
(2007) 12 AHC CK 0100

Allahabad High Court

Case No: Civil Revision No. 479 of 2007

B.R.Trading Company
and another

APPELLANT

Vs

Dharam Raj Sahu and
others

RESPONDENT

Date of Decision: Dec. 6, 2007

Acts Referred:

- Transfer of Property Act, 1882 - Section 106, 114

Hon'ble Judges: Dilip Gupta, J

Final Decision: Dismissed

Judgement

Dilip Gupta, J.

Defendant Nos. 1 and 2 of JSCC Suit No. 2 of 1982 have filed this Revision under Section 25 of the Provincial Small Cause Courts Act, 1887 for setting aside the order dated 11th September, 2007 passed by the learned Additional District Judge Court No. 3 Jaunpur by which the Suit was decreed and the defendant was directed to handover vacant possession of the property to the plaintiff.

2. The aforesaid Suit had been filed by Dharam Raj Sahu for ejectment and arrears of rent/damages after serving the notice under Section 106 of the Transfer of Property Act, 1882 (hereinafter referred to as the ""Act"). It was stated in the plaint that the provisions of U.P. Urban Buildings (Regulations of Letting Rent & Eviction) Act, 1972 (hereinafter referred to as the ""Rent Control Act") were not applicable to the house in dispute and a valid notice under Section 106 of the Act had been served upon the defendants. It was also alleged that defendant No. 1 firm through Pyarelal was the tenant and defendant Nos. 2 to 6 were the partners and had, therefore, been impleaded. The said defendants had illegally and without the consent of the landlord had let out the shop to defendant Nos. 7 and 8 who are now carrying on their business.

3. Two issues were framed by the Court below. The first issue was whether the defendant was entitled to the benefit of Section 114 of the Act as the entire rent had been deposited on or before the first date of hearing while the second issue was whether the plaintiff had terminated the tenancy by the notice issued under Section 106 of the Act. The Court below decided the first issue holding that the arrears of rent had been deposited on or before the first date of hearing of the suit. In respect of the second issue, the Court below held that the tenancy had been validly terminated by the notice sent under Section 106 of the Act.

4. Learned counsel for the revisionists has submitted that the provisions of Section 114 of the Act were attracted and as the tenant had deposited the arrears of rent before the first date of hearing of the suit the decree for ejectment could not have been passed; that the notice issued by the landlord purportedly under Section 106 of the Act did not terminate the tenancy and, therefore, the suit could not have been decreed; that the Rent Control Act was applicable but this issue was neither framed nor decided by the Court below and that as defendant No. 3 Hori Lal had died prior to the passing of the decree, a decree against a dead person was a nullity.

5. Sri Umesh Vatsh learned counsel appearing for the plaintiffrespondent No. 1, however, submitted that the provisions of Section 114 of the Act were not applicable since the tenancy had been terminated by giving the notice under Section 106 of the Act and not under Section 111 (9) of the Act and in support of this contention he has placed reliance upon the judgment of this Court in Mohammad Nasir Vs. District Judge, Nainital & Ors., 1999 (35) ALR 239 : 1999 (1) AWC 550. He further submitted that the tenancy had been validly terminated under Section 106 of the Act and that the Rent Control Act was not applicable since the building was not an old building and neither any issue had been framed in this regard. He also submitted that the defendants had not pointed out to the Court below the fact about death of defendant No. 3 Hori Lal and the judgment would not be a nullity in such a case.

6. I have carefully considered the submissions advanced by the learned counsel for the parties.

7. The first contention of the learned counsel for the revisionists is that the provisions of Section 114 of the Act are applicable and the decree for ejectment could not have been passed since the entire arrears of rent had been deposited prior to the first date of hearing.

8. In order to appreciate this contention, it would be necessary to refer to the provisions of Sections 106, 111 and 114 of the Act.

Section 106 of the Act as amended in U.P. by U.P. Act No. 24 of 1954 is as follows:

"In the absence of a contract or local law or usage to the contrary, a lease of immovable property for agricultural or manufacturing purposes shall be deemed to be a lease from

year to year, terminable, on the part of either lessor or lessee, by six month"s notice; and a lease of immovable property for any other purpose shall be deemed to be a lease from month to month, terminable on the part of either lessor or lessee, by thirty days" notice.

Every notice under this section must be in writing signed by or on behalf of the person giving it and either be sent by post to the party who is intended to be bound by it or be tendered or delivered personally to such party, or to one of his family or servants, at his residence, or (if such tender or delivery is not practicable) affixed to a conspicuous part of the property."

Section 111 of the Act is quoted below:

"A lease of immovable property, determines:

(a) by efflux of the time limited thereby;

(b) where such time is limited conditionally on the happening of some event by the happening of such event;

(c) where the interest of the lessor in the property terminates on, or his power to dispose of the same extends only to, the happening of any event by the happening of such event;

(d) in case the interests of the lessee and the lessor in the whole of the property become vested at the same time in one person in the same right;

(e) by express surrender; that is to say, in case the lessee yields up his interest under the lease to the lessor, by mutual agreement between them;

(f) by implied surrender;

(g) by forfeiture, that is to say, (1) in case the lessee breaks an express condition which provides that on breach thereof the lessor may reenter; or (2) in case the lessee renounces his character as such by setting up a title in a third person or by claiming title in himself; or (3) the lessee is adjudicated an insolvent and the lease provides that the lessor may reenter on the happening of such event; and in any of these cases the lessor or his transferee gives notice in writing to the lessee of his intention to determine the lease;

(h) on the expiration of a notice to determine the lease, or to quit, or of intention to quit, the property lease, duly given by one party to the other."

Section 114 of the Act is as under:

"Where a lease of immovable property has been determined by forfeiture for nonpayment of rent and the lessor sues to eject the lessee, if, at the hearing of the suit, the lessee pays or tenders to the lessor the rent in arrear, together with interest thereon and his full

costs of the suit or gives such security as the Court thinks sufficient for making such payment within fifteen days, the Court may, in lieu of making a decree for ejectment, pass an order relieving the lease against the forfeiture; and thereupon the lessee shall hold the property leased as if the forfeiture had not occurred."

9. The word "forfeiture" has not been defined under the Act but it means the loss of a legal right by means of some breach of an obligation.

10. On general principles, a suit for ejectment against a tenant is not maintainable unless a previous notice to quit or a notice demanding possession either under Section 106 or 111 (g) of the Act is given. There is, however, a distinction between a notice to quit and a notice determining tenancy under clause (g) of Section 111 of the Act. In determination of tenancy by forfeiture, a right is exercised while tenancy is still subsisting but in a notice to quit, the tenancy is not subsisting and in such a case, there arises no question of relief against forfeiture.

11. This Court in Mohammad Nasir (*supra*) elaborately examined whether the provisions of Section 114 of the Act would be applicable when the tenancy is terminated by giving one months notice under Section 106 and it was observed.

"Section 114 of the Act confers a power on the Court to grant an equitable relief to the defaulting lessee. In order to claim benefit under this section, it has to be shown by the tenant that one of the terms of the lease was that the landlord will have a right of reentry if the rent for any specified period remained unpaid and he has to show further that forfeiture has been incurred as provided under Section 111 (g). Section 114, of the Act thus postulates existence of determination of lease by forfeiture as a condition precedent and provisions contained in this section will have no application where the lease has been determined by serving a notice to quit under Section 106, of the Act. The relief under Section 114 of the Act is confined to those cases only which are strictly covered under Section 111 (g) and not to those cases which fall under Section 106 of the Act. A monthly tenancy is determinable by one month's notice by either party and if the tenancy is terminated by serving one month's notice under Section 106 of the Act, there is no forfeiture of tenancy and in that event, Section 114 cannot be applied. Thus, a notice under Section 106, of the Act by no means could be treated as one under Section 111(g).

Section 114 applies to those cases where the landlord invokes his rights under what is known as forfeiture clause and determines the lease by forfeiture and sues for the ejectment of the tenant. I may illustrate it by an example which will make the picture more clear. Suppose there is a lease for a fixed term of five years containing a clause that the landlord will be entitled to determine the lease and to reenter upon the demised premises even during the period of five years if the tenant does not pay rent for more than three months. But for this clause, the lease must run for the entire period of five years and the landlord during the said period will have no right to eject the tenant before the expiry of the fixed period of five years. If the tenant fails to pay rent for more than three months,

forfeiture clause enables the landlord to determine the lease before its expiration. In such a case, the subsisting tenancy cannot be determined by serving a notice simpliciter under Section 106 of the Act and it can only be determined where the landlord forfeits the tenancy by serving a notice under Section 111 (g). In such an event, Section 114 can be pressed into service but where the tenancy runs from month to month and the same has been determined by a valid notice under Section 106 of the Act, Section 114 of the Act shall have no application."(emphasis supplied)

12. This Court in Tikka Ram Vs. Prakash Chandra 1966 ALJ 1016 had also observed:

"Mr. Chaturvedi then argued that this Court should exercise its power to grant relief against the landlord's forfeiture of the lease for nonpayment of rent. He contends that the court's power to grant such relief is not confined to the cases falling within Section 114 of the Transfer of Property Act, and he relied on a number of decisions. Jabab Vellalhi v. Smt. Kaderved Thayammal AIR 1958 Mad. 232; Sri Kishan Lal v. Ramnath Janaki Prasad AIR 1944 Nag. 229 and Malappa Venkatesh Shatti v. Janardan Govinda Mahab ILR 1950 Bom. 450. In all these cases, the court exercised its equitable power to grant relief against forfeiture, though the case did not fall within Section 114. But the power to grant relief against forfeiture, whether equitable or under Section 114, can be exercised by the Court only if there has been a forfeiture on the ground of nonpayment of rent. But where there is no forfeiture and the landlord has terminated the lease under his right under Section 106, the question of granting relief against forfeiture does not arise. A suit for ejectment by the landlord after determining the lease under Section 106 is not based on forfeiture of the lease, but on the landlord's ordinary right to terminate the lease and eject the tenant. This right is restricted by Section 3(1) (a) of the U.P. Control of Rent and Eviction Act, but as soon as the tenant loses the protection of this Section, the landlord's right to determine his lease and eject him is freed of all restrictions. The tenant cannot in such a case ask the court to exercise its equitable power against a forfeiture, for the simple reason that there is no forfeiture to give relief against." (emphasis supplied)

13. In view of the aforesaid decisions of this Court, it has to be held that Section 114 of the Act will not be attracted where the tenancy has been determined by a notice under Section 106 of the Act. The contention of learned counsel for the revisionists, therefore, cannot be accepted as in the present case the tenancy was determined by the notice sent under Section 106 of the Act.

14. The next submission that is required to be considered is whether the tenancy had been validly terminated by the notice sent under Section 106 of the Act. It is the submission of the learned counsel for the revisionists that the notice does not specifically mention that the tenancy will be terminated by thirty days notice and all that the notice recites is that the tenant should handover the vacant possession of the shop immediately after the expiry of 30 days.

15. In order to appreciate this contention it would be necessary to examine the notice that was sent by the plaintiff to the defendants. The notice dated 1st March, 1982 sent by Dharam Raj Sahu to the tenants mentions that the building had been constructed in the year 1973 and, therefore, the Rent Control Act was not applicable; that the tenancy was from month to month beginning from the first day of the English calendar month and ending on the last date of the month and that the business carried out by the tenants from the shop in dispute had been closed from 1st November, 1980 and opposite party Nos. 7 and 8 had been illegally inducted in the said shop; that the rent had not been paid from 1st November, 1980 to February, 1982; that the landlord did not want the tenant to continue to remain in possession any longer and, therefore, they were required to handover the vacant possession of the shop immediately after the expiry of 30 days from the date of receipt of the said notice sent to them under Section 106 of the Act failing which a suit for ejectment shall be filed against them and they were also required to pay the arrears of rent.

16. There is no prescribed form or language in which a notice under Section 106 of the Act has to be given. In such circumstances, the notice has to be liberally construed and has to be read as a whole. All that is necessary is that the notice should express clearly the intention to terminate the tenancy. The language of the notice is immaterial and in such a case the word "terminate" may not be used at all.

This is what was observed by this Court in Tikka Ram (supra):

"The short answer to this argument is that the plaint does contain this averment. In para. 4, the respondent alleged that he had served a notice on the appellant that the tenancy was no longer acceptable to him and had further demanded (in the notice) that the appellant should vacate the premises on the expiry of 30 days from the service of notice. Mr. Chaturvedi contended that this was not enough, and the notice should have expressly stated that the tenancy was being terminated. I cannot agree. No particular words have been prescribed under Section 106 of the Transfer of Property Act as amended by the U.P. Legislature, which merely provides that "a lease.....shall be terminable on the part of either lessor or lessee by one month's notice." Section 111 (h) of the same Act provides that "a lease of immovable property determines....(h) on the expiry of a notice to determine the lease, or to quit or of intention to quit, the property leased, duly given by one party to another."

D.F. Mulla in his commentary on the Transfer of Property Act, 4th edition, has observed, ".....the notice to quit must indicate in substance and with reasonable clarity an intention on the part of the person giving it to determine the existing tenancy at a certain time." (p. 619). The same author has observed, "a liberal construction is therefore put on a notice to quit in order that it should not be defeated by inaccuracies either in the description of the premises or the name of the tenant, or the date of expiry of notice. The author's observation is based on authorities cited in the footnote on this page."

Thus the crucial test is (1) whether the language of the notice indicates a clear intention to terminate the tenancy, and (2) whether the date of determination of the tenancy is certain.

Applying these principles and tests to the notice in the present case, I think it is a valid notice of termination. If a landlord writes to the tenant, "I am no longer willing to continue this tenancy, you are therefore given notice that you should vacate the premises on the expiry of one month which is the time limit prescribed by law failing which I shall file a suit for your ejectment," this indicates a clear intention to terminate the tenancy on the expiry of the period of one month."(emphasis supplied)

17. The Supreme Court in *Mangilal Vs. Sujan Chand Rathi (deceased) & Anr.* AIR 1965 SC 101 while commenting on the language used in the notice sent under Section 106 of the Act observed:

"On April 11, 1959 the plaintiffs served a notice on the defendant bringing to his notice the fact of his being in arrears of rent for 12 months and requiring him to remit to them Rs. 1,020/ within one month from the date of service of notice and stating that on his failure to do so, a suit for ejectment would be filed against him. In addition to this the notice called upon the defendant to vacate the premises by April, 30, 1959 upon two grounds.

.....The requirement of Section 106 of the Transfer of Property Act is that a lease from month to month can be terminated only after giving fifteen days" notice expiring with the end of a month of the tenancy either by the landlord to the tenant or by the tenant to the landlord. Such a notice is essential for bringing to an end the relationship of landlord and tenant. Unless the relationship is validly terminated the landlord does not get the right to obtain possession of the premises by evicting the tenant.

.....Now, the learned Additional Solicitor General states that the notice of April, 1959 may be a good notice for the purposes of Section 4(a) of the Accommodation Act but it is not a good notice for the purposes of Section 106 of the Transfer of Property Act for two reasons; in the first place it does not purport to determine the tenancy and in the second place the notice falls short of the period of 15 days specified in Section 106 of the Transfer of Property Act. The High Court has, however, treated this as a composite notice under Section 4(a) of the Accommodation Act and Section 106 of the Transfer of Property Act and in our opinion rightly. It has to be observed that the plaintiffs, after requiring the defendant to pay the rental arrears due up to the end of March, 1959 within one month from the date of service of the notice, proceeded to say "failing which suit for ejectment will be filed". These recitals clearly indicate the intention of the landlord to terminate the tenancy of the defendant under the relevant provisions of both the Acts."(emphasis supplied)

18. This Court in *Suraj Prasad Vs. Smt. Kusumlata Sinha* AIR 1973 All. 198 also while considering the requirements of the notice under Section 106 of the Act observed:

"The third objection to the validity of the notice was that it did not meet the requirement of Section 106 of the Transfer of Property Act as amended by U.P. Civil Law 1954 as it was not a thirty days notice of termination of tenancy. In fact at one stage the learned counsel strenuously argued that the tenancy has not at all been terminated and there is nothing in the notice terminating the tenancy but merely calling upon the tenant to vacate the premises leased would not amount to terminating the tenancy. The learned counsel referred to an old Full Bench decision of this Court in the case of *Bardley v. Atkinson*, (1885) ILR 7 All 899 (FB). Much water has flown down the bridge since the Full Bench decided that case and I need not encumber this judgment by referring to the numerous cases in which the Full Bench decision in (1885) ILR 7 All. 899 (FB) has been considered and explained. A notice calling upon the tenant to vacate the leased premises would always amount to a notice terminating the tenancy. Under clause (h) of Section 111 of the Transfer of Property Act a lease of immovable property determines on the expiration of a notice to determine the lease or to quit, or of intention to quit, the property leased, duly given by one party to the other. Whether the lessor has given a notice expressing an intention that the lease will stand terminated or he by the notice calls upon the lessee to quit, that is, to leave, the legal consequence of both would be that the lease would stand determined. The provisions of Section 106 of the Transfer of Property Act lay down the manner in which such a notice is to be served and fixes the time before which it has to be given. In *Ram Chandra v. Lala Duli Chand*, AIR 1958 All 729, a notice calling upon the tenant to vacate the premises let out has been held to be a notice which successfully determines the tenancy." (emphasis supplied)

19. In *Sita Ram Vs. Moti Lal & Ors.*, AIR 1976 All. 70 similar observations were made by this Court:

"Coming to the second contention, the notice sent by the plaintiff terminating the tenancy of the defendant is contained in paper No. Ext. 1. In this notice, the plaintiff claimed Rs. 920/ after adjusting Rs. 111/ sent by the defendant by money order and Rs. 54/ paid by the defendant towards taxes, at the rate of Rs. 15/ per mensem, and in the end, the plaintiff asked the defendant to vacate the premises in dispute on the expiry of 30 days from the receipt of the notice and give its possession to the plaintiff. The plaintiff added that on the expiry of that period, the plaintiff would take legal action for the recovery of the balance and possession of the house in a proper court and the defendant would be held responsible for the expenses. In this notice, the plaintiff has expressed in unambiguous and unequivocal terms that the defendant should vacate the house and give its possession to the plaintiff on the expiry of thirty days after the receipt of the notice.

In the present case, as I have noted above, there is a clear indication in the notice of ejectment that in default by the defendant, the plaintiff would take legal proceedings regarding the ejectment of the defendant in a proper law court.The notice of ejectment served by the plaintiff on the defendant was perfectly valid and the contention advanced by the appellant to the contrary must be rejected."(emphasis supplied)

20. The observations made by Supreme Court in Bhagabandas Agarwalla Vs. Bhagwandas Kanu & Ors., AIR 1977 SC 1120 are also relevant:

"The only question which arises for determination in this appeal is whether the notice to quit given by the appellant to the respondents was invalid as not being in conformity with the requirements of Section 106 of the Transfer of Property Act. The notice to quit, so far as material, was in the following terms:

"You are hereby informed by this notice that you will vacate the said house for our possession within the month of October 1962 otherwise you will be treated as trespassers from 1st November in respect of the said house."

.....

Now, it is settled law that a notice to quit must be construed not with a desire to find faults in it, which would render it defective, but it must be construed *ut res magis valeat quam pereat*. "The validity of a notice to quit" as pointed out by Lord Justice Lindley, L. J. in *Sidebotham v. Holland*, (1895) 1 QB 378 "ought not to turn on the splitting of a straw". It must not be read in a hyper critical manner, nor must its interpretation be affected by pedagogic pendantism or over refined subtlety, but it must be construed in a common sense way. See *Harihar Banerji v. Ramsashi Roy*, 45 Ind App 222= (AIR 1918 PC 102). The notice to quit in the present case must be judged for its validity in the light of this well recognised principle of interpretation." (emphasis supplied)

21. In *Budh Sen. Vs. Smt. Rahiman* 1979 (5) ALR 299 : AIR 1978 All. 549 the language used in the notice sent under Section 106 of the Act was very much similar to the language used in the notice sent in the present case. This Court observed that the tenancy was terminated on the expiry of thirty days and the relevant observations are as follows:

"In the notice the appellant has already expressed an intention that he did not wish the respondent to continue in possession of the premises after the expiry of the period of one month. It is true that in notice in question it has not been stated that the tenancy of the defendantrespondent was being terminated. However, if an intention to terminate the tenancy can be clearly discerned by construing the words used in the notice as a whole, the mere fact that the expression that tenancy was being terminated is not used, would not render the notice invalid. The language which has been used in the notice given by the appellant to the respondent, does unmistakably evidence an intention on the part of the plaintiffappellant not to continue the tenancy of the respondent. The notice would validly terminate the tenancy of the respondent." (emphasis supplied)

22. In *Pyare Lal Vs. Illrd Additional District Judge, Allahabad & Ors.*, 1980 ALJ 643 this Court again observed:

"As I have mentioned above, the notice under consideration clearly requires the tenant to vacate and deliver up possession to the lessor within thirty days of the notice, failing which, it states, the lessor would be constrained to file a suit for the ejectment of the petitioner. Such a notice is similar to the notice contemplated under illustration F mentioned in the case of Abdul Jalil, 1974 Alld. L.J. 381. It accords with requirements of Section 106 of the T.P. Act as regards the period. It will hence validly determine the tenancy on the expiry of the period of the notice under Section 111 (h)."

23. In Smt. Sushila Devi & Anr. Vs. Mahohar Lal 1985 (11) ALR 213 : 1985 (1) ARC 34 the notice sent under Section 106 of the Act read as follows:

".....In default of payment of rent during the period aforesaid after occupation of the shop for a period of full 30 days you vacate the shop and put it in possession of plaintiff;.....on expiry of the said period your status would be that of a trespasser only and you will be liable to ejectment and damages for use and occupation at the rate of Rs. 10 per day....."

24. This Court observed that the aforesaid notice terminated the tenancy in accordance with the provisions of Section 106 of the Act.

25. The aforesaid decisions clearly holds that the crucial test is to find out from the notice whether the language used expresses a clear intention of terminating the tenancy after the expiry of thirty days and in such a case, the absence of the word "terminate" in the notice is not conclusive. The decisions also hold that if the landlord clearly expresses, in the notice, an intention that he does not desire the tenant to continue in possession of the premises after the expiry of one month and asks the tenant to handover the vacant possession of the property after the expiry of the aforesaid period failing which he would file a suit for ejectment then in that case it would be a notice which determines the tenancy after 30 days even though it may not be mentioned in the said notice that "the tenancy shall be terminated on the expiry of the period of one month".

26. In the present case, as pointed out above, the notice clearly mentions that it was not acceptable to the landlord to permit the tenant to continue in occupation of the premises and that he was required to handover the vacant possession immediately after the expiry of 30 days from the date of receipt of the said notice sent to him under Section 106 of the Act and that in the event he failed to handover the possession on the expiry of the said period, the landlord would file a suit for ejectment.

27. In view of the guiding principles enumerated by the Supreme Court and this Court in the aforementioned decisions, it has to be held that the tenancy was validly terminated under Section 106 of the Act.

28. The next submission of the learned counsel for the revisionists is that the provisions of the Rent Control Act were applicable to the shop in dispute and, therefore, the suit could not have been decreed. This contention cannot be accepted.

29. In the first instance, such an issue was not framed and the judgment of the Court below also does not indicate that this issue was pressed by the defendants in the Court below.

In Tikka Ram (*supra*) this Court had observed:

"Mr. Chaturvedi then tried to argue that the courts below did not consider the appellant's plea that he had spent money on repairs which he was entitled to adjust against rent. But the judgments of the both the courts below indicate that the plea was never pressed. Mr. Chaturvedi pointed out that it was taken in the written statement. But that is not conclusive. Very often pleas are taken in the pleadings which are given up or not pressed during the trial. If a defendant, after taking a plea in the written statement, goes to trial without asking for an issue on it and does not raise it before the lower appellate court, and the judgments of both the courts below give no indication that the plea was raised, the High Court in second appeal will presume, in the absence of any convincing evidence to the contrary, that the plea was not taken up during the trial."

30. In view of the aforesaid decision, I am not inclined to entertain this submission of the learned counsel for the revisionists. In any case, the rent deed dated 19th July, 1973 executed between the parties clearly mentions that the building had been constructed in the year 1973 and that the tenancy would begin w.e.f. 1st September, 1973. Though in the written statement filed by the defendants it had been stated that the building was constructed prior to 1972 and, therefore, the Rent Control Act was applicable but the revisionists have not placed any evidence before this Court which may indicate that the Rent Control Act was applicable. In such circumstances, this contention of the learned counsel for the revisionists cannot be accepted.

31. The last contention of the learned counsel for the revisionists is that the decree is a nullity as one of the defendant Hori Lal had died prior to the judgment. This fact was not brought to the notice of the Trial Court and it has been stated for the first time in this Revision. Even otherwise, the firm was the tenant and it had been impleaded as a defendant No. 1. The other defendants had been impleaded because they were partners. Thus the death of one of the partner would not have the effect of nullifying the decree.

32. Thus, none of the contentions advanced by the learned counsel for the revisionists have any force. The Revision is, accordingly, dismissed.