit, a fresh valuation of any premises."

Further, (1B) reads:

> "(1B) Without prejudice to the generality of subsection (1A), the Board may exercise any of the powers of the Assessment Officer."

Here is a further resemblance to the old Quarter Sessions with a legal chairman exercising its appellate functions from decisions from Petty Sessions. Not only does the Board have a power to review, but it does so by way of a complete rehearing, i.e., it has the power, if it thinks fit, to obtain a fresh valuation and may exercise the power of the Assessment Officer. Then 11(2) is emphatic, it reads:

> "(2) Before making any order, a Board shall give all interested parties an opportunity of being heard and of adducing evidence."

Counsel for the tenants complained to this Court that the tenants were never notified that there was a Certificate of Exemption issued by the Assessment Officer. If that contention is true, this discourtesy should not be allowed to continue in future cases, as the Board ought to consider devising some method of informing tenants of the issuance of such certificates as a matter of course. In all three cases, it was clear that the tenants did discover for themselves the existence of these Exemption Orders as they all made applications for review on Form 6, challenging the rental valuation of $0.00 or above as at August 1980. In reality, once the landlord seeks to make use of the Exemption Certificate, the tenants will be served with a notice for an increase of rent and that was what we were told happened in these cases. Yet another complaint made by counsel for the tenants that the landlords instituted proceedings against them concerning their tenancy in the Resident Magistrate's Court and that it was held that there was no power in that Court to grant a stay of proceedings until the Rent Board had decided their cause, as only one

instance of a stay was expressly mentioned in the Judicature (Resident Magistrate's) Act. The section adverted to was Section 169 which reads:

> "169. The Magistrate may, in any case, civil or criminal, make orders for granting time to the plaintiff or defendant to proceed in the prosecution or defence thereof; and also may, from time to time, adjourn any Court, or the hearing, or further hearing of any such cause or matter in such manner as to the Magistrate may seem right; and he may, in any action, or suit where the plaintiff is not resident within this Island, on application by the defendant, make any order staying all proceedings in such action or suit until the plaintiff shall give such security as to costs, as to such Magistrate may seem fit:
>
> Provided always, that the defendant at the time of making the application, shall have made an affidavit of merits."

The contention which found favour with the learned Resident Magistrate was that the specific mention of a stay of proceedings where the plaintiff was not resident in the Island precluded the Court from granting a stay of proceedings in other instances. Such a construction ignores Section 67 of the Judicature(Resident Magistrates) Act which in part, reads:

> "67. It shall be lawful for any Magistrate to sit in Chambers, and there to make orders as to the mode of trial of persons brought before him charged with any indictable offence, to hear and determine any application for a change of venue from one station to another in his parish or parishes for any stay of execution, ..."

[emphasis supplied]

Further, Section 70 provides flexibility in that it enables the Magistrate to hear and determine applications in open court, which could be disposed of in Chambers and also if the matter is one instituted in Chambers and is of importance it may be disposed of in Court.

It is clear that the compilers of the Resident Magistrate Rules 1933 construed the Act in this way. Those Magistrates were acting in pursuance of section 135 and 136 which entrusts the making of procedural rules to three Magistrates. That Rules Committee in Order III under the heading Consolidation of Action or Stay of Proceedings lays down procedures for a stay of proceedings generally.

CONCLUSION

This appeal was in the nature of a test case and the outcome will depend on the decision on the preliminary point of law. The references to the record in this judgment are to applicant C.S. Wilson and we understand there was a number of other cases apart from these three. Because of the importance and urgency of the matter, we gave our decision at the end of the hearing, indicating that the learned Chairman's ruling was correct in making an order that there was no obligation for the Assessment Officer to grant a hearing to the tenants before he issued the Certificates of Assessment.

GORDON, J.A.(Ag.):

I have read the draft judgments of Carey and Downer, JJ.A. I agree with the views expressed and can add nothing.