**THE PEOPLE v MWEWA (1969) ZR 174 (HC)**

HIGH COURT

GARDNER J

4th DECEMBER 1969 40

**Flynote and Headnote**

[1]   **Criminal law  - Price Control - Offence not committed by persons who have no control over business***.*

   An offence under the Price Control Order cannot be committed by a person who has no control over the management of the business or the price of goods sold.

**1969 ZR p175**

MAGNUS J

**Judgment**

**Gardner J:** [1] In this case the accused, Dorothy Mwewa, was charged on three counts. The first count related to the selling of sugar above the maximum price, the second count related to her failure to display the price of canned meat, the third count related to her selling canned meat above the maximum price permitted. 5

The evidence adduced by the prosecution was to the effect that there was a stock sheet in the shop which set out the price to be charged for various items. There was evidence that a price control officer purchased 41b sugar and was charged 34n for it instead of 32n as laid down in the Price Control Order. There was further evidence that no list of prices was 10 displayed in the shop in accordance with the law. There was also evidence that the accused charged 45n for a tin of canned meat whereas the price shown on the stock sheet of the shop was 40n.

The accused is a juvenile and was originally charged with one Aloysius Mangamu, the manager of the shop. The charge against the manager was 15 withdrawn presumably so that he could give evidence against the juvenile.

The defence of the accused was that she had been told by her senior saleslady to charge 34n for sugar, that the display of prices was nothing to do with her and that the price control officer himself offered to pay 45n for tin of canned meat. There was no doubt that the price charged for the 30 sugar was 2n in excess of the maximum price allowed by law but the price of canned meat is not specifically laid down by S.I. 240 of 1967. This Statutory Instrument merely states that the price of canned meat must not be in excess of that which was charged on the 31st January, 1966. It is not suggested that the accused charged an additional 2n for sugar and an 25 additional 5n for canned meat to put in her own pocket and it is incredible that a juvenile shop assistant should be charged with this offence when it was obviously the duty of the manager to see that no excessive price was charged. Certainly this young girl clearly cannot be held responsible for 30 failing to display the price of goods sold in the shop; that is solely the duty of those in authority. The defence by the accused that she was told to sell sugar at 34n for 4lb was not in any way contradicted or shaken in cross - examination. In my view there has been a gross miscarriage of justice in this case and I set aside the finding of guilty in respect of this 35 juvenile on all three counts and I order that the fines paid by her be repaid to her forthwith. I also order that the papers in this case be sent to the Director of Public Prosecutions.

*Order accordingly*

**1969 ZR p175**