

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF
SRI LANKA**

*In the matter of an Application for
Orders in the nature of Writs of
Certiorari, Prohibition and
Mandamus under Article 140 of the
Constitution of the Democratic
Socialist Republic of Sri Lanka.*

Mohamed Hassan Mohamed
Farook,
No.4, Alfred House Road,
Colombo 03.

CA (Writ) App. No. 157/2024

PETITIONER

Vs.

1. Land Reforms Commission
No.475, Kaduwela Road,
Battaramulla.
2. Harin Fernando,
Minister of Tourism and Land,
“Mihikatha Medura”,
Land Secretariat,
No. 1200/6,
Rajamalwatta Avenue,
Battaramulla.
- 2A. K.D. Lal Kantha,
Minister of Agriculture, Livestock,
Land and Irrigation,
“Mihikatha Medura”,
Land Secretariat,
No. 1200/6,
Rajamalwatta Avenue,
Battaramulla.

RESPONDENTS

Before: M. C. B. S. Morais, J.

Dr. D. F. H. Gunawardhana, J.

Counsel:

Paadhila Thassim instructed by Shayamali Athukorala for the Petitioner.

Abigail Jayakody, S.C. for the Respondents.

Argued on: 02.06.2026

Delivered on: 22.07.2026

Dr. D. F. H. Gunawardhana, J.

Judgement

Introduction

The Petitioner primarily seeks to obtain an inter-family transfer in his favour in this case; the Petitioner claims his title derives from the person who is entitled to obtain such inter-family transfer under Section 14 of the Land Reforms Law.

The Petitioner complains that the Respondents have failed to effect the said inter-family transfer as required by law.

Subsequent to the issuance of formal notice, the Respondents have filed their Objections.

This matter was argued before my brother, Justice Morais and me on 02.06.2026; hence, this judgement.

Arguments

The first contention advanced by Mr. Kularatne, learned Counsel for the Petitioner, is that an inter-family transfer had been approved by the Respondents, as evidenced by **P5**, **P6(a)**, and **P6(b)**, pursuant to a request made by the Petitioner's predecessor in title.

It was further contended that, in fact, the 1st Respondent, namely the Land Reform Commission (LRC), had taken steps to effect the inter-family transfer by way of the documents marked as **P6(a)**, **P6(b)**, **P7**, **P8**, and **P9**; and in those circumstances, the Petitioner entertained a legitimate expectation of obtaining an inter-family transfer in his favour.

Further, Mr. Kularatne's second contention is that, according to the facts of this case, the doctrine of legitimate expectation should be extended to obtaining title to immovable property

as well. He further contended that contingent rights could be transferred and that such legitimate expectation should extend to those rights as well.

In addition to that, he contended that the documents marked as **P23**, **P24**, and **P25** strengthen the Petitioner's position in expecting legitimate expectation. Further, he argued that by **P26** and **P27**, the LRC had obtained a title report from an independent lawyer, who had also confirmed that the inter-family transfer could be effected in favour of the Petitioner based on the document marked as **P12**, as title had passed to him.

Nevertheless, on the other hand, Ms. Abigail Jayakody, learned S.C, argued that, without any inter-family transfer deed executed by the LRC, the Petitioner does not have any title; therefore, this case has to be dismissed.

The second argument advanced by Ms. Jayakody is that the inter-family transfer could be effected in favour of Anton Schuiling and not in favour of a third party such as the Petitioner, who claims to have obtained title from Anton Schuiling.

However, in answering a question posed by me as to whether **P12** covers the nexus between the Petitioner and the person entitled to the inter-family transfer, she stated that **P12** does not carry such title. However, she conceded that there had been a request for an inter-family transfer and that the LRC had taken steps to effect such inter-family transfer.

Further, upon a question posed by Brother Justice Morais, she conceded that **P7** had been obtained by the LRC upon the request reflected in **P26**. However, she denied the very existence of the same and argued that by **R2**, the LRC had decided to divest title to another party.

Further, she argued that, since the LRC had decided to divest title to a third party, as reflected by the document marked **R10**, the Petitioner cannot now compel the LRC to effect an inter-family transfer in his favour.

The Petitioner's position

The Petitioner asserts that one Alexander Henry had been the owner of the estate called "Sutherland Estate", which is in extent of 194 Acres, situated in the District of Badulla, devolved to Mary Augusta Schuiling, Victor Earl Henry, Rita Mavis Henry, and Gwendolyne Beryl Henry upon the death of the said Alexander Henry. Thereafter, the late Alexander Henry's estate was administered, and an administrators' conveyance was also executed in favour of the heirs. The said devolution is reflected in **P1**, an administrative conveyance.

Upon the death of their predecessor in title, who owned the entirety of the property as far back as the 1940s, the said devolution had taken place by virtue of the final order of the testamentary action. Thus, the widow, Mary Augusta Henry, became entitled to one half of the property (94 Acres), whilst the remaining half devolved equally upon Victor Earl Henry, Rita Mavis Henry, and Gwendolyne Beryl Henry, each being entitled to a 1/6th share (31 Acres). Thereafter, they possessed the same as one entity.

However, in the meantime, the Land Reforms Law came into operation in 1972; thus, the entire land got vested with the LRC. However, consequent to the Land Reforms Law coming into operation, Mary Augusta, the wife of late Alexander Henry, made a statutory declaration and thereafter, the LRC made four statutory determinations in favour of Ms. Alexander Henry (Mary Augusta) and the three children, Victor Earl, Rita Mavis, and Gwendolyne Beryl. Out of the said four statutory determinations, three are marked and annexed to the Petition as **P3**, **P3(a)**, **P3(b)**. Thus, Mary Augusta became entitled to 51 Acres and 1 Rood, while Victor Earl became entitled to 31 Acres, 1 Rood and 8 Perches, Rita Mavis became entitled to 31 Acres 1 Rood and 16 Perches, and Gwendolyne Beryl became entitled to 31 Acres 1 Rood and 17 Perches. In addition, the Respondents also marked the statutory determinations as **R3** and **R4**.

In the meantime, the wife of Alexander Henry had remarried and became Ms. Schuiling, and she has got a child from the second marriage, and she made a request to the LRC to permit to execute an inter-family transfer in favour of her fourth child, who is Mr. A.G. Schuiling, in respect of 43 Acres, which remained vested with the LRC as part of the larger land. The said request is reflected in **P4**. Thereafter, the LRC had taken steps to effect the inter-family transfer in favour of the said Anton Gregory Schuiling for 17-acres, which is reflected in **P5, P6, P7, P8, and P9**.

Thus, the LRC had obtained the service of a surveyor, M.S. Diyagama, and demarcated 17 Acres of land from two divisions of the estate remain vested and depicted in two plans bearing No. 972 and 973 marked as **P6(a)** and **P6(b)**, respectively; the same plans are marked as **R9** by the Respondents.

Thereafter, by the document marked **R1**, the LRC also approved to execute the inter-family transfer. However, since the matter was delayed, they migrated, and before migrating, had appointed one Mr. Lakshman Samarasinghe as their power of attorney holder. Through said Samarasingha, A.G. Shuling and Ms. Shuling sold their rights to the Petitioner's mother by **P12**. However, still the Petitioner's mother could not obtain the 17 Acre of land for which the LRC had agreed to execute an inter-family transfer.

However, pending that, the Petitioner's mother has donated her rights to the Petitioner by Deed bearing No. 358 marked as **P14**; thus, the Petitioner pursued his rights obtained by virtue of the said Deed of donation that he became entitled to, and therefore, he pursued the application to obtain the inter-family transfer, which he became entitled to through his mother the title derived from A.G. Schuiling.

Accordingly, by **P26**, the LRC had retained the services of an Attorney-at-Law to obtain a title report in order to ascertain exactly whether the devolution of title upon the 1st Petitioner had

properly taken place. Accordingly, the title report marked as **P27**, wherein the said Attorney-at-Law had confirmed that the title had devolved upon the Petitioner by way of **P12** as well, which is annexed to the Petition.

However, the 1st Respondent further delayed the matter without executing the inter-family transfer. Therefore, the Petitioner has sought the intervention of this Court by this Application.

The Respondents' Objections

The Respondents' Objection is that, having admitted that the "Sutherland Estate" got vested with the LRC (the 1st Respondent) in terms of the Land Reforms Law and Ms. Schuiling had made a statutory declaration when she was Mary Augusta (the same is marked as **R1** annexed to the Objections), it is their position that on the application made by the members of the family by whom the land got vested in the LRC, there was statutory determination made by the LRC. The relevant gazette notifications are marked as **R3** and **R4** annexed to the Objections.

It is also admitted that 43 Acres remain vested with the LRC.

However, it is their position that the Respondents, having admitted that there was an application for an inter-family transfer by Ms. Schuiling made under Section 14, the LRC (the 1st Respondent) had approved the same and thereafter taken steps to effect it; in fact, the Respondent has admitted that having taken steps, they have obtained a plan prepared depicting the land proposed to be transferred under Section 14 (the said parcels of land are identified as **R9** annexed to the Objections, the same is marked as **P6(a)** and **P6(b)** annexed to the Petition), now take up the position that they are unable to effect the transfer since the same land identified in **R9** was given to a third party for management.

In addition to that, it is their position that the Petitioner is not entitled to have any inter-family transfer in his favour, as no title is derived from A.G. Schuiling.

Further, the Respondents state that unless and until Anton Gregory Schuiling personally presents himself before the Land Reform Commission, the same cannot effect a transfer in favour of a third party, namely the Petitioner. Therefore, according to the Respondents, the Petitioner cannot have and maintain this application. As such, the Respondents sought a dismissal of the same.

Issues to be decided

In view of the matters asserted in the Petition, the objections raised, and the oral and written submissions advanced before us, it is my view that the following questions arise for our determination;

- i. Whether there was an application made on behalf of the original owners for an inter-family transfer;
- ii. Whether there was approval by the 1st Respondent to effect an inter-family transfer;
- iii. Whether a legitimate expectation was entertained by A.G. Schuiling and Ms. Schuiling;
- iv. Whether the contingent rights can be transferred to Abdul Rahman Razzeen Umma by A.G Schuiling;
- v. If the answer to the above question is in the affirmative, have the contingent rights of Anton Gregory Schuiling has devolved upon the Petitioner;
- vi. If the answer to the above question is in the affirmative, whether A.G. Schuiling is required to be physically present in Sri Lanka in order to obtain the said transfer effected by the Land Reform Commission (1st Respondent);
- vii. If not, whether a writ lies in the circumstances of this case.

Application for an Inter-Family Transfer

It is an undisputed fact that the Land Reform Law came into operation in 1972. Thereby, with the said Law coming into operation and the reforms introduced thereby, all highland exceeding 50 acres in extent and all paddy land exceeding 25 acres in extent became vested in the Land Reform Commission ("LRC").

However, by that time, the original owner, Mr. Alexandra Henry, had already died. At the time of his death, he owned the 'Sutherland Estate', which was in extent of approximately 188 Acres. Upon his death, the estate devolved upon Mary Augusta Schuiling, the widow, and three children born into their marriage.

Thereafter, upon the conclusion of the administration proceedings, his wife (Mary Augusta) became entitled to one-half ($1/2$) of the Estate, whilst the three children became entitled to one-sixth ($1/6^{\text{th}}$) each by virtue of the Administrator's Conveyance marked as **P1**. The widow of Mr. Alexandra Henry, Mary Augusta Henry (later Ms. Schuiling), became entitled to 94 Acres, whilst each of the three children became entitled to 31 Acres. However, the entire Estate was possessed as one entity without partitioning the same owing to the express prohibition imposed by the Tea, Rubber and Coconut (Control of Fragmentation) Act, No. 2 of 1958. Thereafter, the entire land became vested in the Land Reform Commission by virtue of the Land Reform Law by operation of Law introduced in 1972.

Accordingly, Ms. Schuiling made a statutory declaration to the Land Reform Commission as the law requires. Consequent to the said declaration, there was a statutory determination made. Pursuant to the statutory determination, each of the three children was given 31 Acres, 1 Rood and 8, 16, and 17 Perches respectively. However, although Ms. Schuiling was entitled to 94 Acres by virtue of the deed marked **P1**, she was only given 51 Acres and 1 Rood, whilst the

remaining was vested in the Land Reform Commission as per **P4** (same as reflected in **R3** and **R4**).

By that time, Ms. Schuiling had married again and had a child, namely A.G. Schuiling, who was also 30 years of age (vide **R8** dated 18.11.1972). In addition to the application for a statutory determination, she made an application for an inter-family transfer in terms of Section 14 of the Land Reform Law in respect of a 43-acres portion of the said estate, which had already become vested in the Land Reform Commission. Ms. Schuiling by **R8** had made an application to effect an inter-family transfer of 43 Acres in terms of Section 14 of the Land Reform Law. The Land Reform Commission, having accepted the said application, had approved to effect the inter-family transfer of the 17 Acres only.

To understand the rationale of inter-family transfer, one should consider the statutory determination. According to the Sections 18 and 19 of the Land Reforms Law, statutory determination can be made when an application is made in that behalf to make a statutory determination in respect of land vested in the LRC by a statutory lessee who has children of 18 years or older.

For further clarity, Section 18 and 19 reads thus,

“18. (1) The Commission may, by Order published in the Gazette and in such other form as it may deem desirable to give publicity to such Order, direct that every person who becomes the statutory lessee of any agricultural land shall, within a month from the date of the publication of the Order, or of becoming a statutory lessee under this Law make a declaration, in this Law referred to as a " statutory declaration", in the prescribed form of the total extent of the agricultural land so held by him on such lease.

(2) The declaration shall inter alia specify-

(a)(i) the name of each agricultural land owned by the declarant together with such agricultural land owned by any member of the family of the declarant on the day immediately prior to the date of commencement of this Law together with the extent of such land;

(ii) where the declaration is in respect of an agricultural land owned by a family within the meaning of this Law the head of such family shall make the declaration and shall specify in the declaration the total extent of the agricultural land owned by such family and the extent owned by each individual member of such family;

(b) the situation of each such land and the postal address thereof and directions for reaching such land;

(c) the nature of the crops grown on each such land together with the acreage under cultivation and any other particulars relating to the use of such land;

(d) the income derived from each such land within the previous five years as declared to the Commissioner-General of Inland Revenue for the purpose of income tax immediately prior to the date of commencement of his statutory lease;

(e) the value of each such land as declared to the Commissioner-General of Inland Revenue for the purpose of wealth tax immediately prior to the date of commencement of his statutory lease; and

(f) the preference or preferences, if any, of the declarant as to the particular portion or portions of each such land which he should be allowed to retain.

The declaration shall be accompanied by a survey plan or sketch map depicting the boundaries of the lands declared, and of the portion or portions, if any, which the declarant has expressed a preference to retain, and shall specify all encumbrances attached to such land. Such portion or portions shall except in exceptional circumstances be contiguous areas of land which will result in minimum fragmentation of the whole land.

(3) Where any person who has made the declaration referred to in subsection (1) by operation of law becomes the owner of any agricultural land subsequent to such declaration, or ceases to be owner of any part of any land referred to in the declaration such person shall make a further declaration in respect of his land and the provisions of subsection (1) shall apply to such declaration.

(4) Any person who becomes the owner of agricultural land in excess of the ceiling on any day after the date of commencement of this Law shall, within one month of becoming such owner, make a declaration as provided for in the preceding provisions of this section.

(5) Any person who fails to make any declaration required by any of the preceding provisions of this section, or makes a declaration knowing such declaration to be false, shall be guilty of an offence and the Commission may forfeit any compensation payable to him under this Law.

19. (1) The following provisions shall apply on the receipt by the Commission of a statutory declaration made under section 18:-

(a) The Commission shall, as soon as practicable, make a determination, in this Law referred to as a statutory determination", specifying the portion or portions of the agricultural land owned by the statutory lessee which he shall be allowed to retain. In making such determination the Commission shall take into consideration the preference or preferences, if any, expressed by such lessee in the declaration as to the portion or portions of such land that he may be allowed to retain.

(b) The Commission shall publish the statutory determination in the Gazette and shall also send a copy thereof to such lessee by registered letter through the post. Such determination shall be final and conclusive, and shall not be called in question in any court, whether by way of writ or otherwise." [Emphasis is mine]

Accordingly, the statutory determination has been made in respect of certain property relating to this Application in favour of Mary Augusta Schuiling who then became entitled to 51 Acres and 1 Rood, and her children, Victor Earl became entitled to 31 Acres, 1 Rood and 8 Perches, Rita Mavis to 31 Acres 1 Rood and 16 Perches, and Gwendolyne Beryl became entitled to 31 Acres 1 Rood and 17 Perches. Once the statutory determination is made and published, that itself become good title¹.

However, by that time Ms. Schuiling had made the application for inter-family transfer in favour of the youngest son, A.G. Schuiling, for the entire 43 Acres and 13 Perches as reflected in **R8** marked and annexed to the Respondents' Objections, dated 18.11.1972. Accordingly, it has been made within the stipulated period. In fact, the LRC by **P5** has decided to effect an

¹ *Jinawathie v. Emalin Perera* [1986] 2 Sri L.R. 121.

inter-family transfer in respect of 17 Acres only; accordingly, it has obtained the services of a surveyor, who has identified the 17 Acres. All this process was done in terms of Section 14.

Further, when the said application was made for the inter-family transfer on 18.11.1972 (**R8**), A.G. Schuiling was 30 years of age and had, in fact, requested an extent of 30 Acres of land. Nevertheless, the LRC decided to allocate only 17 Acres. In addition, as evidenced by **R10**, the then Chairman and four Directors of the LRC signed and accepted the position of the present Petitioner. Accordingly, the inter-family transfer in favour of A.G. Schuiling was duly approved in law. Thereafter, by **R10**, the LRC acknowledged that the rights vested in A.G. Schuiling had devolved upon Mohamed Hassan Mohamed Farook, the present Petitioner.

Therefore, there is a clear case of creating a legitimate expectation in the minds of Ms. Augusta Schuiling and A.G. Schuiling, in the latter's favour such inter-family transfer has to be effected by the LRC.

For further clarity, Section 14 of the Land Reform Law is reproduced below and reads thus;

“14. Inter family transfer of agricultural land after the commencement of this Law:

(1) Any person who becomes a statutory lessee of any agricultural land under this Law may within three months from such date make an application to the Commission in the prescribed form for the transfer by way of sale, gift, exchange or otherwise of the entirety or portion of such agricultural land to any child who is eighteen years of age or over or to a parent of such person.

(2) The Commission may by order made under its hand grant or refuse to grant approval for such transfer. Such order shall be made within one year of the date of application under subsection (1). Every such order shall be sent by registered post to the applicant under subsection (1). Any such applicant aggrieved by the order may

appeal to the Minister within three weeks of the receipt of such order. The receipt of the order shall be deemed to be effected at the time at which letters would be delivered in the ordinary course of post.

(2A) From and after the date of enactment of this subsection, no statutory lessee shall be granted approval by the Commission under subsection (2) to transfer under subsection (1) any agricultural land in, excess of one hundred and fifty acres in the aggregate:

Provided that the preceding provisions of this subsection shall not apply in respect of any agricultural land the possession of which, notwithstanding anything in this Law, has been handed over to any declarant or any member of the family of the declarant, under this section prior to the enactment of this subsection.” [Emphasis is mine]

The said inter-family transfer is justified for two reasons in this case.

However, in the present case, the Land Reform Commission could have made a statutory determination after granting the 50 Acres to Ms. Schuiling, as the wife of Alexandra Henry, and the balance of 138 Acres in equal shares to each of the other three children. Therefore, had that course been adopted, since the entire land had become vested in the Land Reform Commission, each and every family member, including the mother and the three children (from the first marriage), would have been entitled to about 50 acres each.

Therefore, the title to the entire estate would have reverted to them upon the statutory determination. However, the Land Reform Commission itself proceeded to make a statutory determination in terms of Section 18, based on the entitlement reflected in the Administrator's Conveyance marked **P1**.

Accordingly, each child, who was entitled to 31 Acres, was granted the said extent under the statutory determination. However, although Mrs. Schuiling became entitled to 94 Acres, she was not granted the entirety of her entitlement. Therefore, out of the said 94 Acres, only 51 Acres were granted to her by the statutory determination, whilst the balance of 43 Acres was vested in the LRC.

It must always be remembered that there is no evidence before Court, despite there is statutory provision, requiring compensation to be paid when a land becomes vested in the Land Reform Commission on the basis that it constitutes excess land.

Therefore, there is always room for interpretation with regard to an inter-family transfer. Accordingly, Mrs. Schuiling, the widow of Mr. Henry, who subsequently had a child from her second marriage, made an application seeking an inter-family transfer in favour of the child from the second marriage.

Further, the Land Reform Commission, having accepted the said application, responded positively to the same and approved it by **P5**, thereafter obtained the services of a surveyor to identify the relevant 17-acre extent from and out of the ‘Sutherland Estate’ vested in the Land Reform Commission.

Accordingly, two plans were prepared identifying the said 17-acre in extent from two divisions of the estate, which are marked as **P6(a)** and **P6(b)** and annexed to the Petition.

Thereafter, the matter proceeded up to a certain stage. In addition, the Land Reform Commission also obtained a report from an independent Attorney-at-Law in order to ascertain whether the present Petitioner could obtain title.

In fact, according to the title report, title had correctly devolved upon the present Petitioner, as A.G. Schuiling was not residing in Sri Lanka, he had executed a Power of Attorney, and

through his Attorney, he transferred the title which he expected to receive pursuant to the inter-family transfer in terms of Section 14 of the Land Reform Law.

Therefore, it is my view that there was a valid application, and that application was positively considered by the Land Reform Commission. Consequently, A.G. Schuiling and his successors in title entertained a legitimate expectation that the transfer would be completed.

However, after some time, the Land Reform Commission took up the position that it was unable to proceed with the statutory determination on the simple ground that possession of the land had been handed over to Sapugasthenna Plantation PLC and that the said land had thereafter been amalgamated with another land possessed by Sapugasthenna Plantation.

However, although Sapugasthenna Plantation may have been given possession of the land, it must always be remembered that the land became vested in the Land Reform Commission purely by the artificial creation of title and for no other reason. Hence, no person had transferred title to the Land Reform Commission except through such statutory vesting. Further, even after the land became vested in the Land Reform Commission, an application for an inter-family transfer was made, the said application was positively responded to by the LRC, which thereafter took several steps in furtherance of the said application, including the identification of the relevant extent, the preparation of survey plans, and the obtaining of an independent title report.

Therefore, it is my view that a legitimate expectation was always entertained by the Petitioner and his predecessors in title.

The concept of an inter-family transfer is based on the principle that there can be transfers within a family; however, such transfers are subject to a legal limitation, thus, the legal position is clear that an inter-family transfer cannot be effected in excess of 150 acres.

In the present case, the inter-family transfer is justified for two reasons.

Firstly, if the Land Reform Commission Law had come into operation before Mr. Alexandra Henry died, he could easily have effected an inter-family transfer in respect of all three children, allocating 50 acres to each child, and another 50 acres to himself and his wife jointly.

Therefore, all would have been entitled to 50 acres each, and, as such, not an inch of land would have vested in the LRC. However, the difficulty arose because, after the death of Mr. Alexandra Henry, testamentary proceedings were instituted and, subsequently, an Administrator's Conveyance was executed, as reflected in document marked **P1**.

According to the Administrator's Conveyance, the members of the family, namely the widow, became entitled to one-half of the property, amounting to 94 acres, whilst each of the three children became entitled to one-sixth of the property.

Accordingly, the wife became entitled to 94 Acres, and each of the children became entitled to an extent of 31 Acres.

However, if the Administrator's Conveyance had not come into existence, and if Mr. Henry had remained alive when the Land Reform Commission Law came into operation, the position would have been entirely different, thus, Mr. Henry could easily have obtained statutory determinations in favour of all three children for 50 acres each, together with another 50 acres for himself and his wife.

Secondly, in that event, the entire estate would have remained within the family, without an inch of land being vested in the LRC.

Legitimate expectation

Thirdly, once the land vested in the LRC based on Mrs. Schuiling's title, only the excess land was vested in the Commission. Thereafter, Mrs. Schuiling made an application for an inter-family transfer and obtained a favourable response from the LRC on the basis that she was entitled to seek such an inter-family transfer, as reflected in **P5**. For that purpose, the LRC had also taken the necessary steps. In fact, the land proposed to be transferred by way of the inter-family transfer had already been identified in the documents marked **P6(a)** and **P6(b)**, prepared by the Licensed Surveyor, M.S. Diyagama.

Thereafter, the LRC suddenly departed from its earlier position, without any notice or knowledge to the Schuilings or their successors in title and handed over possession of the land to a third party. In my view, the LRC could not lawfully do so, as it is estopped from acting in that manner. Further, the land in question originally belonged to the Henrys and later to the Schuilings, and it was on that basis that the inter-family transfer was to be effected. Hence, the LRC had expressly agreed to such transfer.

Therefore, once, as stated above, a legitimate expectation had been created in favour of the Schuilings, the statutory body could not subsequently resile from that position.

There are several reasons for this conclusion.

Firstly, the property vested in the LRC solely by operation of law and for no other reason. In addition, no compensation had even been paid in respect of such vesting.

Secondly, the inter-family transfer was justified at all times because the land was merely being restored to the same family from whom it had vested in the LRC pursuant to the land reform policies of the Government; whilst the rights of private ownership were curtailed under the

Land Reform Law, such curtailment cannot, in the circumstances of this case, justify depriving the family of the benefit of an inter-family transfer.

Moreover, the land which had vested in the LRC has now been given to a third party without any lawful justification; as such, the legitimate expectation entertained by the Schuilings, from whom the land originally vested in the LRC, and by their successors in title, has been defeated due to what appears to be insider dealing on the part of the LRC.

To buttress my view above, I rely on the judgements in the case of *Multinational Property Development Ltd v. Urban Development Authority*², and *Wickremratne v. Jayaratne and Others*³.

Therefore, it is my view that the LRC is bound to effect the inter-family transfer as promised by it.

The next matter that has to be considered is whether title has devolved upon the Petitioner.

The transfer of contingent rights is recognised under Sri Lankan law in several areas, including partition actions. Therefore, it is my view that contingent rights are capable of being transferred⁴.

Accordingly, the contingent rights were transferred to the Petitioner's mother by virtue of the Deed bearing No. 220 marked as **P12**. Consequently, A.G. Schuiling's right, which he expected to be transferred in his favour by the LRC, was lawfully transferred to the Petitioner's mother,

² [1996] 2 Sri L.R. 51.

³ [2001] 3 Sri L.R. 161.

⁴ Eva Wanasundera J. in the case of *Abusali Sithi Fareeda v. Mohamed Noor and Others* (SC Appeal No. 134/2013) SC Minutes 28.10.2014; S.B. Goonewardena J. in *Koralage Podi Nona and Others v. Sunny Fernando* [1986] 1 Sri L.R. 217; Priyantha Jayawardena PC.J. in *Premalatha Jayasooriya v. Buddhika Wickramasooriya* (SC Appeal No. 27/2018) SC Minutes 09.08.2023.

namely Abdul Rahman Razzeen Umma. Thereafter, the same rights devolved upon the Petitioner by virtue of the Deed marked **P14**.

Therefore, it is my view that the Petitioner's title has lawfully and validly devolved upon him, and, accordingly, the Petitioner is entitled to obtain the inter-family transfer in his favour.

Conclusion

For the reasons adumbrated above, despite **R5** being executed surreptitiously in 2003, I grant reliefs as prayed for in prayers *(b)* and *(c)* of the Petition, and further order Rs. 100,500/- (One Hundred Thousand Five Hundred Rupees) as cost of litigation.

JUDGE OF THE COURT OF APPEAL

M. C. B. S. Morais, J.

I agree.

JUDGE OF THE COURT OF APPEAL