

In the Privy Council.UNIVERSITY OF LONDON
W.C.1.

-9 OCT 1956

ON APPEAL
FROM THE SUPREME COURT OF PALESTINE
INSTITUTE OF ADVANCED
LEGAL STUDIES

44463

BETWEEN

RAPHAEL HABIB BEN SHALOM (Defendant)

Appellant

AND

1. SADIQA BINT AS-SHEIKH KHALIL AD-DASUKI (First Plaintiff)
2. SADKIEH BINT ASH-SHEIKH KHALIL AD-DASUKI (Second Plaintiff)

*Respondents.***RECORD OF PROCEEDINGS.****INDEX OF REFERENCE.**

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In the Privy Council.

ON APPEAL FROM THE SUPREME COURT OF PALESTINE.

BETWEEN

RAPHAEL HABIB BEN SHALOM (Defendant) *Appellant*

AND

1. SADIQA BINT AS-SHEIKH KHALIL AD-DASUKI
(First Plaintiff)
- 10 2. SADKIEH BINT ASH-SHEIKH KHALIL
AD-DASUKI (Second Plaintiff) *Respondents.*
-

RECORD OF PROCEEDINGS.

No. 1.

STATEMENT OF CLAIM.

IN THE LAND COURT, NABLUS.

Land Case No. 10/43.

*In the
Land Court
Nablus.*

No. 1.
Statement
of Claim,
8th March
1943.

Plaintiffs : 1. SADIQA BINT ASH-SHEIKH KHALIL AD-DASUKI
of Fardisiya Village (Tulkarm)

20 2. SADKIYEH BINT ASH-SHEIKH KHALIL AD-DASUKI
of Fardisiya Village (Tulkarm)
represented by their Attorney Advocate IBRAHIM NIJEM
of Jaffa whose address for service is Bustros Street,
Jaffa.

Defendant : RAPHAEL HABIB BEN SHALOM, landowner, whose
address for service is No. 23 Shlomo Hamelech Street,
Tel-Aviv.

Nature of Claim : Awlawiye (Priority).

Value of subject-matter : LP.1,291.826 mils.

This action is within the jurisdiction of Your Honourable Court as
30 far as the value of the claim is concerned and in so far as the land claimed
falls within the area of the jurisdiction of this Court.

THE CLAIM :—

1. The two plots of land situated within the lands of Fardisiya Village
and registered in the Land Registry of Nataniya under Block No. 8003,
Parcels 2 and 4 are of the Miri category.

*In the
Land Court
Nablus.*

No. 1.
Statement
of Claim,
8th March
1943,
continued.

2. The de cujus of plaintiffs, their mother, Raqiyeh daughter of Ash-Sheikh Amin At-Tibi, owned in each of the said two parcels one share out of 9 shares.

3. The said Raqiyeh died about 24th December 1942 leaving among her heirs the plaintiffs who inherited, each, from their said mother 3 shares out of 20 shares out of her share which was 1 share out of 9 shares in the said two plots of land. (See the Certificate of Succession attached.)

4. The Defendant bought from the co-owners Adel and Yussef, sons of Sheikh Khalil Ad-Dasuki, their shares in the said two parcels of land amounting to 4 shares out of 9 shares, i.e., from each of them two shares out of 9 shares. Transfer and registration in his name took place at the Land Registry Office of Nataniya on 3rd June 1942. (See the Extract attached.) 10

5. The de cujus of plaintiffs, Raqiyeh, as co-owner and Khalit in the same land, and the plaintiffs as her heirs, co-owners and khalits in the same land, are entitled to acquire the shares transferred to defendant, amounting to 4 out of 9 shares, by awlawiyeh (priority), and they insist on their right and did not relinquish it. This, their right, is based on Article 41 of the Ottoman Land Code and its addendum of 19 Sha'ban 1291. Plaintiffs are ready to pay the assessed value of the said shares. 20

6. The price paid by the defendant for the whole 4 shares in each of the said two parcels amounted to LP.1,291.836 mils on the basis that the price of each dunum is LP.12 and the area of the said shares equal to 107 dunums and 653 meters.

THE PRAYER :

Therefore, THE PLAINTIFFS CLAIM as follows :—

(A) That a copy of this statement of claim and annexures be served on the defendant.

(B) After completion of the legal proceedings in accordance with the Civil Procedure Rules, 1938, and the ascertainment of the assessed value to the satisfaction of the Court, to give judgment in favour of the plaintiffs for the ownership of the shares claimed and now registered in the name of the defendant in the said two parcels amounting to 4 out of 9 shares by awlawiye (priority), and that same be registered in their names at the Land Registry Office in consideration of the assessed value and that the Land Registry be ordered to act accordingly. 30

(C) To order defendant to pay the Court fees, expenses and advocate's fees.

(D) And whereas the plaintiffs are truly convinced that the defendant intends to impede the execution of any judgment that may be given against him and with the intention of impeding the proceedings of this case will try to do away with the shares claimed and transfer them to others at the Land Registry before 40

the determination of this action, therefore, the plaintiffs, relying on section 49 of the Land (Settlement of Title) Ordinance, which is published in Drayton's Collection, Volume 2, page 989, pray that an order be given to the Register of lands, Nataniya, to register in the Land Register of the lands in dispute a caveat to prevent the transfer of the shares claimed until Your Honourable Court give its judgment in this case.

*In the
Land Court
Nablus.*

No. 1.
Statement
of Claim,
8th March
1943,
continued.

8th March 1943.

Accept my respects.

10

Sgd. IBRAHIM NIJEM.

(Translated from Arabic) Advocate, attorney of plaintiffs, Jaffa.

No. 2.

STATEMENT OF DEFENCE.

No. 2.
Defence,
25th April
1943.

1. The Defendant denies that the value of the claim is LP.1,291 and states that its value is much more.

2. Defendant admits the facts stated in paragraph 1 of the statement of claim.

3. Defendant admits the facts stated in paragraph 2 of the statement of claim.

20 4. Defendant denies paragraph 3 of the statement of claim.

5. Defendant admits the facts in paragraph 4 of the statement of claim but corrects the date of the transfer and registration and says that it was completed on 3rd May 1942 by Khalil Ad-Dasuki in his capacity as attorney of his two sons, Yussef and Adel, and the defendant had no dealings with Adel and Yussef, the two sons of Khalil Ad-Dasuki, but the sale and transfer was completed at the Land Registry by Khalil Ad-Dasuki to defendant directly.

30 6. Defendant denies that the de cujus of the plaintiffs or the plaintiffs are entitled to become owners of the shares claimed and amounting to 4 out of 9 shares by awlawiye (priority) and defendant says that their de cujus renounced before her death her right of awlawiye and her heirs, the plaintiffs, are bound by that renunciation.

7. Plaintiffs are estopped from claiming that they have a right of awlawiye (priority) in the shares claimed and also are estopped from claiming that they have not renounced the right of awlawiye (priority).

40 8. In the alternative, defendant says that the value of the shares that should be paid in awlawiye (priority) is the value at the time of the claim and not the value at the time of transfer and registration in accordance with article 41 of the Land Code and the value of the dunum in the shares at the time of the claim, that is on 8th March 1943, exceeded the value shown in the statement of claim.

*In the
Land Court
Nablus.*

No. 2.
Defence,
25th April
1943,
continued.

9. Defendant says that the right of rujhan (preference) was given to cultivators to enable them to find land to cultivate or to avoid co-ownership in land with a stranger. This right was not given for the purpose of dealing and speculating in lands. Accordingly, defendant says that the intention of the plaintiffs is the acquisition of the land for sale at a high price to other persons immediately after obtaining judgment for it.

10. Defendant says that the attachment laid on the property claimed is not legal and that no security for damages was produced and accordingly it should be released. 10

11. The plaintiffs are not entitled to any of the prayers stated in the statement of claim.

Accordingly the defendant prays that plaintiffs' action be dismissed with court fees, expenses and advocate's fee to the attorney that defendant will brief.

25th April 1943.

Sgd. R. HABIB,
Defendant.

(Translated from Arabic.)

No. 3.
The Issues,
26th May
1943.

No. 3.
THE ISSUES.

20

1. Are the plaintiffs or their de cujus entitled to become owners of the shares the subject matter of this action by way of awlawiye (priority) ? and is there any legal reason estopping them from claiming ?

2. Did the de cujus of the plaintiffs renounce her right of awlawiye (priority) before her death ?

3. In case the right of awlawiye (priority) is established, what is the amount that must be paid to defendant for the shares claimed by awlawiye (priority) ?

Dated 26th May, 1943. (Translated from Arabic.)

30

ORDER :

Case to go to Court on above three issues. Advocate of plaintiffs informed. Advocate of defendant to be served with copies of issues by Advocate of plaintiffs as he undertook to do.

26th May 1943.

Sgd. S. SHIHADFH.

No. 4.
APPLICATION to summon Witnesses.
16th November 1943.

[*Not printed.*]

*In the
Land Court
Nablus.*

No. 4.

No. 5.
PLAINTIFFS' APPLICATION to Court
24th November 1943.

[*Not printed.*]

No. 5.

No. 6.
REPLY to Plaintiffs' Application.
4th December 1943.

[*Not printed.*]

No. 6.

10

No. 7.
APPLICATION to Amend Defence and Affidavit in support.

20 TAKE NOTICE that the Court will be moved on 27th day of July 1944 at 9 o'clock in the forenoon or so soon thereafter as counsel can be heard by the above-named defendant that leave be granted to the defendant to amend his statement of defence by adding thereto the plea that the plaintiffs at the date of filing the statement of claim were minors and therefore there is no proper action before this Court and that the costs of this application be in the cause.

No. 7.
Application
to Amend
Defence
and
Affidavit in
support,
24th July
1944.

Jaffa, the 24th July, 1944.

Sgd. GEORGE BEROUTI,
Attorney for defendant.

(Translated from Arabic.)
To Ibrahim Effendi Nijem,
Advocate of Jaffa,
Attorney of Plaintiffs.

AFFIDAVIT

(Attached to above Notice of Motion.)

*In the
Land Court
Nablus.*No. 7.
Application
to Amend
Defence
and
Affidavit in
support,
24th July
1944,
continued.

I the undersigned, RAPHAEL HABIB BEN SHALOM of Tel-Aviv made oath and say as follows :—

1. On 27th June 1944 I enquired at the Health Department of Tulkarm about the ages of plaintiffs, Sadiqa and Sadqiyeh daughters of Sheikh Khalil Ad-Dasuki.

2. I was not able to obtain birth certificates because the officer in charge at the Health Department refused to give me same.

3. According to my knowledge and the information given to me from persons related to the said plaintiffs, I believe that the plaintiffs were minors at the time of the filing of their action on 8th March 1943 and that two persons from plaintiffs' relatives are ready to give evidence to this effect. 10

4. When I presented my defence to this action I was not aware of the minority of plaintiffs and I did not know and did not make sure of same except on 27th June 1944.

Jaffa, this 24th July, 1944.

Sgd. R. HABIB,

Deponent. 20

Sworn before me, Registrar of the District Court of Jaffa, this 24th day of July, 1944.

Sgd. W. SALAMEH,

District Court, Jaffa.

(Translated from Arabic.)

No. 8.
Record of
Proceed-
ings, 22nd
November
1943,
28th June
1944 and
27th July
1944.

No. 8.

RECORD OF PROCEEDINGS.

Before : Judges S. SHIHADDEH and M. BARADEY.

For plaintiffs : IBRAHIM EFF. NIJEM.

For defendant : GEORGE EFF. BEROUTI. 30

Hearing of 22nd November 1943.

GEORGE EFF. : Plaintiffs' ancestor, Raqieh in her lifetime contracted to sell to defendant by appointing her husband, who is father of plaintiffs, as her agent to execute sale in Tabu. The husband made a deed to sell to us. Only he did not transfer in Tabu. A person who contracts to sell cannot claim priority (B) all heirs must apply.

IBRAHIM EFF. : Husband had general power of attorney. He was discharged. He sold share of heirs. Share of Raqiyeh as such was not transferred in Tabu.

GEORGE EFF. : It is true in that husband contracted to sell share of Raqiyeh by virtue of power of attorney but he did transfer her share. This is power of attorney Exh. D/1 ; production not objected to.

*In the
Land Court
Nablus.*

IBRAHIM EFF. : Agrees that land in this case was included in D/1.

No. 8.
Record of
Proceed-
ings,
22nd
November
1943,
28th June
1944 and
27th July
1944,
continued.

Ruling : As transfer was not made by Raqiyeh, ancestor of plaintiffs, we cannot see that plaintiffs' rights are at all affected by the fact that the deceased at one time or another had given a general power of attorney to her husband to sell her lands. The situation is not altered whether he contracted to sell or not. The material fact is that he did not transfer Raqiyeh's share. Therefore we think that plaintiffs' rights to claim priority is established. Case to proceed.

Sgd. S. SHIHADDEH.

Sgd. M. BARADEY.

22nd November 1943.

The parties agreed that Bedel Misl at date of action be assessed by three experts. Nessib Eff. Jubran for plaintiffs (Jaffa), Mr. Kulman for defendant (Tel-Aviv). The parties agree on the third expert to be Mr. Noble (Jaffa).

20 Case adjourned until the 22nd of December, 1943.

Sgd. BARADEY.

Sgd. S. SHIHADDEH.

22nd November 1943.

The parties agreed to pay expenses each for his own expert. LP.20 —deposit to be paid on account of remuneration of Mr. Noble and clerk and travelling expenses. Adib Saqf El-Hait to be clerk for inspection.

Sgd. M. BARADEY.

Sgd. S. SHIHADDEH.

22nd November 1943.

30 28th June 1944.

Parties as before.

Advocate for defendant : I ask adjournment as I understand that plaintiffs are minors in order to inquire and raise necessary issues.

IBRAHIM EFF. : I object. They are not minors this point should have been raised.

Adjournment refused.

Plaintiffs' witnesses :—

SAAD EL-DIN JABRI. Sworn.

This is a Tabu Extract for the land in this case P/1. This is a plan for the land P/2. This is a certificate of succession P/3.

*In the
Land Court
Nablus.*

No. 8.
Record of
Proceed-
ings,
22nd
November
1943,
28th June
1944 and
27th July
1944,
continued.

NESSIB JUBRAN. Sworn.

I am a licensed land valuer for the past 12 years. I know the land subject matter of this case. Last I saw it in 16th February 1944. On 8th March 1943 this land was worth LP.15.500 mils per dunum.

XX. I keep track of sales usually. I know some sales which took place around that period in that neighbourhood.

Part of the land is on main road to Haifa.

Now it is worth around LP.30.

LP.12 would have been reasonable in 1942.

Land is rather valuable as it is in unrestricted zone. 10

One quarter of land which is on main road is worth LP.20.

Re-examination : Hemnuta Ltd. bought in that neighbourhood in 12th February 1943 for about LP.16.- per dunum, also in May of that year for about the same price I have two Tabu extracts which confirm this.

SHUKRI EFF. FIANI. Sworn.

I am a licensed land valuer since 1940, I inspected land subject matter of this case on 16th February 1944. I value land on 8th March 1943 to be worth LP.15.500 mils per dunum.

XX. One quarter of land which is on main road is worth about LP.20.- Rest of land LP.14.- I assessed value with 2nd witness as we 20 inspected land together.

To-day land is worth 25 per cent. more than in March 1943. Value of land there began to raise after May 1943.

I am aware that Hemnuta Ltd. bought for LP.17.-.

Plaintiff closes.

Defendant's witnesses called, not present served.

Mr. BEROUTI : I ask adjournment I do not insist on arrest. I will serve them again.

ORDER :

Order case adjourned for defendant's witnesses to be served again, 30 being understood that no further adjournment will be made on the same grounds.

Sgd. BARADEY.

Sgd. SHIHADDEH.

28th June 1944.

27th July 1944.

Application for amendment of statement of claim.

For Applicant : GEORGE EFF. BEROUTI.

For Respondent : IBRAHIM EFF. NIJEM.

Mr. BEROUTI : Plaintiffs are minors, they cannot sue in person. 40 I want to amend defence.

I did not know this fact before.

IBRAHIM EFF.: Too late. Case practically finished anyhow plaintiffs are not minors. Their father is here to give evidence on oath.

*In the
Land Court
Nablus.*

Father called as witness.

KHALIL DASUKI. Sworn.

I am father of plaintiffs. Sadkieh is the oldest. She has completed now her 22nd year. Sadiqa has completed her twentieth year.

XX. I have three boys older than the girls. The oldest is 30 or more.

No. 8.
Record of
Proceed-
ings,
22nd
November
1943,
28th June
1944 and
27th July
1944,
continued.

ORDER :

10 Application refused.

Sgd. BARADEY.

Sgd. S. SHIHADDEH.

27th July 1944.

27th July 1944.

Parties as before.

Defendant's witnesses :—

DOF KULMAN. Sworn.

I am licensed land valuer for last six years, I am also surveyor. I know the land in dispute I visited in December 1943. On 9th March 1942, I think land was worth LP.31.— per dunum for parcel (2) and LP.28.— for parcel (4) Block 8137, Parcel 145 is about 3 kilos away from land in dispute. It is inferior in value to land in dispute. This is a sketch I made of both lands. (Exh. D/2.)

XX. I did value same land to this Court before, same value. Value was on basis of Masha. Lands increased in value up to 60 per cent. from June 1942 to March 1943.

SOLOMON ARIEH. Sworn.

I am licensed land valuer for past 9 years, I know land in dispute. Land on 9th March 1943 was worth LP.31.— per P. (2) and LP.28.— for P. (4).

30 I made valuation with Mr. Kulman.

XX. Cultivable land, prices rose from June 1942 to March 1943 up to 40 per cent. After March 1943, little rise only in price of land.

ADDEEB SAQF EL-HAIT. Sworn.

I am clerk D.C. Nablus. This is a true copy of judgment given by this Court on 6th March 1944. Exh. D/3 D/4 is copy of Judgment 24th May 1944.

No XX.

Speeches :

40 Mr. BEROUTI : This Court valued Block 8137, Parcel 145 on about January 1943 at LP.27.— in Land Case No. 2/43.

D/3 and D/4 support my valuation. Sheikh Dasuki, father of plaintiffs, sold part of same land on March 1943 for LP.17.—.

IBRAHIM EFF. : Defendant bought for LP.12.— on 3rd June 1942.

Defendant experts said increase was 40 to 60 per cent.

D/3 and D/4 do not refer to same land.

*In the
Land Court
Nablus.*

No. 9.
Judgment,
27th July
1944.

No. 9.
JUDGMENT.

This is a case for Awlawiyeh. This Court ruled on 22nd November 1943 that the plaintiffs' right to Awlawiyeh as claimed is established.

The only point which remains for us to determine is the value of land at the date of filing this action which is 9th March 1943. The evidence of both parties was heard at length and Judge Shehadeh assessed the value of shares claimed on this material date to be LP.22.- per dunum. In his opinion the fact that the defendant bought these shares at LP.12.- per dunum on 3rd June 1942 and that his experts said the land increased 10 in value 40-60 per cent. up to March 1943, this does not necessarily establish the market price of the land on 3rd June 1942, as defendant may have bought at an exceptional bargain.

Judge Baradey on the other hand thinks that the defendant is bound by the evidence he himself tendered through his experts who said the land increased in value, since he bought on 3rd June 1942 until March 1943, up to 60 per cent. the most. Therefore he assesses the land on the material date at LP.19.200 mils per dunum.

We therefore give judgment assessing the value of the shares claimed at LP.19.200 mils per dunum and order that on payment of the price by 20 plaintiffs at this assessment in Court within one month from to-day the plaintiffs will be entitled for registration in Tabu of the shares claimed in their names equally Registrar to issue certificate of due payment in Court and a formal decree with full details to issue.

Plaintiffs to get their costs assessed in all at LP.30.- to include advocate's fees for attendance.

Given and delivered this 27th day of July 1944, in presence of Ibrahim Eff. Nijem for plaintiffs and Mr. George Berouti for defendant.

Sgd. M. BARADEY,
Judge.

Sgd. S. SHEHADEH,
Judge.

30

Parties agree that no execution of judgment in Tabu to take place, if defendant appeals within thirty days from to-day until final determination of appeal. Ordered accordingly.

Sgd. M. BARADEY,
Judge.

Sgd. S. SHEHADEH,
Judge.

No. 10.
AFFIDAVIT.

*In the
Land Court
Nablus*

I, GEORGE E. BEROUTI, Advocate of Jaffa, make oath and say as follows :—

No. 10.
Affidavit of
Advocate
George E.
Berouti,
24th
November
1943.

1. That on 22nd November 1943, at 9.40 a.m. I was called to appear before the Land Court at Nablus on behalf of the Defendant, Raphael Habib, in the trial of Land Case No. 10/43.

2. That it was I who started the oral pleadings at the request of the Court that I should explain the defences of renunciation and estoppel.

10 3. That the Court proceeded to give its Ruling, without hearing my witnesses, arguments and legal authorities and references.

4. That I objected very strongly to this summary procedure and requested that my arguments and objections be recorded.

5. That all my witnesses were summoned to appear and give evidence before the Court on that date but the Court refused to hear them.

6. That I had to agree to the appointment of experts for the determination of the bedel-misl upon being told by the Court that it will proceed to fix the said bedel-misl upon hearing the witnesses of the plaintiffs, none of whom were licensed valuers.

20 7. That the said hearing was over at 10.20 a.m.

Made this 24th day of November 1943.

Sgd. GEORGE E. BEROUTI,
Deponent.

Sworn before me, Registrar of the District Court, Jaffa, this 24th day of November 1943.

Sgd. W. SALAMEH,
Registrar.
District Court, Jaffa.

No. 11.

REPLY of Respondents.

*In the
Supreme
Court,
sitting as a
Court of
Civil
Appeal.*

IN THE SUPREME COURT.

Sitting as a Court of Civil Appeal, at Jerusalem.

In the Appeal of :—

RAPHAEL HABIB BEN SHALOM - *Appellant*

V.

1. SADIQA BINT ASH-SHEIKH KHALIL
AD-DASUKI2. SADQIEH BINT ASH-SHEIKH KHALIL
AD-DASUKI - - *Respondents.*

10

No. 11.
Reply of
Respon-
dents,
30th
October
1944.

REPLY OF RESPONDENTS.

1. The notice of appeal does not comply with Rule 315 of the Civil Procedure Rules 1938.

2. The alleged defects in form in the judgment do not affect the validity of the judgment.

3. The General Power of Attorney (Exh. D/1) given by Raqieh, the mother of respondents, to Sheikh Khalil Ad-Dasuki was revoked by a Notarial notice sent by the said Raqiyeh to the said Sheikh Khalil through 20 the Notary Public, Tulkarm, on the 8th Shebat 1933, so that on 1st May 1942 and on 3rd May 1942 the said Sheikh Khalil was no longer an agent of the said Raqieh.

4. The alleged agreement for the sale of Parcels 2 and 4 of Block 8003 to appellant was not signed by the said Sheikh Khalil in the name or on behalf of the said Raqieh and could not bind her or her successors.

5. The alleged agreement for the sale of the shares of Raqieh to appellant could not destroy the right of awlawieh vested in Raqieh, as the agreement was not carried into effect.

6. It is denied that the Court below refused to hear the witnesses 30 of appellant or that the witnesses attended the trial. However, as the Court took the view that even if Sheikh Khalil had contracted to sell the shares of Raqieh this would not destroy her right to awlawieh, there was no object in hearing evidence on this point.

7. The Court below was justified in refusing appellant's motion to amend his defence and raise the issue of the minority of respondents at the time of filing of the action, as after hearing evidence the court was satisfied that the allegation of appellant was unfounded.

8. The Court below was right in fixing the value of the land in the way set out in the judgment and no retrial was necessary or possible. 40

9. The decision of another Court on the value of other land was irrelevant and the Court below was justified in disregarding it.

It is therefore prayed that the appeal may be dismissed and that appellant may be ordered to pay the costs of respondents here and below, including advocates' fees.

Dated this 30th day of October, 1944.

Sgd. I. LEVIN,

Sgd. I. NIJEM,

Attorneys for Respondents.

*In the
Supreme
Court,
sitting as a
Court of
Civil
Appeal.*

No. 11.
Reply of
Respon-
dents,
30th
October
1944,
continued.

10

No. 12.

AMENDED NOTICE and Grounds of Appeal.

Appeal is hereby respectfully made against the judgment of the Land Court of Nablus dated 27th July 1944, in Land Case No. 10/43, whereby Masha' shares in certain lands were ordered to be registered by way of awlawiyeh in the names of respondents equally upon payment by the latter of LP.19.200 mils per dunum to the Appellant, with LP.30.- inclusive costs, upon the grounds hereinafter set out.

No. 12.
Amended
Notice and
Grounds of
Appeal,
16th
December
1944.

GROUND OF APPEAL.

1. What purports to be a judgment of the Court below, even if taken
20 with the Ruling of 22nd November 1943, is not a judgment at all as it does not comply with the Civil Procedure Rules 1938.

2. The Court below erred in not following the proper procedure laid down by law for the trial of civil actions and in not hearing appellants' witnesses who were summoned to attend for the day fixed for the trial.

In support of this ground of appeal, appellant hereby gives notice that he will move this Honourable Court, at the hearing of this appeal, to allow him to read the attached affidavit sworn by his attorney and dated 24th November 1943, inasmuch as the record does not show fully what
30 happened at the first day of the trial of the case, namely, 22nd November 1943.

3. Respondents' mother, Raqiyeh, having agreed to sell her shares in the said two parcels to appellant through her husband, Sheikh Khalil Dasuki, she must be taken to have renounced any right to awlawiyeh to the said land and, therefore, upon her death, no right of awlawiyeh was in fact transmitted to her heirs, the present respondents.

4. The said Raqiyeh, if alive, would have been estopped from alleging that she did not consent to the transfer of her co-owners' shares to appellant on 3rd May 1942, inasmuch as she too had agreed to sell her own shares to appellant, through her agent. The respondents, therefore,
40 are equally estopped from maintaining a claim of awlawiyeh.

*In the
Supreme
Court,
sitting as a
Court of
Civil
Appeal.*

5. The right of awlawiyeh transmitted to heirs is indivisible and could not be claimed by some of the heirs only to the exclusion of the others.

6. The Court below erred in not granting appellant's application to amend his defence so as to raise the issue of the minority of respondents at the time of filing of their action.

No. 12.
Amended
Notice and
Grounds of
Appeal,
16th
December
1944,
continued.

7. The learned judges of the Court below having disagreed on the value of the land in issue a re-hearing of the case ought to have been ordered before three judges or at least the issue of the value of the land re-tried before three judges. 10

8. The learned Judges of the Court below erred in not taking into consideration in assessing the value of the land a decision of another branch of the same Court, namely, Exh. D/4.

For all these reasons, the appellant humbly moves this Honourable Court to allow the appeal and dismiss respondents' action or order a re-trial of the action with costs here and below.

Amended and re-delivered the 16th day of December 1944, pursuant to the order of this Court, dated 6th December 1944.

Sgd. GEORGE E. BEROUTI,

Attorney for Appellant. 20

No. 13.
Judgment
of the
Court of
Appeal,
13th April
1945.

No. 13.

JUDGMENT.

This is an appeal from the Judgment dated 27th July 1944 of the Land Court Nablus in Land Case No. 10/43, whereby masha' shares in certain lands were ordered to be registered by way of awlawiyeh in the names of respondents equally, upon payment of the price, calculated at LP.19.200 mils per dunum, and LP.30.- inclusive costs.

The principal point raised by Mr. G. Berouti, for the appellant, is that the record dated 22nd November 1943 of the Land Court does not show fully what happened on that (first) day of trial. Mr. Berouti alleges that he was not allowed to call certain witnesses whom he wished to call, and that his arguments were not heard. He alleges that he objected very strongly to this procedure, and that he requested that his arguments and objections might be recorded. At the hearing of this appeal he has asked us to take notice of an affidavit which he swore before the Registrar, District Court, Jaffa, on 24th November 1943. 30

The Judgment of the Land Court was given on 27th July 1944 and this appeal was filed on 11th August 1944, and the respondent points out that Mr. Berouti did not attempt to make any use of his affidavit until the appeal had been filed. 40

Unfortunately the record dated 22nd November 1943 of the Land Court is very attenuated. The normal course which a case should take is shown in Rule 189 of the Civil Procedure Rules 1938. When that procedure is not followed the record should show why there has been a departure from it. In the present case the record begins, not with a statement of their case by the plaintiffs as one would have expected, but

with a statement of the advocate (Mr. G. Berouti) for the defendant. If Mr. Berouti was speaking first because he had been asked to do so by the Court then that ought to have been clear. If on the other hand he was taking some preliminary objection that ought to have been recorded. But although the record is unsatisfactory in this respect we feel that we must follow the series of judgments of this court in which it was laid down that the court of appeal should accept as being correct the record of the lower Court.

*In the
Supreme
Court,
sitting as a
Court of
Civil
Appeal.*

No. 13.
Judgment
of the
Court of
Appeal,
13th April
1945,
continued.

10 Mr. Elia for the respondents has referred us to C.A. 65/39 (1939 Appelbom 354), C.A. 69/39 (6 P.L.R. 374), C.A. 37/42 (9 P.L.R. 362), and Cr. A.132/43 (10 P.L.R. 583).

The record of 22nd November 1943 does not show that Mr. Berouti took any objection to the course which was followed. The record shows that after the Court had ruled that the plaintiffs' (present respondents') right to claim priority was established the parties agreed that the value of the land at the date of action should be assessed by experts.

20 We think that if Mr. Berouti had really pressed the Court to record the fact that he wished his witnesses and arguments to be heard, the Court would at least have made a note to that effect on the record. In the absence of such a note we must conclude that he acquiesced in the course which was followed. So the only matter which remained was for the value of the land to be assessed.

30 The Court heard evidence as to the value of the land, and after hearing that evidence the learned Judges could not agree as to the valuation. One Judge considered that it should be LP.22.- per dunum while the other considered that it should be LP.19.200 mils. Exception has been taken by Mr. Berouti to that fact that judgment was given at the lower valuation, but we think that the learned Judges could not have followed any other course. Both agreed that the valuation should be not less than LP.19.200 mils, and only one of them thought that the valuation ought to be higher.

Certain other points have been raised by Mr. Berouti but as we have held that he must be taken to have acquiesced in the course which was followed we are unable to consider any of them to be a ground for upsetting the judgment. It may be observed that the question whether the respondents (original plaintiffs) were minors was not raised till 28th June 1944, when Mr. Berouti asked for an adjournment in order to make inquiries and raise the necessary issue. We think that the Court was justified in refusing an adjournment for that purpose at that stage.

40 In the result we find that the appeal fails, and we dismiss it with fixed costs in the sum of LP.10.- (ten pounds).

Delivered this 13th day of April 1945, in the presence of.....
.....for appellant and in the presence of.....
.....for respondents.

Sgd. B. V. SHAW,
British Puisne Judge.

Sgd. M. ABDEL HADI,
Puisne Judge.



*In the
Supreme
Court,
sitting as a
Court of
Civil
Appeal.*

No. 14.

ORDER of Final Leave to Appeal.

IN THE SUPREME COURT.

Sitting as a Court of Civil Appeal.

No. 14.
Order
granting
Final Leave
to Appeal
to His
Majesty in
Council,
18th July
1945.

Before : Mr. JUSTICE SHAW and Mr. JUSTICE ABDUL HADI.

In the Application of :—

RAPHAEL HABIB BEN SHALOM - *Applicant*

V.

1. SADIQA BINT KHALIL AD-DASUKI

2. SADQIYA BINT KHALIL AD-DASUKI - *Respondents.* 10

Application for final leave to appeal to His Majesty in Council from the judgment of the Supreme Court dated 13th April 1945, in Civil Appeal No. 366/44.

For Applicant : Mr. G. BEROUTI.

For Respondent : Mr. E. GEORGES ELIA.

ORDER.

WHEREAS by Order of this Court dated the 14th day of May 1945, the applicant was granted conditional leave to appeal to His Majesty in Council subject to the following conditions :—

(I) That the appellant do enter within two months of the date 20 of this order into a bank guarantee from one of the three banks—Barclays, Ottoman or Anglo-Palestine, in a sum of LP.300.—effective for two years or more for the due prosecution of the appeal and the payment of all such costs as may become payable to the respondents in the event of the appellant not obtaining an order granting him final leave to appeal, or of the appeal being dismissed for non-prosecution, or of His Majesty in Council ordering the appellant to pay the respondents' costs of the appeal (as the case may be) ;

(II) That the appellant do take the necessary steps for the 30 purpose of procuring the preparation of the record and the despatch thereof to England within two months of the date of this Order ;

(III) That the execution of the judgment of this Court dated the 13th day of April 1945, be proceeded with subject to caveat to be entered in the Land Registry to the effect that the land in question is the subject matter of an appeal in an awlawiyeh case still pending before the Privy Council.

AND WHEREAS the applicant has fulfilled the said conditions in that he has filed a guarantee bond in the sum of LP.300.— issued by the Anglo-Palestine Bank Ltd., Jaffa Branch, dated 24th day of June 1945, as prescribed, and has filed a list of documents which he proposes should constitute the file to be despatched to the Privy Council, and has further applied for the settlement thereof, and the parties have appeared before the Acting Chief Registrar of this Court for the settlement thereof, which record has been settled.

10 NOW THEREFORE the Court orders, and it is hereby ordered, in pursuance of Article 21 of the Palestine (Appeal to Privy Council) Order-in-Council, that final leave to appeal to His Majesty in Council be granted to applicant.

Given this 18th day of July 1945.

Sgd. B. V. SHAW,
British Puisne Judge.

Sgd. M. ABDUL HADI,
Puisne Judge.

*In the
Supreme
Court,
sitting as a
Court of
Civil
Appeal.*

—
No. 14.
Order
granting
Final Leave
to Appeal
to His
Majesty in
Council,
18th July
1945,
continued.

EXHIBITS.

P/1.

EXTRACT OF REGISTRATION.

Exhibits.
P/1.
Extract of
Registration.

EXTRACT FROM THE REGISTER OF LANDS.

Government of Palestine.

DISTRICT : Northern SUB-DISTRICT : Tulkarim TOWN OR VILLAGE : Fardisiya Detached LAND REGISTRY : Natanya.

Block No.	Map Sheet No.	Notes of Registrar	Encumbrances
8003		Arable land	
	Area	Servitudes affecting the parcel	
Parcel No. 2	Dun. Mtrs. 187 922	1—Contains Trig. Point No. 43/42 2—Trig. Point No. 39/ww is fixed on the common boundary of this parcel and block No. 8005/1 of Qalansuwa Detached.	
Old Nos. of the Parcel	Category of property—Miri		
PROPRIETORSHIP			
No. of Deed	Date of registration Day Month Year	Nature of Transaction	Proprietor
310	3 5 1939	Registration	Raqieh Amin At-Tibi
			Share 1/9
			Proprietor Adel-Ash-Sheikh Khalil-Ad-Dasuki Yussef-Ash-Sheikh Khalil-Ad-Dasuki
			Share 2/9 2/9 2/9
			Proprietor Raphael Habib Ben Shalom
			Share 4/9
			Remark See deed 661/42 See deed 661/42

The above is a true extract from the register and is given against payment of LP.0.100 mills as per receipt No. 799149 of 8th March 1943.

As far as it refers to the shares of the a/m

Sgd...COHEN.

Registrar of lands.

Date 7th March 1943.

EXTRACT OF REGISTRATION.

EXTRACT FROM THE REGISTER OF LANDS.

Government of Palestine. DISTRICT : Northern SUB-DISTRICT : Tulkarm TOWN OR VILLAGE : Fardisiya Detached LAND REGISTRY : Natanya

Block No. 8003	Map Sheet No.	Notes of Registrar		Enumbrances	
		Area	Arable land		
		Dun. Mtrs.	Servitudes affecting the parcel		
No. 4	54	379			
Old Nos. of the Parcel	Category of Property	Miri			
PROPRIETORSHIP					
No. of Deed	Date of Registration Day Month Year	Nature of Transaction	Proprietor	Share	Remark
310	3 5 1939	Registration	Raqieh Amin At- Tibi Adel Ash-Sheikh Khahl Ad-Dasuki Yussef Ash-Sheikh Khahl Ad-Dasuki Raphael Habib Ben Shalom	1/9 2/9 2/9 4/9	 See deed 661 42 See deed 661 42
661	3 5 1942	Sale			

The above is a true extract from the register and is given against payment of L.P.0.100 mils as per receipt No. 799149 of 8th March 1943.
As far as it refers to the shares of the a/m

Sgd... COHEN,
Registrar of Lands.
Date 7th March 1943.

Exhibits.

P/1.
Extract of
Registration.

Exhibits.

P/2.

20

P/2.

PLAN.

[*Not printed.*]

P/3.
Certificate
of
Succession.

P/3

CERTIFICATE OF SUCCESSION.

At a session held in the Sharia Court of Tulkarm, there appeared before us the man who was legally competent, Adel son of Ash-Sheikh Khalil son of Abdel Hamid Ad-Dasuki of the Village of Fardisiya of this Sub-District, who has been identified to us by the witnesses, Sadr-ed-Din son of Ash-Sheikh Amin son of Issa At-Tibi and Sheikh Ibrahim Ahmad 10 Al-Mustafa At-Tillawi, both of Tibeh Village and by Ahmad Abdallah Kasem Al-Bussussiyeh of Qalansuwa Village and after this legal introduction, the said Adel stated that my mother Raqieh daughter of Sheikh Amin Effendi At-Tibi of Fardisiya Village died about twenty days ago and that her Shari'a and legal inheritance devolved upon her husband, Sheikh Khalil son of Abdul Hamid Ad-Dasuki and her children I, Adel, and Yussef and Mohammad and Sadiqa and Sadkiyeh only and there are no other heirs to my said deceased mother except those mentioned and he produced a certificate signed by the Mukhtar and the two members of Fardisiya Village supporting the truth of what he said and requested the 20 issue of a certificate of succession in the manner explained above. Then he called before us each of the identifying witnesses mentioned above who are trustworthy and all confirmed what was said by the said applicant Adel and what was contained in the said certificate produced, thus giving their evidence and information To God the Almighty.

Accordingly, her Shari'a inheritance is divisible into thirty-two shares of which eight shares go to the said husband, Sheikh Khalil, and to each of the said Adel, Yussef and Mohammad six shares and to each of the said Sadiqa and Sadkieh three shares. Her legal inheritance is divisible 30 into twenty shares of which five shares go to the said husband, Sheikh Khalil, and to each of the said Adel, Yussef, Mohammad, Sadiqa and Sidqieh three shares. Made this tenth day of Moharram of the year 1362 Hegira which corresponds to 16th January 1943 of the Christian era.

Sgd. SHARI'A,

Judge of Tulkarm.

Vol. 28—Folio 79—No. 21.

(Translated from Arabic.)

D/1

POWER OF ATTORNEY.*Exhibits.*D/1.
Power of
Attorney.

I have appointed for myself and delegated on my behalf and stead my husband, Sheikh Khalil Eff. son of the late Abdul Hamid Ad-Dasuki to sell and transfer all the lands that are in my ownership and under my possession situated within the lands of Fardisiya and known as the land of "Um El Fulus" whatever my shares in the said lands may amount to, to whomsoever he may desire at whatever price the said attorney may deem suitable; to sign the deeds of sale and transfer and all applications and
 10 certificates and plans necessary for the transfer; to apply for the correction of boundaries and area; also in partition or its refusal and exchange with other lands for the receipt of the price and admission on my behalf of its receipt; to effect all that the said attorney may deem fit to complete all that was mentioned aforesaid; to enter with any purchaser, whether he may be one person or several persons, into any agreement or contract for sale and to receive from them advances and agree with the purchasers on the price, the conditions and undertakings that he may find suitable and fix penalties and determine the periods for the fulfilment of undertakings and to receive the balance of the price from the purchasers whether in one
 20 instalment or several instalments; to sign the contract of sale with the purchasers in accordance with the conditions and undertakings that he may deem suitable whether on my behalf alone or in conjunction with all or some of my co-owners in the said lands and in general I have given him absolute power entrusted to his word, opinion and action to do all he may deem fit and useful to complete the transaction of transfer and to enter into agreements with any person whatsoever and to determine the conditions and undertakings necessary to complete the sale and transfer to the purchasers and to fulfil the other powers which he is entrusted to do in this power of attorney and he is entitled to appoint on his behalf
 30 whomsoever he may desire whensoever he may wish in all or some of what was said and to dismiss the agents from time to time.

Made this 30 December 1932.

Thumb print of Raqieh bint Al-Sheikh Amin Al-Tibi.

Witness

Sgd. MUSTAFA DAUD
AL-DASUKI

Witness

Sgd. KHALIL ABDUL RAHIM
AL-DASUKI.

Number 635/32. Tulkarm.

This Friday the 30th December 1932, I proceeded at about 4 o'clock, upon request, to Fardisiya Village to certify an admission and there a
 40 meeting was held in the house of Sheikh Khalil Abdul-Hamid Ad-Dasuki and appeared before me the appointer, Raqiyeh bint Amin At-Tibi, wife of Sheikh Khalil Abdul-Hamid Ad-Dasuki of Tibeh Village and residing in Fardisiya Village and she admitted in my presence the contents of this power of attorney and after reading it over to her in public she agreed to the contents literally and affixed the thumb print of her right hand in my presence and in the presence of the two known witnesses who have signed

Exhibits.
 ———
 D/1.
 Power of
 Attorney,
continued.

above, Khalil Abdul Rahim Ad-Dasuki and Mustafa Daoud Ad-Dasuki of Fardisiya Village. Thereupon I give this certificate of admission on my behalf, I, Khalil Ibrahim Nijem, Notary Public of Tulkarm this 30th December 1932.

Sgd. KHALIL IBRAHIM NIJEM,
 Notary Public of Tulkarm.

(Translated from Arabic.)

D/2.

D/2.
SKETCH.

[*Not printed.*]

10

Exhibits.

———
 D/3.
 Certified
 Copy of
 Judgment,
 dated 6th
 March
 1944.

D/3.
JUDGMENT dated 6th March 1944.

Civil Case No. 26/43.

IN THE DISTRICT COURT OF NABLUS.

Before : HIS HONOUR JUDGE R. B. BODILLY —President.

In the Case of :—

RAPHAEL HABIB BEN SHALOM - Plaintiff

V.

SHEIKH KHALIL AD-DASUKI of Fardisiya Defendant.

Nature of Claim : Claim for LP.1,978.401 mils.

20

JUDGMENT.

The plaintiff sues to recover money paid in advance on an agreement for the sale of land to him by the defendant and also damages for breach of contract.

The defendant verbally agreed to sell parcel 2 and 4 of Block 8003 to the plaintiff at a price of LP.12.— per dunum. This land was divided into nine shares. On 1st May 1942 the defendant conveyed four shares to the plaintiff and was paid in full at the time of transfer on the 3rd May 1942.

On 1st May 1942 the terms of the verbal agreement were noted in a memorandum of agreement (Exh. R.H.2) which forms a sufficient written document to support the verbal agreement. It is in fact stamped with a 50 mils stamp. It does not cover every detail but what is omitted can be filled in by verbal evidence.

Exhibits.
—
D/3.
Certified
Copy of
Judgment,
dated 6th
March
1944.
continued.

At the time of the transfer on 3rd May 1942 five of the nine shares were attached and therefore could not be transferred then. These came within the agreement but the transfer of them was delayed pending the removal of the attachment.

10 Immediately before the transfer on 3rd May 1942, LP.316.777 mils were paid to the defendant who gave a receipt (R.H.3) for them. The case really turns on the words "first transfer" in R.H.3. The plaintiff said that they referred to the first transfer after that which was being completed a few minutes later; the defendant said they referred to that transfer. There is a second receipt for LP.30.— dated 24th December 1942 which also refers to the first transfer (R.H.4). I have no doubt that these words refer to the first transfer after that on 3rd May 1942 i.e. the first transfer of any of the attached shares.

20 Everything points to this; the wording and the conduct of the parties. That being so the defendant had received LP.316.777 mils plus LP.30.— advances against the proposed transfer of the five attached shares.

The price of land was rising and the defendant subsequently sold the five shares to the Hemnuta Co. at a higher price. I omit the questions whether he was acting for his family under powers of attorney and whether Sadr-Ed-Din carried out the actual transfer to the Hemnuta Co. because the defendant was clearly the one responsible. He acted in bad faith in so doing and I find for the plaintiff.

30 The plaintiff is entitled therefore to his advance payments other than expenses and costs. He also claims damages and proved, in support of this, that the land rose from LP.12.— to LP.15.— per dunum in 1942 to LP.28.— LP.30.— in 1943. He argued that this was the true measure of damages and that there was a willing purchaser in the Hemnuta Co. who had bought at LP.17.—. The Rule is that lost profits that can be reasonably estimated are a measure of damages, but merely hypothetical profits are not.

40 I do not therefore accept the difference between LP.12.— per dunum and LP.28.— as the true measure. The measure is the difference between LP.12.— at which the plaintiff had agreed to buy and LP.17.— at which Hemnuta Co. actually bought later on, i.e. LP.5.— per dunum. I allow damages, as this can be done where a defendant has acted in bad faith.

I give judgment for the plaintiff for LP.1,040.— 117 mils and costs and advocate's fees on the case. I fix advocate's fee at LP.10.—.

Given this 6th day of March 1944.

Sgd. R. B. BODILLY,
President.

Exhibits.

D/4.

JUDGMENT 24th May 1944.

Land Case No. 2/43.

D/4.
 Certified
 Copy of
 Judgment,
 dated
 24th May
 1944.

IN THE LAND COURT OF NABLUS.

Before : HIS HONOUR JUDGE R. B. BODILLY—President.

In the Case of :—

KAMEL AREF ABUR RUB of Tulkarm - Plaintiff

V.

1. FARID SALIM HAJ ABDALLAH
2. RAPHAEL HABIB BEN SHALOM
3. SHAREEF ESH-SHANTI
4. SAAD ED-DIN JABRI - - - - Defendants.

10

Priority claim in respect of half of the share sold to defendants 2, 3, 4.

JUDGMENT.

In this case the plaintiff sued four defendants claiming priority under articles 41 and 42 of the Ottoman Land Code. The case would have been too complicated as it stood, so the second, third and fourth defendants were dropped out and the case proceeded on a straight issue between the plaintiff and the first defendant. The plaintiff and the defendant and a vendor were joint owners with many others of Block 8136, Parcel 6, and Block 8137 20 Parcel 5, on the main Tel-Aviv Haifa road, somewhat to the North of Khirbet Beit Lid. The vendor alone mentioned sold his shares to Jewish buyers, the present defendant then claimed against the buyers in priority and invited the present plaintiff to join him in the action. The present plaintiff having another action on his hands refused. The defendant then proceeded alone and succeeded in his claim. The value of the land was finally decided by the Court of Appeal at LP.18.— per dunum in May, 1942, when he filed the action.

In January, 1943, the plaintiff sued the present defendant (the successful plaintiff against the Jewish buyers) claiming priority and 30 demanding his share in what the defendant had recovered in his previous action.

The main issue is whether the plaintiff by having refused to join the defendant then, has waived his right to claim priority now. Art. 41 and 42 of the Ottoman Land Code govern the position. They were fully argued by the parties. Art. 41 gives a co-owner of land one year in which to claim against the transferee from another co-owner. There is nothing to suggest that he is bound to join other co-owners in an action against the transferee on pain of forfeiting his rights. If he was so bound he would lose the year which is given him by statutes. He does, however, take the 40 risk that some later disposition of the land may extinguish his rights. But as long as they have not been so extinguished he is entitled to sue at any time during that year.

I find therefore, that the plaintiff is entitled to bring this action.

There is no evidence to satisfy me that the plaintiff waived or intended to waive his right to sue. The fact that he offered to waive his rights for a sum of money as shown is exhibit F.S.4 strongly indicates that he did not. Had the money been paid he then would have been bought out, but as his offer was not accepted his rights remain.

Exhibits.
D/4.
Certified
Copy of
Judgment,
dated
24th May
1944.
continued.

One further point remains which falls under Art. 42. It was argued that if the plaintiff is entitled to succeed he can only obtain that proportion of the shares which he would get if each of the co-owners took by full share. In this case there were 42 co-owners, so it was argued he can only
10 get 1/42 of the amount.

Art. 42 is not clear on the question. It only says that among co-owners one shall not be favoured beyond the others. But that can only mean such co-owners as wish to share. Nothing would be gained by receiving shares for persons who do not want them. In any event they have a year to make their claim because that provision of Art. 41 is incorporated in Art. 42. In my opinion it would be contrary to the intention of priority to hold that one co-owner out of many could sell his shares to an outsider and if one of the other co-owners wishes to buy he would be only entitled to take an equal share with all other co-owners who
20 might not wish to claim. Thus in this case, the plaintiff would be entitled to 50 per cent. of the defendant's shares because he is the only co-owner who is claiming.

On the question of the value of the land I am bound by the decision of the Supreme Court which held that in May 1942 this land was worth LP.18.- per dunum. It is a well-known fact, and there is evidence before me which I accept, that the value of land rose substantially after that date. As in all these cases one side has greatly depreciated the value of the land and the other side has greatly exaggerated it, so that there is no reliable figure which I can accept as even approximately accurate.

30 I come to the conclusion that the land rose in value by at least 50 per cent. between May 1942 and January 1943. I therefore assess the value of the land at LP.27.- per dunum as on the 16th January 1943.

The plaintiff is therefore entitled to receive from the defendant, shares in accordance with this judgment in the land valued at LP.27.- per dunum and I give judgment accordingly.

The plaintiff will receive his costs of the action with advocate's fees. I fix the advocates' fees at LP.8.-.

Delivered this 24th day of May 1944.

Sgd. R. B. BODILLY;

President.

*Exhibits.***RECEIPT of Payment of Court Fees and Deposit.**

Receipt.

G VI R
Palestine

B. No. 477754.

RECEIPT.**IN THE DISTRICT COURT AT NABLUS.**

Civil Case No. 10/43—Lands.

Sadiqa Khalil Dasuki *v.* Raphael Habib Ben Shalom.

Received from George Effendi Berouti the sum of LP.5.880 mils
(amount in words) five Palestine Pounds and eight hundred and eighty
mils. in respect of

10

Deposit	LP.5.-
fees	0.880
	LP.5.880

Date 16th November 1943.

Court Clerk/Cashier

Sgd.

LIST OF DOCUMENTS OMITTED FROM RECORD.List of
Documents
omitted
from
Record.

	DATE.	
1. Summons to Defendant	9th March 1943.	
2. Memorandum of appearance by Defendant	12th April 1943.	
3. Application by plaintiff to determine issues	29th April 1943.	20
4. Notice and Grounds of Appeal (unamended)	26th August 1944.	
5. Order granting leave to amend Notice of Appeal	6th December 1944.	
6. Application for conditional leave to appeal to His Majesty in Council	21st April 1945.	
7. Order granting conditional leave to appeal	14th May 1945.	
8. Application for final leave to appeal to His Majesty in Council	28th June 1945.	
9. Guarantee	24th June 1945.	