

Court of Appeal

Guyana

Civil Appeal No. 35 of 1971

**Nagreadie  
and  
Arjal**

December 11, 1972

Luckhoo, J., Cummings, J.A.; Crane, J.A.

*Damages - Trespass to land*

**Appearances:**

F. L. Brotherson for appellant.

Doodnauth Singh for respondent.

**JUDGMENT OF THE COURT:**

I agree with the conclusion reached by the learned Chancellor in this case but must not let this judgment pass without making an observation which in my view, is of paramount importance in cases of this nature.

Counsel for the respondents Mr. Doodnauth Singh, submitted that the damages awarded by the learned magistrate were excessive and savoured of exemplary damages which are never made in this type of case. I disagree with this submission. The object of the ordinance is to protect rice farmers and where there is a flagrant by the landlord to the detriment of the tenant, as in this case there was, the magistrate exercising the jurisdiction conferred upon him with regard to damages for trespass can award exemplary damages. The provisions of the ordinance are analogous to those of the *Rent Restriction Ordinance* and the powers conferred upon the magistrate are similar – indeed, the ordinances may be said to be to some extent *in pari materia*. Consequently, the cases on this point decided upon a construction of that legislation are germane to this case. [See judgment of Atkinson, J. in *Lavender v. Betts*, [1942] 2 All E.R. p. 73 etc.]

I agree that this appeal should be allowed with costs here and below, agreed upon by counsel as \$400 and \$109.80, respectively.

PERCIVAL A. CUMMINS,

Justice of Appeal.

Dated this 11<sup>th</sup> day of December, 1972.

Since writing this judgment, I have considered the judgment of Viscount Hailsham, L.C. in the House of Lords in the case of *Cassell v. Broome*, [1972] 1 All E.R. 801, at p. 806, in which he explained the judgment of Lord Devlin in *Rookes v. Barnard*, [1964] 1 All E.R. 367, and this, in my view, reinforces the observation on exemplary damages herein.

P.A.C.

3.2.73.