

## DAVID SURENDRA

A

v.

## REGINAM

[SUPREME COURT, 1976 (Grant C.J.), 14th May]

B

## Appellate Jurisdiction

*Hotels and guest houses—definition thereof—whether premises having no facilities for reception within definition—Hotels and Guest Houses Act 1973 ss. 2, 4(2), 10(1).*

C

*Interpretation—Ordinance—definition of hotel—Hotels and Guest Houses Act 1973 ss. 2, 4(2), 10(1).*

Self contained service flats which were managed only on a part time basis and at which there were no facilities for reception did not fall within s. 4(2) of the Act, and consequently did not need a licence issued thereunder.

D

Case referred to:

*R. v. Edmundson* (1859) 28 L.J. 213.

Appeal against conviction in the Magistrate's Court for keeping an hotel without being the holder of a licence.

GRANT C.J.: [14th May 1976]—

E

On the 19th December 1975 at Suva Magistrate's Court the appellant was convicted after trial of keeping premises for the purpose of a hotel without being the holder of a licence issued in respect of the premises contrary to section 4(2) and section 10(1) of the Hotels and Guest Houses Act, 1973.

F

The appellant has appealed against conviction on the grounds that the trial magistrate erred in law and in fact in convicting the appellant when there was no evidence that the premises were used as a hotel.

G

The question of what is a hotel for the purposes of the Hotels and Guest Houses Act depends upon the language used in the Act. By virtue of section 2, a hotel is "a boarding-house, lodging-house, guest-house, and any building, vessel, premises, structure, caravan or house on wheels or any part of any such building, vessel, premises, structure, caravan or house on wheels, not being a public institution, some part of which is used or occupied for the business of receiving guests, or travellers desirous of remaining or dwelling therein for any period of time or to which persons are entitled to resort for accommodation for hire or reward of any kind."

H

Leaving aside the final seventeen words of this description, I consider that it relates to premises of one type or another, or part thereof, into which persons are received and provided with such accommodation as is afforded in the way of rooms with or without meals at a stipulated charge.

Turning to the final seventeen words, I have no doubt that the *ejusdem generis* rule applies, namely that these general words, following particular and specific words,

must be confined to things of the same kind as those specified (per Lord Campbell in *R. v. Edmundson* (1859) 28 L.J. 213 at 215).

A

Thus, for the purposes of the Hotels and Guest Houses Act, a distinguishing feature of a hotel is that there must be provision for persons to be received, which is a question of fact in each case.

On the facts of this case there was no evidence to establish beyond reasonable doubt that there were any facilities for reception. On the evidence the premises in question comprised self-contained service flats rented by various tenants. According to the uncontested statement of the appellant, who managed the premises at the relevant time, he slept away from the premises but visited them during the day to supervise the cleaning of the premises and the washing of bed linen; and there was no evidence that his presence on the premises during the day was for the purpose of receiving people.

B

Consequently the building was not shown to be a hotel, and the conviction is accordingly quashed and the sentence set aside.

C

*Appeal allowed and conviction quashed.*