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UNIVERSITY OF LONDON
W.C.1.
No. 45 of 1948.
28 MAR 1951
INSTITUTE OF ADVANCED
LEGAL STUDIES

In the Privy Council.

ON APPEAL
FROM THE WEST AFRICAN COURT OF APPEAL.

BETWEEN

ABDUL KARIM BASMA - - - - -

AND

GLADYS MURIEL WEEKES and Others - - - - - *Respondents*

UNIVERSITY OF LONDON
W.C.1.
15 JUL 1953
Appellant
INSTITUTE OF ADVANCED
LEGAL STUDIES

RECORD OF PROCEEDINGS.

LAWRENCE JONES & CO.,
WINCHESTER HOUSE,
OLD BROAD STREET, E.C.2,
Solicitors for the Appellant.

CREE, GODFREY & WOOD,
13 GRAY'S INN SQUARE, W.C.1,
Solicitors for the Respondents.

31129

UNIVERSITY OF LONDON
In the Privy Council.

15 JUL 1953

INSTITUTE OF ADVANCED
LEGAL STUDIES
FROM THE WEST AFRICAN COURT OF APPEAL.

ON APPEAL

ABDUL KARIM BASMA (Plaintiff)

Appellant

AND

GLADYS MURIEL WEEKES, ETTIE SPAINE, JOHN
WILLIAMS and HAMED MOHAMED BASMA (Defendants)*Respondents.*

RECORD OF PROCEEDINGS

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3	Summons for Directions	8th January 1947
4	Order for Directions	16th January 1947
5	Entry for Trial	26th February 1947
6	Notice of Motion for conditional leave to appeal to the West African Court of Appeal	2nd June 1947
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11	Affidavit in support	—
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In the Privy Council.

ON APPEAL

FROM THE WEST AFRICAN COURT OF APPEAL.

BETWEEN

ABDUL KARIM BASMA (Plaintiff)

Appellant

AND

GLADYS MURIEL WEEKES, ETTIE SPAINE,
JOHN WILLIAMS and HAMED MOHAMED
BASMA (Defendants)

Respondents.

10

RECORD OF PROCEEDINGS

No. 1.

WRIT OF SUMMONS.

C.C. 357/46.

*In the
Supreme
Court of
Sierra
Leone.*

IN THE SUPREME COURT OF SIERRA LEONE.

Between ABDUL KARIM BASMA

Plaintiff

and

GLADYS MURIEL WEEKES, ETTIE SPAINE,
JOHN WILLIAMS and HAMED MOHAMED
BASMA

Defendants.

No. 1.
Writ of
Summons,
27th
December
1946.

20

GEORGE VI by the Grace of God of Great Britain and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India etc.

To Gladys Muriel Weekes of 4 Lake Street, Ettie Spaine and John Williams of 5 Trelawney Street and Hamed Mohamed Basma of 2 and 2A Kissy Street, all of Freetown in the Colony of Sierra Leone.

WE COMMAND YOU that within Eight days after service of this Writ on you inclusive of the day of such service you do cause an appearance to be entered for you in the Supreme Court of the Colony of Sierra Leone in an Action at the suit of Abdul Karim Basma and to take notice that in default of your so doing the Plaintiff may proceed herein and judgment may be given in your absence.

30

*In the
Supreme
Court of
Sierra
Leone.*

Witness HIS HONOUR JOHN ALFRED LUCIE SMITH Esquire Chief Justice of Sierra Leone at Freetown the 27th day of December, in the year of our Lord 1946.

(Sgd.) A. ALHADI,

Master and Registrar.

No. 1.
Writ of
Summons,
27th
December
1946,
continued.

N.B.—This Writ is to be served within Twelve calendar months from the date thereof or if renewed, within six calendar months from the date of such renewal, including the day of such date, and not afterwards.

The Defendant may appear hereto by entering an Appearance either personally or by a Solicitor, at the Master's Office at Westmoreland Street, Freetown. 10

THE PLAINTIFF'S CLAIM:—is for specific performance of an agreement dated the 29th day of November 1946, for the sale by the defendants Gladys Muriel Weekes, Ettie Spaine and John Williams to the plaintiff of certain freehold hereditaments at 2 and 2(a) Kissy Street, Freetown.

This Writ was issued by CYRIL BUNTING ROGERS WRIGHT, of 27, Liverpool Street, Freetown, Solicitor for the above Plaintiff who resides at Little East Street, Freetown.

(Sd.) C. B. R. WRIGHT. 20

No. 2.
Statement
of Claim,
3rd
February
1947.

No. 2.

STATEMENT OF CLAIM.

1. By an agreement dated the 29th day of November, 1946, the Defendants Gladys Muriel Weekes, Ettie Spaine and John Williams agreed to sell to the Plaintiff the freehold hereditaments situate at 2 and 2A Kissy Street, Freetown in the Colony of Sierra Leone for £1,900. The Plaintiff thereupon paid through his Solicitor and Agent Mr. C. B. Rogers-Wright, to each of the said Defendants the sum of £633 6s. 8d. in full satisfaction of the purchase price.

2. Subsequently on the 30th November, 1946, the Plaintiff forwarded 30 to the Defendants Gladys Muriel Weekes, Ettie Spaine and John Williams for execution a properly drawn up Deed of Conveyance which the said Defendants refused and neglected to execute.

3. By a Deed of Conveyance dated the 2nd day of December, 1946, the Defendants Gladys Muriel Weekes, Ettie Spaine and John Williams purported to convey the hereditaments mentioned in paragraph 1 hereof to the Defendant Hamed Mohamed Basma. At the date of this pretended sale of the said premises, the Defendant Hamed Mohamed Basma well knew of the agreement and sale of the said premises by the Defendants Gladys Muriel Weekes, Ettie Spaine and John Williams to the Plaintiff. 40

THE PLAINTIFF THEREFORE CLAIMS—

(1) To have specific performance of the above agreement and that the Defendants may be ordered to execute a proper conveyance of the premises to the Plaintiff and that the Defendant Hamed Mohamed Basma may be ordered to execute a proper conveyance of all his interest in the said premises to the Plaintiff, and

(2) Damages for the Defendants' delay in performing the agreement.

(3) In the alternative, damages for breach of the Contract of Sale of the said premises.

(Sgd.) C. B. R. WRIGHT,
Counsel.

*In the
Supreme
Court of
Sierra
Leone.*

Statement
of Claim,
3rd
February
1947,
continued.

Delivered this 3rd day of February, 1947, by CYRIL BUNTING ROGERS WRIGHT of 27, Liverpool Street, Freetown, Solicitor for the Plaintiff pursuant to Order herein dated the 14th day of January, 1947.

No. 3.

STATEMENT OF DEFENCE of the first three Defendants.

No. 3.
Statement
of Defence
of the first
three
Defendants,
17th
February
1947.

10

1. The Defendants Gladys Muriel Weekes, Ettie Spaine and John Williams (hereinafter referred to as the first three defendants) jointly and severally deny that they or any of them entered into an agreement on the 29th day of November, 1946 or at any other time with the Plaintiff to sell to the Plaintiff the freehold hereditaments situate at 2 and 2A Kissy Street in Freetown in the Colony of Sierra Leone (hereinafter called the premises).

20 2. In further answer to paragraph 1 of the Plaintiff's statement of claim the first three defendants say that they agreed with the defendant Hamed Mohamed Basma to sell to him the premises and in order to enable Hamed Mohamed Basma to have his conveyance on sale of the premises prepared they the first three defendants at the request of the defendant Hamed Mohamed Basma caused to be delivered to the Plaintiff's Solicitor the muniments of title of the premises.

30 3. The first three defendants say also in answer to paragraph 1 of the Plaintiff's statement of claim that three cheques of certain amounts were sent to the first three defendants on the 29th November 1946 but as soon as the first three defendants discovered that the cheques were not paid on behalf of the fourth defendant Hamed Mohamed Basma the first three defendants returned the cheques to C. B. R. Wright Esq., the drawer of those cheques.

4. The first three defendants admit refusing to execute a Deed of Conveyance purporting to convey the premises to the Plaintiffs.

5. In answer to paragraph 3 of the Plaintiff's statement of claim the first three defendants say that they have conveyed to the fourth defendant the premises which they contracted to sell to the fourth defendant.

(Sgd.) R. B. MARKE,
Counsel.

40

Delivered the 17th day of February, 1947 by RICHARD BRIGHT MARKE of No. 19, Westmoreland Street, Freetown, Solicitor for the Defendant.

*In the
Supreme
Court of
Sierra
Leone.*

No. 4.
Statement
of Defence
of Hamed
Mohamed
Basma,
24th
February
1947.

No. 4.

STATEMENT OF DEFENCE of the Defendant Hamed Mohamed Basma.

1. The defendant Hamed Mohamed Basma with reference to paragraph 3 of the Plaintiff's Statement of Claim states that on the 28th day of November, 1946 he contracted with the other 3 defendants for the purchase of the premises in the Statement of Claim mentioned and paid the consideration money. On the 2nd day of December, 1946 the other 3 defendants executed a conveyance to the defendant Hamed Mohamed Basma of the said premises.

2. In further answer to paragraph 3 of the plaintiff's Statement of Claim, the defendant Hamed Mohamed Basma states that he had no knowledge of any transaction of sale or otherwise with reference to the said premises between the plaintiff and the other 3 defendants at the time when he purchased and paid for the premises or at the time when the conveyance was executed as stated above. 10

(Sgd.) H. J. L. BOSTON,
Counsel.

Delivered the 24th day of February, 1947 by HENRY JOSIAH LIGHTFOOT BOSTON of 27, Pultney Street, Freetown, Solicitor for the Defendant HAMED MOHAMED BASMA, pursuant to Order dated the 14th day of 20 February 1947.

No. 5.
Opening
of trial.

No. 5.

OPENING OF TRIAL.

C. B. R. Wright for Plaintiff.

R. B. Marke for first three Defendants.

N. J. P. M. Boston for fourth Defendant.

R. B. Marke asks for leave to amend defence of first three Defendants by adding the words " If at all there was such an agreement, which is not admitted, the alleged agreement does not comply with the requirements of the Statute of Frauds " to para. 1.

30

Wright does not object. Amendment allowed.

No. 6.
PLAINTIFF'S EVIDENCE.

*In the
Supreme
Court of
Sierra
Leone.*

A. K. BASMA. *Sworn. Examined.*

My name is Abdul Karim Basma. I live at 45 Little East Street. I am a Trader. I know fourth Defendant—he is my cousin. I know John Williams. In November last, John Williams came to me about their place No. 2 Kissy Street. Fourth Defendant lives at 2 Kissy Street. John Williams third Defendant said they (he and his sisters) wanted to sell 2 Kissy Street for £1,800. I said “Where do you want to sell it.”
10 He said Mr. Wright (meaning you). I went to Mr. Wright (you) and asked you to try and buy it for me. You told me I had bought the property and you wanted the money. I gave you £1,900 partly by cheque and partly in cash. The same afternoon you showed me three receipts. I have not a conveyance of the premises yet nor possession of it. I know you prepared a conveyance for which I have to pay 50 guineas and stamp duty. I saw the conveyance. I am paying £5 p.m. rent for 45 Little East Street I still want to purchase 2 Kissy Street.

No. 6.
Plaintiff's
Evidence.

Abdul
Karim
Basma.
Examina-
tion.

Cross-examined.

By Marke : I knew John Williams before he came to me. He used
20 to come to me occasionally. He said he and his sisters wanted to sell 2 Kissy Street. He did not mention his sisters' names. I did not know his sisters. I have not made a mistake. He did tell me he and his sisters wanted to sell. He told me so twice. This took place in November—one month before Xmas.

Cross-
examina-
tion.

By Boston : I don't know how long Defendant Basma has been in possession of 2 Kissy Street. I found Basma there, when I came to this country in 1937.

ALFRED THOMPSON. *Sworn. Examined.*

My name is Alfred Thompson. I live at 39 Motor Road, Congo Town.
30 I am Chief Clerk B.B.W.A. I produce cheque No. B/30/140388 dated Nov. 20, 1946, drawn on B.B.W.A. It has been paid on Nov. 30, 1946. The payee indorsed it to John Williams who also indorsed it.

Alfred
Thompson.
Examina-
tion.

Cheque tendered—marked “ A ” (Cheque for £600).

Cross-examined.

By Marke : I know several John Williams. I cannot say who indorsed the cheque. I did not know of the cheque, till checking vouchers after business on Nov. 30. I did not scrutinise the signatures on indorsements that day. The Cashier would have been satisfied with the signature of the indorsee before paying the cheque.

Cross-
examina-
tion.

40

Re-examined.

By Wright : The Cashier who dealt with the cheque was No. 1 Cashier, Mr. L. J. B. Macauley.

Re-
examina-
tion.

*In the
Supreme
Court of
Sierra
Leone.*

No. 6.
Plaintiff's
Evidence.

H. K.
Basma.
Examina-
tion.

H. K. BASMA. *Sworn. Examined.*

My name is Husseni Kalil Basma. I live at 23 Kissy Street. I am a trader. I know Defendant Basma well. He is my nephew by marriage. I know Plaintiff Basma—he is my nephew—my brother's child. I know John Williams one of the Defendants. He visited me many times last year saying he wanted with his sisters to sell 2 and 2A Kissy Street. I asked the price—he said he wanted £1,800 and £25 for himself. After he came to me about 10 times I saw you (Mr. Wright) on other business in November, and you then told me you wanted to sell 2 and 2A Kissy Street—where Defendant Basma is. I offered £1,600. You (Wright) said you would see. 10 I returned home and next day Defendant Basma came to me and found my wife and myself there. He asked if I had been to you (Wright) and offered £1,600 for the place. I said "Yes" and he said "You do wrong." He said he had offered £1,600 and I should have nothing to do with it, as he had been to many people, and told them not to offer for it as he wanted to buy it cheap. My wife told me not to offer anything again and I complied with her request.

Defendant Basma came to me again with Abdul Latif Bittar one Saturday afternoon Nov. 30 but I was not in. Defendant came to my brother (Nazib) for me. I went to my place with him and he told me he 20 wanted to speak to me secretly. He showed me a cheque and said Wright (you) had bought the place for Plaintiff Basma. He complained of Plaintiff Basma's conduct. I sent for Plaintiff Basma over it.

Cross-
examina-
tion.

Cross-examined.

By Marke: John Williams came to me many times. On one occasion he said he and his sisters wanted £1,800 for the place. I think that was in November. I can't remember the date of the last time he came to me. I don't know his sisters.

By Boston: Defendant Basma did go to me about this matter on a Saturday with Bittar. We are not on speaking terms now but we were 30 friendly before—even in November last. Defendant Basma showed me a cheque Wright had given to the owners of the place. I don't know the value. I did not look at the amount of the cheque or ask its value. He called me and took me into a room to show me that cheque.

Re-
examina-
tion.

Re-examined.

Since this matter Defendant Basma has not talked to me because I did not settle the matters. I tried to do so but was informed you (Wright) had gone up line.

J. W.
Sawyerr.
Examina-
tion.

J. W. SAWYERR. *Sworn. Examined.*

My name is Jacob Williamson Sawyerr. I live at 13 Malta Street. 40 I am a tailor. I know the first three Defendants. I am a trustee for John Williams with reference to the purchase money of No. 6 Little East Street. In November last, John Williams spoke to me saying they (he and his sisters) wanted to sell 2 and 2A Kissy Street. In the last week of November, you (Wright) sent me with a message to John Williams. The message was that you (Wright) were offered £1,800 for 2 and 2A Kissy Street and he was to say if they accepted. John Williams said the tenant Basma wanted to

buy it but would not pay. He told me he and his sisters and a brother-in-law (Weekes) had arranged to have a family meeting on Nov. 28 and he would tell me the result of the meeting afterwards. On November 28 John Williams saw me and told me they had arranged to sell and the man had offered £1,650. He did not tell me who the man was—I understood he was the tenant. He said they were not satisfied. He did not send me with any message to you. Later on the same day I saw Defendants Spaine and Williams at their place at Trelawney Street. I said you (Wright) had asked me to see them and offer £1,900 and if they accepted the offer they should see you (Wright) next morning. They said they would accept. That day I saw John Williams—he came to my shop at Foonrah Bay Road. He said they had seen you (Wright) and you had told them to return in the afternoon. I saw him (Williams) again that evening in my shop. He said you had paid them and showed me a cheque for £600. He said the balance was paid in cash. Ex. "A" is the cheque he showed me. Next day I saw him again and he showed me a F.D. receipt for £500.

*In the
Supreme
Court of
Sierra
Leone.*
—
No. 6.
Plaintiff's
Evidence.

J. W.
Sawyer,
Examina-
tion,
continued.

Cross-Examined.

By Marke : I saw Mrs. Spaine but not Mrs. Weekes over this matter throughout this transaction. I am trustee for John Williams. Looking at Ex. "S" I say I did not scrutinise it. I can't remember if I saw his name on the back of Ex. "A." I only looked at the amount of the cheque.

Cross-
examina-
tion.

By Boston : Prior to the family meeting on Nov. 28 Williams told me they had agreed to sell. He said they had agreed to sell to the tenant but he did not want to pay. After the meeting he said the man offered £1,650.

By the Court : I did not see Mrs. Spaine after I had asked her to see Mr. Wright. Apart from my visit to Mrs. Spaine and Williams all my dealings in connection with this property were with Williams alone.

30

Re-examined.

By Wright : Williams told me before the meeting of Nov. 28 of several offers by the tenant. The first was £1,100 subsequently £1,500 which was the highest before the meeting.

Re-
examina-
tion.

MARIE COLE. *Sworn. Examined.*

My name is Marie Cole. I live at 27 Liverpool Street. I am a Clerk to C. B. Rogers Wright. I know A. K. Basma the Plaintiff and also H. M. Basma and the other three Defendants. In Nov. last, I saw Defendant Williams and Spaine in the office. It was on Friday Nov. 29. Defendants Spaine and Williams met me in chambers getting papers ready for Court and you (Wright) had a conversation with them. You asked if they were willing to sell to A. K. Basma for £1,900. The place was 2 and 2A Kissy Street. They both said they agreed to sell. You asked them to return in the afternoon for the money as you were going to Court. Williams alone came in the afternoon. I prepared some receipts and an agreement. You gave Williams a cheque and said it was made out by A. K. Basma—it was for £600 and you gave him 33 £1 notes

Marie Cole.
Examina-
tion.

*In the
Supreme
Court of
Sierra
Leone.*

and 6s. 8d. in cash. You indorsed the cheque. Ex. "A" is the cheque. He signed a receipt in my presence and I witnessed his signature. This is the receipt.

Tendered Ex. "B."

Williams also signed an agreement.

No. 6.
Plaintiff's
Evidence.

Tendered Ex. "C."

Marie Cole,
Examina-
tion,
continued.

You sent Williams with two cheques and the agreement and two receipts with the other clerk to Mrs. Weekes and Mrs. Spaine. Defendant Basma came at 8.30 p.m. to the office with Said Hyjazie and Abdul Latif Bittar. Basma said they were just from Mrs. Weekes' house and that Mrs. Weekes had shown them the cheque you had sent to her and that she had sold the property. Basma asked for the receipts and the agreement the other three Defendants had signed. They asked you to withdraw so that the Defendant Basma would buy. You said that as both parties were signing [*sic*] (Syrians?), they should arrange between themselves. Next day I saw John Williams at the B.B.W.A. He cashed his cheque for £600. He told me he was going to put his money on fixed deposit. I left him at the Bank. In the afternoon of that day, I saw the first three Defendants each separately. I first went to Mrs. Spaine and asked her to execute a deed of conveyance I took with me. This is the deed. She did not execute it. She told me to take it to Mrs. Weekes first. I went to Mrs. Weekes at Lake Street and asked her to execute the deed. She refused saying she would sign nothing in Mr. Weekes' (her husband's) absence. I then went to John Williams—he also refused to execute the deed. 10

Document tendered "D."

Cross-
examina-
tion.

Cross-examined.

By Marke: It was on the night of Nov. 29 that Defendant Basma, Hyjazie and Bittar came to the office at 8.30 p.m. That was not the first time Defendant Basma had been to our office on this business. Wright did not go on Circuit that Nov. he went on Sunday, Dec. 1. Defendant Basma had been coming to our office since October. I never saw any paper (from first three Defendants) the first time he came. He did not produce any paper from the first three Defendants on Nov. 28. Looking at this paper, I saw it was not handed to me. The fourth Defendant Basma and I have never seen it before to-day. When Williams and Mrs. Spaine came to the office on the morning of the 29th Nov., Mr. Wright asked them if they were willing to sell the place for £1,900 to his client Abdul Karim Basma. They said "Yes." Fourth Defendant has never been Wright's client to my knowledge. He had been going to see Mr. Wright about this property since October. 40

On Nov. 30 John Williams and I each took cheques to the Bank. I saw his cheque and handed it to the Cashier for him. His cheque was cashed before mine. I am not always present when Mr. Wright interviews his clients. I am sometimes.

By Boston: Defendant Basma did not see me on Nov. 28 at Mr. Wright's Chambers. He did not hand me any document as he did not see me. Basma (Defendant) did not say when he went with Hyjazie and

Bittar that Mrs. Weekes thought the payment was from him (Defendant Basma).

I did not see Defendant Basma and Weekes at our office on Nov. 28th so can't say if they took any paper there. Defendant Basma asked Mr. Wright to revoke the sale to A. K. Basma and offered to pay him if he would do so.

Re-examined.

That was not the only occasion Defendant Basma and Hyjazie came to ask for the revocation of the sale. They came next day the Sunday and 10 said they would give £400 to Wright. Albert Momoh was also present.

ALFRED WILLIAMS. *Sworn. Examined.*

My name is Alfred Emanuel Williams. I live at 122, Circular Road. I am clerk to C. B. Rogers Wright. I know first three Defendants. This document is a receipt signed by Mrs. Spaine. It was signed in my presence and I witnessed it. I went to Mrs. Spaine in company with John Williams. John Williams handed a cheque to her before she signed this document— 20 Tendered and admitted. "E." I also went to Mrs. Weekes the same day with John Williams. John Williams handed to her a cheque, a receipt and an agreement. She signed the receipt in my presence and I witnessed it. This is the receipt.

Tendered and admitted. "F."

Both Mrs. Spaine and Mrs. Weekes signed the agreement in my presence. Subsequently between 1st and 8th Dec. I took a conveyance to Mrs. Weekes who did not sign it. I served the Writ in this Action on Mrs. Weekes. She said "You forced me to sign the agreement and receipt. I was not sober and if you force me to go to Court I am a lawyer for myself and I will talk what I have to say."

Cross-examined.

30 *By Marke :* Mrs. Weekes did not say that she would not sign the conveyance because she thought the money brought to her came from Basma the tenant. She did speak of being forced and being drunk. I was alone when I went to serve her with the writ. Mrs. Spaine said nothing when the cheque was handed to her. John Williams handed both cheque and receipt to Mr. Weekes.

I have never seen Defendant Basma at Mr. Wright's office. I have been with Mr. Wright since Nov. 24 last.

LANCELOT MACAULEY. *Sworn. Examined.*

40 My name is Lancelot Macauley. I live at 51 Wellington Street. I am 1st Cashier at B.B.W.A. Freetown. Exh. "A" was cashed by me. It was presented by John Williams. It was paid to a man—I don't know the man. I don't see him in Court.

Cross-examined.

By Boston : Mrs. Cole accompanied the young man. The man presented the cheque to me.

Plaintiff's Case closed.

In the Supreme Court of Sierra Leone.

No. 6. Plaintiff's Evidence.

Marie Cole, Cross-examination, continued.

Re-examination.

Alfred Williams. Examination.

Cross-examination.

Lancelot Macauley. Examination.

Cross-examination.

*In the
Supreme
Court of
Sierra
Leone.*

No. 7.
Submission
by
Defendants'
Counsel.

No. 7.

SUBMISSION by Defendants' Counsel.

Marke submits that there is no evidence of any agreement between Plaintiff and first three Defendants for sale of these premises. Nearest approach is Exh. "C" which is an agreement between C. B. Rogers Wright and first three Defendants. Fact that Wright indorsed cheque for £600 carries matter no further.

Boston associates himself with Marke's argument especially as regards Mrs. Weekes.

No. 8.
Reply by
Plaintiff's
Counsel.

No. 8.

REPLY by Plaintiff's Counsel.

I submit there is evidence. I (Wright) was acting as agent for Plaintiff. 4th edn. Williams on Vendor and Purchaser, p. 1036.

Bateman vs. Phillips, 15 East 272.

Fred Drughorn Rederiaktiebolaget Transatlantic 1919, A.C. 203.

Dyster vs. Randall & Sons, 1926, 2 Ch. 932. Hals. Laws, Vol. 4, p. 204. Williams on Vendor and Purchaser, p. 10.

(Itld.) C.E.W.

Judge.

No. 9.
Decision on
Submission.

No. 9.

DECISION on Submission.

Held, sufficient evidence of a contract which Plaintiff could sue on at this stage.

(Itld.),

C.E.W.

No. 10.
Discussion.

No. 10.

DISCUSSION.

R. B. Marke asks to amend defence further by adding as para. 6—

“The Defendant Gladys Muriel Weekes and the Defendant Ettie Spaine are married women.”

30

Wright objects on the ground of the lateness of the request for leave to amend and says that the Defendants knew from the beginning of the case that the claim was on a contract and that his female clients were married. Amendment allowed.

No. 11.

DEFENDANTS' EVIDENCE.

In the
Supreme
Court of
Sierra
Leone.

GLADYS WEEKES. *Sworn. Examined.*

My name is Gladys Christiana Muriel Weekes. I live at 4 Lake St. I am a married women. My husband is John Weekes. I was married on April 19, 1931. Defendant Spaine is my sister and Defendant Williams my brother. On Nov. 28, 1946 I attended a meeting at my house. There were present Mr. Weekes Mr. Spaine Mr. Basma (fourth Defendant) Mrs. Spaine (second Defendant) Mr. Bittar and Defendant Williams and myself. At the end of the meeting we all signed a paper. This is the paper. Tendered "G." After signing the paper, it was given to Defendant Basma. Basma left. I saw Basma again on the 29th. He asked for Mr. Weekes who was out. He came again the same day and found Weekes at home. He told Weekes something as a result of which he returned on the 30th with Bittar. My husband was at home, and went out with Basma and Bittar. This was in the morning. In the afternoon, Mrs. Cole (witness) came to me from Mr. Wright (Rogers) she brought a paper to me to sign. I did not look at it but said my husband was not at home. On the Friday my brother and Mr. Wright's clerk (Williams) came to me with a paper and a cheque. I signed Ex. "F" and took the cheque. The clerk Williams said to me that Wright says you have agreed to sell the place to Basma so I have brought this cheque. I thought he was referring to the fourth Defendant. I looked at the cheque. This is the cheque (produced by Plaintiff). Tendered—"H." On my husband's return, I showed him the cheque and left it with him. On Saturday Defendant Basma came to me and my husband only in the morning. It was on Saturday morning when Basma (Defendant) came that I knew the cheque was not from him. It was on Friday the 29th that Basma came to our house twice, meeting my husband on the second occasion. When he came the second time I knew he had not sent the cheque. I gave the cheque to Mr. Weekes when he returned from Waterloo. Basma came the second time between 6 and 6.30 p.m. When Basma came my husband said—This is a mix-up. Come back tomorrow so that we will go to Mr. Wright. On Saturday morning Basma (Defendant) and Bittar came again and my husband went out with them to go to Mr. Wright. I next saw my husband before mid-day at home. I did not see the cheque after I gave it to my husband. I do not know Basma (Plaintiff). I did not arrange for him to buy 2 and 2A Kissy Street. No one told me he was acting for Plaintiff to purchase our place (2 and 2A Kissy St.). I did not ask Mr. Wright (Rogers) to find a purchaser for 2 and 2A Kissy St.

No. 11.
Defendants'
Evidence.
—
Gladys
Weekes.
Examina-
tion.

Cross-examined.

I have received £650 from Defendant Basma for the purchase of these premises. It was a cheque. I received it on Saturday Nov. 30th. Basma (Defendant) brought it to me. He gave me the cheque before going out with my husband to go to Mr. Wright. I gave it to my husband to keep it for me. The £650 was the sum I was expecting him to pay since Thursday. Nov. 28 I also signed Ex. "C" when I got your cheque and signed the receipt. I did not read Ex. "C." I did not read Ex. "F" either the (receipt). I only looked at the cheque after I had signed the

Cross-
examina-
tion.

*In the
Supreme
Court of
Sierra
Leone.*

No. 11.
Defendants'
Evidence.

Gladys
Weekes.
Cross-
examina-
tion,
continued.

receipt. My brother was present with the clerk Williams. My brother said nothing except that he had come to show the clerk Williams the house. He said nothing about his own share. I read Ex. "G" before I signed it. It is dated Nov. 28 and contains the words "We have received full payment of this amount." This document was made on Nov. 28. Basma (Defendant) said you were to make the paper (conveyance) for him. Basma had been our tenant for a number of years. I told Defendant Basma we wanted to sell. He had been asking us "ever since" to sell if we were ready. It was not until the 28th Nov. that we decided to sell the property. Defendant Basma had never made an offer for the premises before Nov. 28. Defendant Basma never told me before Nov. 28 that you (Wright) had sent him to me—He never said he had seen you about this property. I never told you (Wright) to negotiate for the sale of these premises. Basma said on Thursday, Nov. 28 that you (Wright) would make his conveyance. He did not say we should receive our money from you (Wright). Defendant Basma was the only person we wanted to sell these premises to if the price pleased us. We wanted £1,950. Basma did not say what he wanted when he just called on Friday Nov. 29. That was on Friday afternoon. My brother and the clerk also came on Friday afternoon before Basma (Defendant) came the first time. I had looked at the cheque and (calculated) before Defendant Basma came. I said nothing to Basma (Defendant) about the cheque. The only offer Basma (Defendant) made at the meeting was £1,950. It is not a fact that Basma was summoned to that meeting to see if he would not advance on a previous offer.

No re-examination.

Henrietta
Spaine.
Examina-
tion.

HENRIETTA SPAINE. *Sworn. Examined.*

My name is Henrietta Spaine. I live at 5, Trelawney St. I am married to Lloyd Spaine and was married on Nov. 30, 1944. Mrs. Weekes is my sister and John Williams my brother. I remember Nov. 28 last year. I signed Ex. "G" on that day. We gave it to Defendant Basma. I don't know Plaintiff Basma. I did no business with anyone acting on behalf of Plaintiff. On Nov. 28, after the paper was signed, Mr. Sawyerr brought a message from Mr. Wright—He said Mr. Wright sent him to ask if we had given Basma (Defendant) that paper.

I said "Yes." We had agreed to sell to Basma (the tenant). He said he was going to Wright to make the deed for him and he wanted authority. So we gave him this letter.

By the Court: Our meeting was at 4.30 or 5 p.m. We closed the meeting at 6.30 p.m. Sawyerr said Mr. Wright asked him to come and see me because he wanted to buy the place himself and he would offer more than £1,950. I told Sawyerr we had agreed to sell to Basma (Defendant) because he had been in the place over 10 years. Sawyerr said alright Mr. Wright would like to see me in the morning. My husband was present throughout this interview. My brother John Williams lives on the first floor of 5 Trelawney Street. Sawyerr went down to him. I don't know what Sawyerr said to him. I went to Wright (Rogers) with my brother next day. He said he saw that we had agreed to sell

to Basma. I said "Yes." He said "Did you give him that paper to come to me?" I said Basma himself said he was going to you to make the deed. He said "Well, I want to buy the place and I am prepared to pay you more." I said "No, we have agreed to sell to the tenant Basma." Mr. Wright did not refer to any other Basma. I told him Basma had paid £1,950. We spoke broken English. Basma offered to pay the money but we refused to take it. The last sentence of Ex. "G" is not true. Exhibit "G" begins "Dear Mr. Wright." We were sending the paper to his lawyer. Wright said he was going to Court, and I should
 10 return in the afternoon. He said Basma the tenant is coming to see me this afternoon, so you must come and we shall talk. I did not go in the afternoon. I went with my brother to Mr. Wright that morning.

I signed Ex. "E." It was brought to me on Friday afternoon, Nov. 29, by a clerk from Mr. Wright accompanied by my brother. The clerk spoke and said Mr. Wright told me to bring this cheque and receipt. He says Basma went in the afternoon and asked him to send to pay us. When he spoke of Basma I thought he meant the tenant. I did not look at the cheque or receipt carefully. I was sick in bed and only looked at the cheque afterwards. I saw Basma, Bittar and Mr. Weekes on
 20 Saturday morning, Nov. 30, at my house. Basma gave me another cheque. I gave the first cheque to Mr. Weekes to take to Mr. Wright. This is the cheque brought to me (Mr. Wright's clerk) produced (Plaintiff)—Tendered—"J."

Exhibit "D" (Conveyance) was brought to me on Saturday afternoon by Mrs. Cole, Mr. Wright's clerk. She said Mr. Wright said I should sign it. I refused to do so and Mrs. Cole went away.

Cross-examined.

Looking at Ex. "F" [*sic?* G], I see the words "We have received full payment of this amount." The amount was offered but not accepted.
 30 We said we would only accept it on the execution of the deed. I received the cheque for H. M. Basma (Defendant) on Saturday Nov. 30. I did not execute the deed on the Saturday. It was executed after the Saturday. It was true that we did not want to receive the money till the deed was executed. Friday, Nov. 29, was the first time I knew Sawyerr. I was in Court when he gave evidence on Wednesday. I know his story is quite different from mine. You (Wright) said you would offer more than £1,950 but make no offer. You told me that Basma (Defendant) would meet me in the afternoon in your chambers. I did not go because I was sick. Nov. 28 was not the first time Basma and I spoke about this property.
 40 I told Basma sometime in October that the three of us were going to sell the property to him. We did not fix a price. I did not tell my sister this, nor my brother. We three had agreed in October to sell to Basma. We had not agreed to sell to Basma—we were only talking about it. We agreed on Thursday night, Nov. 28. I did not read Ex. "D" when it was brought to me. I refused to sign because at that time I knew the money was not from Defendant Basma. I had at that time received Defendant Basma's cheque. I did not read Ex. "D" and knew you were to prepare Basma's deed. Basma (Defendant) said you were not going to prepare his deed till you returned from the Protectorate. I was not
 50 expecting money from you for Basma (Defendant). I signed Exs. "E"

*In the
 Supreme
 Court of
 Sierra
 Leone.*

No. 11.
 Defendants'
 Evidence.

Henrietta
 Spaine,
 Examination,
continued.

Cross-
 examina-
 tion.

*In the
Supreme
Court of
Sierra
Leone.*

No. 11.
Defendants'
Evidence.

Henrietta
Spaine,
Cross-
examina-
tion,
continued.

and "C"—I did not read them. I only read the cheque I was expecting Basma to pay £650. On Friday 29 you told me you wanted to buy the property and would pay more. When I got your cheque I thought it was from Basma. I asked the clerk how Wright had signed the cheque. The clerk said Mr. Wright (you) were sending to pay for Basma. It was only afterwards, I realised that one-third of £1,950 was £650. I was in Court when your clerk Williams gave evidence. I know nothing was put to him of my story. When I told Basma in October we wanted to sell, I told him we wanted £2,000. He offered £1,800 at first. I refused. Later he offered £1,900. I refused, that was also in October. I told him 10 then that we were arranging for a family meeting. He (Basma) was present because he was going to buy. We invited Basma (Defendant) to the family meeting—so that we would decide on the price. I was present at the meeting of Nov. 28 but I went late. I went after Ex. "G" had been signed. Exhibit "G" was signed on Nov. 28. I met Mrs. Cole at your office on November 29. I heard her evidence. It is not a fact that we were willing up to Nov. 28 to accept £1,900 but that Basma (Defendant) would not offer more than £1,650 which we refused. When Sawyerr came to me on Nov. 28 (night) he did not offer any sum. It is not true that it was because I wanted to accept £1,900 that I went to your office on Nov. 29, nor that I accepted 20 that offer. I don't know you (Wright) were negotiating for the sale of the property. My brother was not at home when Weekes and Basma called on me on morning of Nov. 30 at about 8 a.m. He came afterwards and met them there. I can't say how long they were there, before he came. When he came they talked to him. They offered him his own cheque from Basma (Defendant). Williams asked what the cheque was for and said he thought he had been paid yesterday.

Re-
examina-
tion.

Re-examined.

I never authorised Wright (Rogers) to negotiate for the sale of these 30 premises. I don't know if my sister did.

John
Williams.
Examina-
tion.

JOHN WILLIAMS. *Sworn. Examined.*

My name is John Augustus Clarence Kabia Williams. I live at 5 Trelawney Street. I am not working. I remember Nov. 28 last. I signed Ex. "G" at No. 4 Lake Street—Weekes' house. I saw Mr. Sawyerr late in the evening that day—it was after 6.30 p.m. He asked for Mrs. Spaine. I took him upstairs and left him there. Later he came to me. He asked me if we gave Basma any paper concerning the sale to take to Mr. Wright. I said "Yes." He said that was the reason why he came. He said nothing more about the property or the paper. Next day, I went to Mr. Wright's office. I was sent for by Mr. Wright. I saw 40 Mrs. Cole in the street and she told me Mr. Wright wanted to see me. I met Mr. Wright and he told me that No. 2 and 2A Kissy Street—Basma the tenant had asked him to buy for him. I went with Mrs. Spaine. We said we agreed. He said he would pay for the place for Basma. My sister and I then went home. I don't know the Plaintiff. I never asked Wright to sell the property to him. We gave Wright no authority to sell this property to anyone. I went back to Wright's office on the afternoon of Nov. 29. I saw Mr. Wright. He gave me three cheques and some money. He asked the names of my sisters and made cheques out for

them. He gave me a cheque he had in his safe—not one signed by him—he said a Syrian had given it to him. Ex. “A” is the cheque he gave me. He indorsed it. He said Basma the tenant had told him to pay for the place—I thought Basma (fourth Defendant) was paying. I kept the cheque till Saturday morning, and then cashed it at the B.B.W.A. I walked about a bit and then went home. I met Mr. Weekes, Basma (Defendant) and another Syrian. I saw Mrs. Spaine. Basma gave me a cheque. I looked at it and asked him if he wanted to pay me twice for the place. I kept the cheque and cashed it the following week. I returned
 10 £633 odd to Mr. Wright, by paying it into his account at Barclays Bank. I have never seen Ex. “D.”

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Leone.*

No. 11.
Defendants'
Evidence.

John
Williams,
Examina-
tion,
continued.

This is the Bank paying-in slip (produced by Plaintiff). Tendered—
 “K.”

It is not true that I went to H. K. Basma about this property or that I asked for £25 for myself. I went about a house at Sawpit. I went there twice. It is not true that I went to the Plaintiff and told him my sister and I wanted to sell this property. I don't know him at all. This property came to us in 1930 on the death of our mother.

Cross-examined.

Cross-
examina-
tion.

20 I am 24 years of age. I shall be 24 on July 16 next. I knew when my mother died. I was in Court when H. K. Basma gave his evidence. I have known Mr. Sawyerr for only five or six months. I know 6 Little East Street—it belonged to me for life till it was sold. It was sold last year. It was sold before we arranged to sell 2 and 2A Kissy Street. It was long before. I know an application had to be made to the Court before 6 Little East Street was sold. I swore to a paper before Mr. Alhadi before 6 Little East Street was sold. Mr. Sam Johnson, Mr. Weekes and Mr. Sawyerr (the witness) and I came to Mr. Alhadi. The others went in first and then I went in and swore to a paper. The trustees were
 30 Mr. Sawyerr and Mr. Weekes. Messrs. Weekes and Sawyerr and I signed a paper in your office and I said it was my act and deed. Weekes, Sawyerr and I went to Barclays Bank. Mrs. Cole, Mr. Wright's clerk, carried the money. Mr. Sawyerr and I bought a small house at Fourah Bay Road. That was at the end of October or beginning of November last. I went with someone to Sawyerr to ask him to be Trustee before 6 Little East Street was sold. I saw Sawyerr on Nov. 28 at 5 Trelawney Street. I saw Sawyer in the morning of that day at Malta Street but had no conversation with him. I did not see Sawyerr at Fourah Bay Road after the meeting on November 28 at Weekes' house. I did not see him after the meeting
 40 till we met at Trelawney Street. I did not show Mr. Sawyerr on Friday the cheque you had given me. I did not tell Sawyerr on Saturday morning that I had placed £500 on fixed deposit. I did not see him. I did put £500 on fixed deposit. I did not tell Sawyerr Basma (Defendant) had offered £1,650 for the property. When Mr. Sawyerr came to 5 Trelawney Street, he said you (Wright) had sent him to me and my sisters to ask if we would sell the place to him (Mr. Wright). I said “No. Basma has been there long and we will sell it to him.” He said “If Mr. Wright pays more won't you agree to sell to him?” I said “We have

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Leone.*

No. 11.
Defendants'
Evidence.

John
Williams,
Cross-
examina-
tion,
continued.

decided to sell to Basma." Then he went. Sawyerr did ask me if we had given Basma a paper to take to Mr. Wright as I said yesterday. Mr. Sawyerr did not ask me to see you (Wright) in your office next day. My sister and I called on you (Wright) next day. You told us to come back in the afternoon—I thought that was because you had to go to Court. My sister (Mrs. Spaine) and I were together all the time in your office. I saw Mrs. Cole that day after I had left your office—that was when I saw her in a car. I went to you that morning because my sister suggested it. I don't remember who first mentioned Mr. Wright's name at Weekes's house on the afternoon of Nov. 28 at the family meeting. I don't know 10 how your name came to be put in Ex. "G." Mrs. Spaine was not there when the note (Ex. "G") was signed. I was not in the parlour when Mrs. Spaine signed Ex. "G" I had gone outside after I signed. I did sign Ex. "G" at the meeting on Nov. 28. Basma did offer to pay us money that night—he offered £1,950. I was to get £650. I did not calculate it at the time. Basma had a cheque book with him that night. I went to you (Wright) next morning Nov. 29. At your office, I first saw your male clerk and Mrs. Cole sitting at separate tables. I cannot remember if I met Mrs. Cole in your office that morning, my sister and I went to your office only once. I think you said 20 that Basma (Defendant) had come to you to buy the place and that you had told Basma to come back. You said Basma had come although I had not agreed to call him. You told us to come back in the afternoon. You had not sent me to call Basma but I said nothing. I think you said you wanted to buy the property. You did ask us if we would agree to sell to Basma (Defendant) we said "Yes." We did say we had agreed to sell to Basma (Defendant). I signed Ex. "B" in your office. No one mentioned £1,900 that morning in your office.

Before I signed Ex. "B" I had received Ex. "A" and £33.6.8. in cash. Mrs. Cole was present. I did not look at the cheque when I 30 received it. I counted the money—it was £33.6.8. I read the receipt after signing it. Up to the time I signed Ex. "B" we had not arranged with Basma (Defendant) for £1,900. I signed Ex. "C" in your office. I read it after I had signed. I did not ask anything about the amount of the receipt though we had agreed to sell to Basma (Defendant) for £1,950. Next morning I cashed the cheque and deposited £500 on fixed deposit. I was satisfied with what I got. Later at my sister's place I was offered £650 and I accepted the cheque. I asked Basma first why he paid me again. I paid the £633.6.8d. into your a/c on Dec. 4. My sisters and I first 40 decided to sell the place at the meeting on Nov. 28. I had started to say I wanted to sell in May 1946. That was about the time I was selling 6 Little East Street. I wanted A. K. Basma to buy 6 Little East Street—I went to him and asked him to buy. He said "Yes." He did not buy it—he made no offer. I first went to Basma (Defendant) to tell him I wanted to sell after February 1946—it was before June 1946. He said I was not the sole owner. Basma (Defendant) never made me any offer before the one of £1,950. Mr. Sawyerr knows my wife's mother. I only go to Sawyerr when I have business with him. I went to him the week before the last. I had no quarrel with him up to that time, nor have I since. 50

H. M. BASMA. *Sworn. Examined.*

My name is Hammed Mohammed Basma. I live at 2 Kissy Street. I am a trader. I know first three Defendants. I arranged to buy 2 and 2A Kissy Street from them. That is where I am now. I have been there since 1932. I asked Mrs. Weekes before Nov. 1946 if they wanted to sell the property and said I was ready to buy it. We arrived at an agreement on Nov. 28—I agreed to pay £1,950 for it. We made a paper. They gave me the paper and I took it to Mr. Wright—Bittar accompanied me. We did not meet Mr. Wright. I gave the paper to Mrs. Cole. That was on 10 Nov. 28 after the meeting. The paper is Ex. "G." Next day Bittar and I again went to Mr. Wright's office and saw him. Bittar told Wright to make a conveyance to me. Wright said the paper Ex. "G" was not sufficient and I must get the title deeds. Bittar and I went to Weekes' house that morning. Weekes was not in. Bittar and I returned in the afternoon and met Weekes. Weekes said he had no documents but a will. Weekes asked me if I had given Mr. Wright my money—I said "No." Weekes, Bittar and I on Saturday went to Wright with the will and asked him to make a deed to me. Weekes gave the will to Mr. Wright and told him to make a conveyance to me. Weekes asked Mr. Wright what he sent 20 the cheque to him for. We offered it to him. Wright refused to take it. Wright said "Go and bring Jack (third Defendant) for me." Bittar called for Ex. "G" and Wright gave it to him. Wright said he had no chance to make the conveyance then, as he was going on Circuit. He would make it on his return. At that time, I did not know Plaintiff had arranged to buy the place. I did not complain to A. K. Basma that Plaintiff had bought the property. I have not been on speaking terms with A. K. Basma for a year. Mrs. Weekes and others executed a conveyance to me. I paid Mrs. Weekes and others £1,950 for the property on Saturday Nov. 30, 1946.

30

Cross-examined.

You (Wright) have never acted as my Solicitor before. I have never been in your office before Nov. 28. I have never discussed the purchase of this property with you. I did not offer £1,500 for this property. I know Mrs. Cole. I saw her only once. That was on Nov. 28. Mr. Bittar knows her. Bittar took me to you (Wright). I went to your office at 6.30 p.m. the office was not open then. When going to you I thought the office would be open—it was not open. We were not in a hurry. Bittar went with me to the meeting at Weekes' house. It was at the meeting Bittar told me to get Wright to make the Deed. He told me before the 40 paper Ex. "G" was made. I made no arrangement with Mr. Wright (you) for payment for the conveyance. I did not expect you to do it for nothing. At the meeting I first offered £1,800, then £1,900, then £1,950. I never offered any price for the property before that. Mr. Weekes told me in October they had decided to sell the property. She did not say how much they wanted then. In Nov. Mrs. Weekes told me they would fix a day when they would call me to buy the property. Mr. Spaine came to me on Nov. 28 and told me they had fixed that day for the meeting. A. K. Basma and I are related. Basma's wife is my mother's sister. I have not visited my aunt for a year.

50

I talk to her anywhere I see her. There is no trouble between A. K. Basma and me. He was responsible for bringing me out here—he

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No. 11.
Defendants'
Evidence.

—
Hamed
Mohamed
Basma.
Examina-
tion.

Cross-
examina-
tion.

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Court of
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Hamed
Mohamed
Basma,
Cross-
examina-
tion,
continued.

put me in 2 and 2a Kissy St. Before a year ago, I used to visit A. K. Basma and he me. There has been a family quarrel at home. I wanted to buy the property badly. I did not go to A. K. Basma and tell him not to offer for the property. Bittar and I never called on A. K. Basma. Bittar and I and Weekes called on you on the morning of Nov. 29. We did not go in the evening as on the Saturday—I am sure of that. We took the will to you (Wright) on Saturday Nov. 30 we did not call again. I never went to you (Wright) with Said Hyjazie. I did not call on you with Said Hyjazie on Saturday Dec. 1. Bittar and I did not call on you on the night of Nov. 29. We did not ask for the receipts signed by the three first Defendants. It is not a fact that Ex. "G" was first produced to you on Saturday Nov. 30 in the morning. You did not say that Ex. "G" was no good. Bittar and I went to you (Wright) on Friday, Nov. 29. You did not tell us anything about A. K. Basma (Plaintiff) having bought the property. You did not say so to us when Weekes, Bittar and I called on Saturday. When Weekes produced your cheque to you you refused it and told him to bring Jack. You said nothing more. I did not know at that time that that cheque had been paid for this property. Mr. Weekes did not tell me you (Wright) had sent a cheque to him for the house. Weekes did not show me a cheque or talk to me of one, when I went to his house on the afternoon of Nov. 29. He did not ask me if I had paid any money to you (Wright). I never knew that you had given any cheques relative to this property. I did not pay anything for the property on Nov. 28. We did not fix any time for payment of the price. It was to be paid on execution of the deed. I paid on the Saturday because they had sold to me and I trusted them.

Henry
Thomas
Griffin.
Examina-
tion.

HENRY THOMAS GRIFFIN, called by Boston, sworn, says :—

Examined by Boston.

My name is Henry Thomas Griffin. I live at 26 Lewis Street. I am a Solicitor's clerk. I was present when this document was executed and witnessed it. I know the parties. The first three Defendants executed the document. Tendered—"L."

Adjd. to May 19, 1947.

(Intld.) C. E. W.,

Ag. Puisne Judge.

Defendants' Case closed.

No. 12.
DISCUSSION.

*In the
Supreme
Court of
Sierra
Leone.*
—
No 12.
Discussion.

Wright asks for leave, in view of late amendment of defence, to call evidence to prove title of Defendants. *Boston* objects that it is now late to do this as Defendants' case not opened when amendment asked for and Plaintiff had time then to ask to call evidence he now seeks to call and that he could have cross-examined Defendants as to their title. *Marke* associates himself with *Boston* and says onus was on Plaintiff to prove title of Defendant in case of specific performance. *Wright* replies
10 pressing for leave saying amendment made only after close of his case.

No. 13.
PLAINTIFF'S FURTHER EVIDENCE.

No. 13.
Plaintiff's
Further
Evidence.

E. J. McCORMACK. *Sworn. Examined.*

My name is Edward Jackson McCormack Deputy Registrar General. I produce Vol. 109 of Registers of conveyances. There is registered there a conveyance from Gilbert Bishop and Daniel Benjamin Fitzjohn Thomas to Henry Thomas Kabia Williams and Nancy Rebecca Williams his wife dated July 23, 1921. Page 79 tendered—*Boston* and *Marke* object on ground that the Register is a copy and is not a document deposited with the Registrar General within the meaning of Sections 16–21 of the Coln. [sic] General Registration Ordinance (Cap. 89) and that even if it were,
20 notice should have been given by the plaintiff. *Wright* in reply admits he should give notice.—Objection upheld on authority of decision of *Betts J.* in *Sarian Johnson v. Nylander and anor.*

Edward
Jackson
McCormack
Examina-
tion.

N. Z. O. CAREW. *Sworn. Examined.*

My name is Nurinie Zine Othman Carew. I am a clerk in the Medical Dept. and am from Office of Registrar of Births and Deaths. I have registers of deaths for 1934 and I produce it from the Office of the Registrar of Births and Deaths. I have recalled the date of death of Henry Thomas
30 Kabia Williams.

Nurinie
Zine
Othman
Carew.
Examina-
tion.

*In the
Supreme
Court of
Sierra
Leone.*

No. 14.
Argument
for Fourth
Defendant.

No. 14.

ARGUMENT for Fourth Defendant.

Mr. Boston addresses.—Even if valid contract between Plaintiff and first three Defendants, we had no notice of it from (Defendant Basma). Evidence of A. K. Basma and Mrs. Cole goes to prove Defendant knew Plaintiff had property. Defendant denies this. If Plaintiff's witnesses' evidence accepted and you disbelieve Basma when he says he had Ex. " G " on Nov. 28 and also disbelieve evidence of three first Defendants on this point then Defendant must be found to have had notice. Otherwise not. Submit not proved Plaintiff has a valid contract for sale to him of the property. In evidence, first two Defendants married—Mrs. Weekes married in 1931. First three Defendants came into property in 1930. She was incapable without consent of husband to make a valid contract in relation to this property unless found it was her separate property. No evidence of that. In Ex. " L " Husbands join. Recitals—On death of Nancy Rebecca Williams—they got possession. It is for Plaintiff to prove a valid contract. No possibility of ordering S.P. " pro tanto." Ex. " C " is the contract. Ex. " C " is not a memo. in writing to satisfy Statute of Frauds so far as Mrs. Weekes is concerned. 10

Mrs. Weekes is not bound because it was never represented to her that she was contracting with Plaintiff. 20

No. 15.
Argument
for First
Three
Defendants.

No. 15.

ARGUMENT for First Three Defendants.

R. B. Marke addresses.—Associates himself with Boston. First requirement is whether Ex. " C " is an enforceable contract. Mrs. Weekes married on April 19, 1931.

Williams on Real Property—24th edition, page 361.

Ordinance 44 of 1932 puts married women in same position as unmarried but will not affect rights of husbands already acquired. Exhibit " C " is one contract. Where three persons contract to sell realty it is not correct to say each is willing to sell separately from the others. 30

Court will not make agreement for the parties.

Mrs. Weekes was married and known so to be. She could not contract to sell her realty. Dart's Vendor and Purchaser 6th edition 1118. Specific performance not enforced against executors selling leaseholds, trustees selling realty where one refused to concur.

Lease { *Sneesby vs. Thorpe* 7 D.M. & G. 399.
 { *Tarratt vs. Lloyd* 2 Jurist Report N.S. 371.
 { *Naylor vs. Goodall* 47 L.J. Ch. 53.

Ex. " G "—Mrs. Cole denies this was produced to her. Fourth Defendant definite. 40

Exs. " B," " E " & " F "—Must be strange Plaintiff's solicitor did not know names of Defendants. Strange these exhibits made no mention of A. K. Basma's name.

Ex. " F "—Mrs. Weekes signed it—careless as to amount.

Ex. " E "—Same excuse.

Proper parties not before the Court—Weekes not a party.

Fry 6th edition page 607 paragraph 1312. Should be no compensation here.

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No. 15.
Argument
for First
Three
Defendants,
continued.

No. 16.

ARGUMENT for Plaintiff.

10

Original defence of first three Defendants was denial of contract and mistake. On May 14—paragraph 1 amended and Statute of Frauds raised. Later at close of Plaintiff's case paragraph 6 added pleading coverture.

Defendants claimed

(i) Statute of Frauds not complied with. If agreement with Wright proved, then his principal (Plaintiff) can sue. It is said agency not made clear. It was clear but this not material. Williams on Vendor and Purchaser 10th ed. pages 1036–1038. *Dyster vs. Randall*, 1926 Ch. 932.

20

(ii) When cheques received and B, C, E and F signed they believed they were dealing with fourth Defendant. Ex. " G "—clear lie in last sentence—Excuse for not receiving cash—would wait for execution, yet next day they received money.

Evidence of Sawyerr—no interest. Cheque (Ex. A) and receipt show Plaintiff knew they were not dealing with fourth Defendant. Williams on Vendor and Purchaser pages 755 to 756. *Smith vs. Wheatcroft* 1878, 9 Ch. D. 223.

As to defence of fourth Defendant. He claims ignorance of contract between first three Defendants and Plaintiff.

30

Ex. " G " said to be made in Weekes' house on November 28. Only outside person present was Bittar who has not been called though Plaintiff's attitude to Ex. G clear throughout. Bittar said to have taken document to Wright's office and handed it to Mrs. Cole and to have seen it in Wright's hands next day. Why not called? Why ask Wright to revoke sale?

H. K. Basma's evidence.

Halsbury 29 page 351—fourth Defendant should be ordered to convey all his interest. Halsbury 31 pages 419 to 420 paragraph 510. Williams on Vendor & Purchaser page 593. *Potter vs. Sanders* 67 E.R. 1057. *Greaves vs. Tofield*, 1880, 14 Ch. D. 563.

40

No. 16.
Argument
for
Plaintiff.

*In the
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No. 16.
Argument
for
Plaintiff,
continued.

Plea of coverture raised very late after Plaintiff's case closed. See words of amendment. Submit plea not properly made. Pleadings should have contained all facts Defendants rely on.—25 H. 249–250 ; 267–268.

Before 1882 plea would have been good. After 1882 plea was different. It was then “The Defendant was covert at the time of the making of the alleged contract.”—Bullen & Leake's Pleadings 5th edition 725–726. After Act of 1893—B. & L. page 726.

Here up to end of 1932 defence was same as before Act of 1882 in England. But after s. 4 of 44 of 1932—Defence is not coverture alone (i.e. She could not contract). 10

Plea here merely raises the question as to whether Defendant can be sued.

Defendants say now having raised question of title this obliges Plaintiff to prove title in Defendants.

First question is respective obligations as to proof of Plaintiff and Defendant. Submitted—facts in plea of this kind submits within knowledge of Defendants who raise plea.

Facts are:—

1. Marriage.

2. How and why property acquired burden of proof is on 20 persons who raise plea.

Halsbury—XIII pages 545–546, para. 615.

Hire Purchase Co. vs. Richards 1887, 20 Q.B.D. 387, 389.

R. vs. Oliver, 1943, 2 A.E.R. 800.

Mrs. Weekes was incapable of contracting according to Defendants.

Broughton vs. Snook, 1938, 1 A.E.R. 411.

Question of capacity is raised at time when married woman can contract. If Defendants wish to show exception they must prove it.

Ex. “L”—recitals—Testator made will.

It is said if Mrs. Weekes had no capacity then whole contract must 30 be set aside. This is not so—31 H. 442. *Harrocks vs. Rigby* 1878, 9 Ch. D. 180, 183, 38 L.T. 782. *Burrow vs. Scammell* 1881, 45 L.T. 606, 19 Ch. D. 175. *Haaxter vs. Pearce*, 1900, 1 Ch. 341. Williams on Vendor and Purchaser page 909.

1. No question as to proof of contract with Plaintiff.

2. Fourth Defendant did know of contract.

3. Amended defence may not raise question of title.

4. S. P. should be ordered against 2 and 3 Defendants in any event.

Adjourned to Friday May 23.

(Itd.) C. E. W. 40

No. 17.

REASONS for Interlocutory Judgment.

*In the
Supreme
Court of
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Leone.*

—
No. 17.
Reasons for
Inter-
locutory
Judgment,
23rd May
1947.

In this action, the Plaintiff seeks to enforce the specific performance of a contract alleged to have been made by the first three Defendants to sell Nos. 2 and 2A Kissy Street, Freetown to Mr. Wright, whose undisclosed principal the Plaintiff alleges he was; and the Defendants, the fourth of whom obtained from the other three a conveyance of the premises the subject of the dispute, resist the Plaintiff's claim on the ground, amongst others, that the first three Defendants had contracted to sell the premises to the fourth Defendant before the date of the contract alleged by the Plaintiff and have since conveyed them to the fourth Defendant.

Exhibit "C" is a memorandum of the contract alleged by the Plaintiff and Exhibit "G" one of the contract alleged by the Defendants.

If Exhibit "G" was made and given to the fourth Defendant on the day when on the face of it it purports to have been made, that is Nov. 28th 1946, then all other questions in this case fall and it is useless to consider them for Exhibit "C" was not made and does not purport to have been made until Nov. 29, 1946 a day later.

So I must first address myself to the question whether Exhibit "G" was in fact made and given to the fourth Defendant on November 28, 1946. The Defendants all assert that it was, whilst admitting that the statement contained in its last sentence is untrue and that in fact the fourth Defendant paid cheques (each for £650) to the first three Defendants only on Saturday, November 30. Counsel for the Plaintiff points out that each of the first three Defendants received from him £633 6s. 8d. on November 29 (in one case by the Plaintiff's cheque for £600 and £33 6s. 8d. in cash and in the other two cases by his own Counsel's, cheques for £633 6s. 8d. each) and that they each signed a receipt for that sum (which receipt mentioned the purchase price of 2 and 2A Kissy St. as £1,900 and not £1,950) and that at the same time they also signed a memorandum which also mentioned the purchase price as £1,900 and not £1,950 and the share of each co-owner as £633 6s. 8d. and not £650. And he argues that people who agreed on a purchase price of £1,950 for the property on November 28 and must then have realised that their shares were each £650 would not, without question, have signed documents which mentioned £1,900 as the purchase price and £633 6s. 8d. as their respective shares on Nov. 29 nor would they have received payment of £633 6s. 8d. each without question. He also points out the evidence of Sawyerr who said that after the meeting at Lake Street on November 28 John Williams had told him that the tenant had offered only £1,650 and that when he saw Mrs. Spaine and John Williams later that evening each said they would accept £1,900 for 2 and 2A Kissy Street. He also points out the evidence of Mrs. Cole who said that Mrs. Spaine and John Williams agreed to accept £1,900 on the morning of Nov. 29 and that the fourth Defendant (accompanied by Hyjazie and Bittar) called on Mr. Wright on the evening of Nov. 29 and asked him to withdraw from the transaction and to let them have the agreement and receipts signed by the other three Defendants.

Mrs. Spaine and Williams, while admitting they saw Sawyerr on the evening of Nov. 28 deny they said they would accept £1,900 for the property

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and while admitting they saw Mr. Wright on the morning of Nov. 29 again deny they agreed to accept £1,900 then.

In the face of this conflict in the oral testimony I am bound to draw what conclusions I can from the documents and the conclusion I come to is that the Defendant Basma at the meeting on Nov. 28 offered less than £1,900 for the property but hearing later that someone had offered more than that sum he decided to increase his offer and was faced with the fact that the first three Defendants had then accepted an offer of £1,900. To get over this difficulty the document Ex. "G" was prepared and ante-dated Nov. 28, the motives of the first three defendants in agreeing to this course being, I 10 imagine, not so much to get an extra £50 as to please their tenant. I find therefore that "Exhibit "G" was made and given to the fourth Defendant after the signature of Exhibits "B," "C," "E" and "F" by the first three Defendants.

I also find on the evidence of H. K. Basma and Mrs. Cole that the fourth Defendant had notice of the contract of sale of the premises to Mr. Wright, or his principal, before he (fourth Defendant) paid any money. There seems to be no reason why Bittar should not have been called to contradict H. K. Basma's evidence that he (Bittar) and fourth Defendant went to H. K. Basma on the occasion when fourth Defendant according to 20 Basma complained that Mr. Wright had bought the property for the Plaintiff if it is not the fact that Bittar went there with the fourth Defendant. Similarly both Hyjazie and Bittar might have been called to contradict Mrs. Cole's evidence as to what took place at Mr. Wright's office on the night of Nov. 29 if her evidence is not true. But neither Bittar nor Hyjazie was called.

Leaving aside for the moment, the question of Mrs. Weekes' capacity to enter into the contract alleged by the Plaintiff the next question is whether there is any contract, in fact, upon which the Plaintiff can sue. It is quite clear that there was a contract for the sale and purchase of these 30 premises of which Ex. "C" is a sufficient memorandum. And there is the evidence of the Plaintiff, which I accept, that Mr. Wright was acting on his behalf. Mr. Marke at the close of the Plaintiff's case on behalf of the first three Defendants submitted that the only contract which it might be suggested had been proved was not the one alleged in the Statement of Claim but another between Mr. Wright and the first three Defendants. I hold that there was sufficient proof of a contract with the Plaintiff as the oral evidence sufficiently proved he was the principal and it is not necessary that an agent, even in regard to a contract for the purchase of land, should be appointed in writing. 40

Halsbury, 2nd edn., vol. 1, p. 206.

Williams on Vendors and Purchasers, 4th edn. (p. 1036).

Further there was nothing in the contract itself which would prevent its enforcement by an undisclosed principal.

Dyster v. Randall & Sons [1926] Ch. 932.

The next point raised by the defence was that owing to the fact that Mrs. Weekes was married on April 19, 1931, that is, before the coming into force of the Imperial Statute (Law of Property) Adoption Ordinance, 1932, the contract of sale was not enforceable against her. Before that

point could be raised the defence, which had first been only a denial of any contract with the Plaintiff and had later been amended so as to raise the defence of the Statute of Frauds, had to be further amended and the amendment asked for and allowed was the addition of a new paragraph to the defence reading :—

“ 6. The Defendant Gladys Muriel Weekes and the Defendant Ettie Spaine are married women.”

That amendment was asked for after the close of the Plaintiff's case and after the overruling of a submission that there was no evidence of
10 the contract alleged in the Statement of Claim.

Evidence was given that Mrs. Weekes was married on April 19, 1931, and that Mrs. Spaine was married on Nov. 30, 1944. And on that, as I understood him, Mr. Marke argued that Mrs. Weekes having been married before 1933 had no contractual capacity whatever and so could not enter into this contract. I cannot agree with that proposition for although the ordinance did not take away from a husband rights already acquired by him in his wife's property it did give the wife power to acquire and dispose of property and therefore to contract with reference to the acquisition and disposition of property although she could not affect her husband's
20 already acquired rights. The point is that she did acquire a contractual capacity which she had not had at Common Law and after 1932 the mere assertion that she is a married woman is not equivalent to an assertion that she could not or did not contract. And there is further, of course, the power which a married woman had in equity to make contracts with reference to her separate estate.

The mere allegation then that Mrs. Weekes is a married woman does not help us to determine whether or not she is bound by the contract set up by the Plaintiff.

Evidence was given however by the Defendant, John Williams, that,
30 to quote his own words, “ This property came to us in 1930 on the death of our mother.” John Williams is now 23 years old and in 1930 was therefore six years old. Even if I could accept his evidence on this matter as first hand and reliable it does not assist us to say whether Mrs. Weekes could now (without her husband) bind herself by this contract for her interest in the premises may be her separate property or she may have a power of appointment over it.

The deed, Exhibit “ L,” which was put in evidence to prove a conveyance of the property the subject of this action to the fourth Defendant contains certain recitals but I do not think that these recitals
40 can be in any way evidence against the Plaintiff.

It may be argued that the onus is on the Plaintiff in all cases of specific performance not only to allege and prove a contract to sell property *prima facie* good but also to prove that there are no circumstances preventing its enforcement and that the proposed vendor has power to do what he (or she) purports to do notwithstanding there is no allegation by the defence of circumstances preventing enforcement or of the lack of such power. But I do not think this is the case. I think that when a *prima facie* case has been made out by the Plaintiff it is for the Defendant to allege and prove if he can circumstances which prevent the contract

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being enforced or the lack of such power, for such circumstances, especially where they relate to the title of a Vendor, must be peculiarly within his knowledge.

Order XX Rule 15 seems to support this and Daniell's Chancery Practice 7th Edn. at p. 494 has "In general . . . purports to be."

Here what happened was that the Plaintiff made a *prima facie* case for specific performance, the defence denied the contract and later the defence was amended to allege that two of the Defendants were married women. But is proof of the allegation that they are married women a sufficient answer to the Plaintiff's case? It seems to me that it is not, for it may well be that despite the fact that they are married women they may have power to contract with reference to this property. And in fact one of the female Defendants had that power, for the property was her separate property (if I may so describe it) by reason of the fact that she was married after 1932. And it may well be that the other female Defendant is interested in this property as her separate property by reason of other facts. 10

So, I am in this dilemma owing to the lack of sufficient evidence as to the title of Mrs. Weekes—if I find on the state of the pleadings and evidence now that a sufficient answer has not been made to the Plaintiff's *prima facie* case and give judgment for specific performance it may turn out later that Mrs. Weekes can convey her interest only with the concurrence of her husband and by deed acknowledge and as the Court cannot compel her husband and by deed acknowledge the deed the judgment so far as regards her interest would be useless; if, on the other hand, I find that I cannot give judgment for specific performance against Mrs. Weekes simply because she is married and her interest may not be her separate property it may turn out later that it is her separate property and I should have refused the Plaintiff what he is entitled to. 20 30

I think that the only way to get over this difficulty is to take further evidence as to the relevant facts affecting Mrs. Weekes' title and this can be done it seems either by allowing further evidence to be called or by directing an enquiry.

See Daniell, pp. 498, 499, 524. It seems to me that the most satisfactory way of dealing with the matter will be for further evidence to be adduced before me to answer the enquiry what interest Mrs. Weekes had in Nos. 2 and 2A Kissy Street on Nov. 29 last and whether her interest or any part of it was her separate property. On the answer to this enquiry I shall be able to deal with the question how far, if at all, specific performance could be ordered as against her. 40

Adjd. to 9 a.m. on May 24 for inquiry as directed.

(Sgd.) CLAUDE E. WRIGHT,
Acting Puisne Judge.

23/5/47.

No. 18.

REASONS for Final Judgment.

*In the
Supreme
Court of
Sierra
Leone.*

No. 18.
Reasons for
Final
Judgment,
24th May
1947.

Counsel for the Plaintiff having agreed to accept Judgment for specific performance, the Court therefore declares that the Plaintiff is entitled to specific performance of the agreement dated Nov. 29, 1946, mentioned in the pleadings to the extent of the interests of Mrs. Spaine and John Williams with an abatement of one third of the purchase price in respect of the interest of Mrs. Weekes ; **AND IT IS ORDERED** that upon the Plaintiff paying to the fourth Defendant the purchase price subject to such abatement the
10 Defendant Basma do execute to the Plaintiff a proper conveyance of the shares of Mrs. Spaine and John Williams in the property.

The Defendants to pay the taxed costs of the Plaintiff ; in the case of Mrs. Weekes only out of any separate property she may now or hereafter be possessed or entitled and out of any property she may hereafter while discoverd be possessed of or entitled to, provided that nothing is to render liable to satisfy this judgment any property the Defendant Weekes, was, at the time of the contract or thereafter restrained from anticipating.

Liberty to apply with reference to the enforcement of the judgment.

Defendants' Counsel ask for a stay of two weeks. Plaintiff's Counsel
20 objects. Stay ordered.

(Sgd.) CLAUDE E. WRIGHT,

Acting Puisne Judge.

24th May, 1947.

No. 19.

FORMAL JUDGMENT.

No. 19.
Formal
Judgment,
24th May
1947.

This action coming on for trial on the 14th, 16th, 17th, 19th, 20th and 23rd days of May, 1947 and this day before His Honour Mr. Justice Claude Emile Wright, Acting Puisne Judge, in the presence of Cyril Bunting Rogers Wright of Counsel on behalf of the Plaintiff and Richard Bright Marke of
30 Counsel on behalf of the first three Defendants and Nathaniel Justinian Patricius Metzger Boston of Counsel on behalf of the fourth Defendant **AND UPON HEARING** the Writ of Summons and the pleadings in this action, the evidence of the witnesses for the Plaintiff and the Defendants taken on their oral examination at the trial, the exhibits produced and what was argued by Counsel on both sides **THIS COURT DOTH DECLARE** that the Plaintiff is entitled to a specific performance of the Agreement dated the 29th day of November, 1946 in the pleadings mentioned to the extent of the interests of Mrs. Ettie Spaine and John Williams in the Pleadings named with a proportionate abatement of the
40 purchase money in respect of the one-third share of Mrs. Weekes therein.

*In the
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No. 19.
Formal
Judgment,
24th May
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continued.

AND THIS COURT DOTH ORDER AND ADJUDGE that upon payment by the Plaintiff to the 4th Defendant of the sum of £1,266 13s. 4d. the purchase price subject to such abatement, the fourth Defendant do execute a proper Deed of Conveyance conveying to the Plaintiff the shares of Mrs. Ettie Spaine and John Williams in the property comprised in the said Agreement AND IT IS FURTHER ORDERED AND ADJUDGED that the Plaintiff recover against the Defendants the costs of this action to be taxed, but in the case of the first Defendant only as against her separate property she may now or hereafter be possessed of or entitled to and out of any property she may hereafter whilst discoverd be possessed 10 of or entitled to, provided that nothing is to render liable to satisfy this judgment any property the Defendant Weekes was at the time of the contract or thereafter restrained from anticipating. Liberty to apply with reference to the enforcement of the judgement.

By the Court.

(Sgd.) A. ALHADI,
Master and Registrar.

*In the
West
African
Court of
Appeal.*

No. 20.
Grounds of
Appeal,
29th
October
1947.

No. 20.

GROUNDS OF APPEAL.

The Appellants Ettie Spaine Hamed Mohammed Basma John Williams 20 being dissatisfied with the judgment of the Supreme Court of Sierra Leone of His Honour Mr. Justice Wright delivered on the 24th day of May, 1947 and having on the 24th day of October, 1947 obtained final leave to Appeal therefrom hereby Appeal to the West African Court of Appeal upon the grounds hereinafter set forth :—

GROUNDS OF APPEAL.

1. That the alleged contract for the sale of the land the subject of this action and made between the Vendors of the one part and the Purchaser of the other part did not satisfy the requirements of the Statute of Frauds. 30
2. That the learned Trial Judge misdirected himself in holding that the alleged contract was divisible and severable.
3. That the learned Trial Judge was wrong in holding specific performance of an alleged contract for the sale of realty without evidence of the title of the Vendors to such realty.
4. That the purchaser had notice constructive or otherwise that one of the parties to the alleged contract could not and in fact did not enter into a valid and enforceable contract for the sale of the said land.
5. That the learned Trial Judge was wrong in attempting to hold an inquiry into the interests of the Vendors in the said land. 40

6. That there was in the alleged contract for the sale of the said land such a variation as would vitiate the said alleged contract.

Dated this 29th day of October, 1947.

(Sgd.) ETTIE SPAINE.

(Sgd.) H. M. BASMA.

(Sgd.) JOHN WILLIAMS.

} Appellants.

*In the
West
African
Court of
Appeal.*

No. 20.
Grounds of
Appeal,
29th
October
1947,
continued.

To :

The Deputy Registrar,
West African Court of Appeal

10

and

Abdul Karim Basma.

No. 21.

REASONS FOR JUDGMENT.

KINGSLEY, J. (for the Court) : In this case the Appellants appeal from a judgment of the Supreme Court of Sierra Leone dated the 24th of May, 1947, in which Mr. Justice Wright, Acting Puisne Judge, decreed specific performance with abatement of an agreement which the Respondent alleged the Appellants had, on the 29th of November, 1946, made with him for the sale to him of certain premises situate at 2 and 2A Kissy Street, Freetown. The grounds of appeal were six in number but it will suffice for the purposes of this judgment to set out only the first of such grounds. It reads as follows :—

20

“ That the alleged contract for the sale of the land the subject of this action and made between the Vendors of the one part and the purchaser of the other part did not satisfy the requirements of the Statute of Frauds.”

It is to be noted that at the beginning of the trial, learned Counsel for the first three Defendants asked leave to amend their defence by adding the words “ If at all there was such an agreement, which is not admitted, the alleged agreement does not comply with the requirements of the Statute of Frauds ”—learned Counsel for the Plaintiff did not object to the amendment and did not ask for any particulars as to any specific non-compliance with the Statute. The amendment was allowed. If the first ground of appeal fails, then and then only do the other grounds of appeal call for consideration. If on the other hand the first ground of appeal succeeds, then it is clear that the appeal as a whole must succeed.

30

The agreement on which the Respondent relied is contained in Exhibit “ C ” which reads as follows :—

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“ No. 2 and 2A Kissy Street, Freetown. We the undersigned the owners of the above premises hereby agree that we have to-day

No. 21.
Reasons for
Judgment,
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(for the
Court).
25th March
1948.

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Reasons for
Judgment,
Kingsley, J.
(for the
Court),
25th March
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sold the above premises Nos. 2 and 2A Kissy Street, Freetown, to Mr. C. B. Rogers Wright, of 27 Liverpool Street, Freetown, at the price of £1,900, which he has completely paid in three separate sums of £633 6s. 8d. to each of us. We also hereby agree that we will execute the deed of conveyance of the said premises whenever it is prepared and that in the meantime Mr. Wright shall be in possession of the said premises as from date hereof.

“ Dated this 29th day of November, 1946.

“(Sgd.) GLADYS WEEKES

„ HENRIETTA SPAINE 10

„ JOHN KABIA WILLIAMS.”

Mr. Marke for the Appellants has argued that this document does not satisfy the Statute of Frauds in that it does not disclose the principal's name and he referred us to the case of *Lovesy v. Palmer* [1916] 2 Ch. 233. This case is referred to by Luxmoore L.J. in his Judgment in the much later case *Smith-Bird v. Blower* [1939] 2 A.E.R. 407 where, referring to the question of the sufficiency of the memorandum of contract, the learned Judge said :—

“ . . . in this connection it is necessary to determine whether the Defendant was aware that Mr. Brown was acting as Agent only, 20 and not as principal, for, if the Defendant knew that Mr. Brown was only an agent the memorandum, in order to comply with the statutory requirements, must either contain the names of the plaintiffs as principals or otherwise identify them, whereas if the defendant was not aware of the fact that Mr. Brown was acting as agent for anyone, but considered that Mr. Brown was contracting on his own behalf, the position is different, and the plaintiffs as undisclosed principals can rely on any sufficient memorandum in which Mr. Brown's name appears as principal, although there is no reference therein to the plaintiffs.” 30

In his Judgment the learned trial Judge in the case with which we are dealing says (*vide* page 51 of the record) :—

“ There is the evidence of the Plaintiff which I accept, that Mr. Wright was acting on his behalf.”

He then goes on :—

“ Further there was nothing in the contract itself which *would* prevent its enforcement by an undisclosed principal.”

The use of the word “*would*” is, we think, significant. It seems to us that the learned trial Judge was then saying that even if the principal had been undisclosed, the contract would nevertheless have been 40 enforceable by him. He does not, however, seem to have applied his mind to the question whether the principal was in fact disclosed or undisclosed. As this issue has been raised before us as relevant to the determination of the question whether the alleged contract complied with the requirements of the Statute of Frauds, we consider it a matter for decision. Even if the learned trial Judge had decided this question

as a matter of fact, this Court would have been competent to review his decision so long as the principle re-stated by the House of Lords in the case of *Watt (or Thomas) vs. Thomas* [1947] 1 A.E.R. page 528 (Judgment of Lord Thankerton at page 587) is complied with. We are of the opinion that this case is clearly one of a disclosed principal. It is, in our view, abundantly clear whether one looks at the evidence for the Appellants or the Respondent that never for one moment did the former think, to use the words of Luxmoore L.J., that Mr. Rogers Wright was "acting on his own behalf." It follows therefore that the memorandum to enable
 10 the Respondent to sue on it must have contained his name either as a principal or in some other way to identify him. As it clearly fails to do so, we hold that the document Exhibit "C" was not a sufficient memorandum within the Statute of Frauds. The learned trial Judge referred in his Judgment to the case of *Dyster vs. Randall* [1926] 1 Ch. page 932 and learned Counsel for the Respondent seemed to rely upon it. But the point of the decision in that case is that an undisclosed principal can take advantage of a contract entered into by his agent. The point before this Court is whether where a principal is disclosed, he can take advantage of a contract entered into by a person known to be an agent
 20 who did not state on the memorandum the name of the principal or identify him in such document. The appeal is allowed. The Judgment in the Court below is set aside and Judgment will be entered for the Appellants with costs to be taxed. The Court below to carry out. The Appellants will have their costs in this Court same to be taxed.

(Sgd.) J. A. LUCIE-SMITH,

Chief Justice Sierra Leone,
(Presiding Judge).

(Sgd.) E. S. BEOKU-BETTES,

Puisne Judge, Sierra Leone.

30

(Sgd.) H. H. KINGSLEY,

Puisne Judge, Sierra Leone.

25th March, 1948.

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Reasons for
Judgment,
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*In the
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Court of
Appeal.*

No. 22.
Formal
Judgment,
8th April
1948.

No. 22.

FORMAL JUDGMENT.

IN THE WEST AFRICAN COURT OF APPEAL.

Certificate of the Order of the Court in the West African Court of Appeal.

Appeal from the Judgment of His Honour Mr. Justice Emile Claude Wright Acting Judge.

Dated the 25th day of March 1948.

ABDUL KARIM BASMA - - - Plaintiff-Respondent

vs.

GLADYS MURIEL WEEKES and Ors. Defendants-Appellants. 10

THIS Appeal coming on for hearing on the 22nd day of March, 1948 and on this day before their Honours John Alfred Lucie Smith Esquire Chief Justice of Sierra Leone (Presiding Judge) Ernest Samuel Beoku Betts Esquire and Hyman Herbet Kingsley Esquire Puisne Judges of Sierra Leone in the presence of Richard Bright Marke Esquire of Counsel for the Appellants and Cyril Bunting Rogers Wright Esquire of Counsel for the Respondent.

I do hereby certify as follows :—

The appeal is allowed. The Judgment of the Court below is set aside. The Respondents to pay the Appellants their costs in this Court and in 20 the Court below—The Court below to carry out this order.

Given under my hand and the seal of the Court this 8th day of April 1948.

(Sgd.) J. LUCIE-SMITH,
Presiding Judge.

No. 23.

ORDER granting Conditional Leave to appeal to the Privy Council.

Tuesday the 13th day of April, 1948.

No. 23.
Order
granting
Conditional
Leave to
Appeal to
the Privy
Council,
13th April
1948.

UPON READING the Notice of Motion dated the 2nd day of April, 1948 AND UPON HEARING Counsel for the Plaintiff Respondent and 30 for the Defendants Appellants AND UPON READING the affidavit of Abdul Karim Basma filed herein the 3rd day of April, 1948 THIS COURT DOTH ORDER that the Plaintiff Respondent do have conditional leave to appeal to His Majesty the King in His Privy Council that the Plaintiff Respondent within three months from the date of this Order give security to the Deputy Registrar of this Court by Bond in the Plaintiff Respondent himself and two sureties jointly and severally in the sum of £500 to cover all such costs as may be awarded to the Defendants Appellants by His Majesty the King in His Privy Council and give notice of the Appeal 40 to all parties affected by the appeal.

By the Court.

(Sdg.) A. ALHADI,
Registrar.

No. 24.**NOTICE OF APPEAL to the Privy Council.**

TAKE NOTICE that Abdul Karim Basma the above-named Plaintiff Respondent do intend to appeal to His Majesty the King in His Privy Council against the judgment of the West African Court of Appeal delivered on the 25th day of March, 1948.

Dated the 8th day of June, 1948.

(Sgd.) CYRIL BUNTING ROGERS WRIGHT,
of 27, Liverpool Street,
Freetown,
Solicitor for the above-named
Abdul Karim Basma.

10

To Gladys Muriel Weekes,
Ettie Spainé and
John Williams and H. M. Basma
and
Richard Bright Marke, their Solicitor.

*In the
West
African
Court of
Appeal.*

No. 24.
Notice of
Appeal to
the Privy
Council,
8th June
1948.

No. 25.**NOTICE OF MOTION for Final Leave to appeal to the Privy Council.**

20 TAKE NOTICE that this Honourable Court will be moved on Tuesday the 15th day of June, 1948 at 9 o'clock in the forenoon or so soon thereafter as Counsel can be heard by Cyril Bunting Rogers Wright of Counsel on behalf of the Plaintiff Respondent for an Order that the Plaintiff Respondent do have final leave to appeal to His Majesty the King in His Privy Council against the judgment of the West African Court of Appeal delivered the 25th day of March, 1948.

Dated the 9th day of June, 1948.

(Sgd.) C. B. R. WRIGHT,
Plaintiff Respondent's Solicitor.

30 To The Registrar of the West African
Court of Appeal and

To The Defendants Appellants and Richard
Bright Marke Esq. Their Solicitor.

No. 25.
Notice of
Motion for
Final Leave
to Appeal
to the
Privy
Council,
9th June
1948.

*In the
West
African
Court of
Appeal.*

No. 26.

ORDER granting Final Leave to appeal to the Privy Council.

The 13th day of July, 1948.

No. 26.
Order
granting
Final Leave
to Appeal
to the
Privy
Council,
13th July
1948.

UPON MOTION this day made unto Honourable Court by Cyril Bunting Rogers Wright of Counsel on behalf of the Plaintiff Respondent for an Order granting him final leave to appeal to His Majesty the King in His Privy Council AND UPON HEARING the said Cyril Bunting Rogers Wright and Richard Bright Marke of Counsel on behalf of the Defendants Appellants THIS COURT DOTH ORDER that the Plaintiff Respondent do have Final leave to appeal to His Majesty the King in His Privy Council against the judgment of the West African Court of Appeal delivered the 25th day of March, 1948. 10

(Sgd.) A. ALHADI,

Deputy Registrar,
West African Court of Appeal.

EXHIBITS.

*Exhibits.***A.—CHEQUE for £600.**A.
Cheque
for £600,
28th
November
1946.**B.—RECEIPT for £633 6s. 8d. (John Williams).***Re No. 2 & 2A Kissy Street, Freetown.*
£633. 6. 8d.B.
Receipt for
£633 6d. 8d.
(John
Williams),
29th
November
1946.

Received from Mr. C. B. Rogers Wright, of 27 Liverpool Street, Freetown the sum of Six Hundred and Thirty Three Pounds Six Shillings and Eight pence (£633. 6. 8d.) in complete payment of my own one-third share in the purchase price of £1,900 for the above premises at which price I and my sisters Gladys Weekes and Henrietta Spaine the owners have to-day sold the said premises to Mr. C. B. Rogers Wright. The conveyance to be executed when ready.

Dated this 29th day of November, 1946.

(Sgd.) J. K. WILLIAMS.
29/11/46.

Witness :—

MARIE COLE,
27, Liverpool Street.
29/11/46.

20

C.—AGREEMENT, 29th November 1946.*No. 2 and 2A Kissy Street, Freetown.*C.
Agreement,
29th
November
1946.

We the undersigned the owners of the above premises hereby agree that we have to-day sold the above premises Nos. 2 and 2A Kissy Street, Freetown to Mr. C. B. Rogers Wright, of 27, Liverpool Street Freetown at the price of £1,900, which he has completely paid in three separate sums of £633. 6. 8d. to each of us. We also hereby agree that we will execute the deed of conveyance of the said premises whenever it is prepared and that in the meantime Mr. Wright shall be in possession of the said premises as from date hereof.

30 Dated this 29th day of November, 1946.

(Sgd.) GLADYS WEEKES.

(Sgd.) HENRIETTA SPAINE.

(Sgd.) JOHN KABIA WILLIAMS.

*Exhibits.***D.—UNEXECUTED DEED.**D.
Unexecuted
Deed.

THIS INDENTURE made the day of in the year
of Our Lord One Thousand, Nine Hundred and Forty-Six Between
GLADYS CHRISTIANA MURIEL WEEKES of 4, Lake Street, Freetown in the
Colony of Sierra Leone, married woman of the first part, HENRIETTA
SPAINE of 5, Trelawney Street, Freetown, in the Colony aforesaid, married
woman of the second part and JOHN AUGUSTE CLARENCE KABIA WILLIAMS
of 5, Trelawney Street, aforesaid Trader of the third part, and ABDUL
KARIM BASMA of Kissy Street, Freetown, in the Colony aforesaid, Trader,
(hereinafter called the Purchaser) of the fourth part. Whereas the said 10
Gladys Christiana Muriel Weekes, Henrietta Spaine and John Auguste
Clarence Kabia Williams, (hereinafter called the Vendors) are now seised
in fee simple in possession free from incumbrances as tenants in common
in equal shares of the hereditaments and premises described in the
Schedule hereto. And whereas the Vendors have agreed to sell to the
Purchaser the hereditaments and premises described in the Schedule hereto
and the fee simple thereof in possession free from incumbrances at the
price of £1,900. Now this Indenture witnesseth that in pursuance of the
said agreement and in consideration of the respective sums of £633. 6s. 8d.,
before the execution of these presents paid by the Purchaser to each of 20
the Vendors making together the said purchase price of £1,900 (the receipt
of which sums the Vendors hereby respectively acknowledges) each of the
Vendors as to his or her undivided one-third share or interest in the said
hereditaments and premises and as Beneficial owner, hereby conveys unto
the Purchaser All that the hereditaments and premises described in the
Schedule hereto To hold the same Unto and to the use of the Purchaser
in fee simple. In witness whereof the Vendors have hereunto set their
hands and Seals the day and year first above written.

THE SCHEDULE herein referred to.

All that piece or parcel of land messuage and hereditaments situate, 30
lying and being at the corner of Kissy Street and Garrison Street, in
Freetown in the Colony aforesaid and Bounded on the North-West by
Garrison Street, aforesaid, Fifty-seven feet four inches, on the South by
Kissy Street aforesaid, Sixty-six feet and on the South-East by property
now or lately in the possession or occupation of Mustapha Safiedeen,
Thirty-five feet four inches (35' 4") and Twenty feet six inches (20' 6")
respectively and delineated on the plan drawn and attached to these
presents and therein edged Red or howsoever otherwise the same may be
bounded known distinguished or described Together with the buildings
thereon erected and the appurtenances thereunto belonging which said 40
hereditaments and premises are numbered 2 and 2 (a) by the Municipal
Council of Freetown, aforesaid for the purpose of rates.

Signed Sealed and Delivered by the }
within-named Gladys Christiana Muriel }
Weekes in the presence of :— }

Signed Sealed and Delivered by the }
within-named Henrietta Spaine in the }
presence of :— }

Signed Sealed and Delivered by the }
 within-named John Auguste Clarence }
 Kabia Williams in the presence of :— }

Exhibits.
 —
 D
 Unexecuted
 Deed
continued.

This Deed was this day produced and acknowledged by Gladys Christiana Muriel Weekes therein-named to be her act and deed previous to which acknowledgment the said Gladys Christiana Muriel Weekes was examined by me separately and apart from her husband touching her knowledge of the contents of the said deed and her consent thereto and declared the sale to be freely and voluntarily executed by her.

10 Dated this day of 1946.

Chief Justice.

This Deed was this day produced before me and acknowledged by Henrietta Spaine therein-named to be her act and deed previous to which acknowledgment the said Henrietta Spaine was examined by me separately and apart from her husband touching her knowledge of the contents of the said deed and her consent thereto and declared the sale to be freely and voluntarily executed by her.

Dated this day of 1946.

Chief Justice.

20 E.—RECEIPT for £633 6s. 8d. (Mrs. Spaine).

Re No. 2 and 2A Kissy Street, Freetown.

£633. 6s. 8d.

Received from Mr. C. B. Rogers Wright, of 27, Liverpool Street, Freetown the sum of Six hundred and Thirty Three Pounds Six Shillings and Eight pence (£633. 6. 8) in complete payment of my own one-third share in the purchase price of £1,900 for the above premises at which price I and my brother John Williams and sister Gladys Weekes the owners have to-day sold the said premises to Mr. C. B. Rogers Wright. The conveyance to be executed when ready.

E.
 Receipt for
 £633 6s. 8d.
 (Mrs.
 Spaine),
 29th
 November
 1946.

30 Dated this 29th day of November, 1946.

(Sgd.) HENRIETTA SPAINE.

29/11/46.

Witness :—

A. E. WILLIAMS,
 122, Circular Road,
 Clerk to C. B. Rogers Wright.

*Exhibits.***F.—RECEIPT for £633 6s. 8d. (Gladys Weekes).**

F.
 Receipt for
 £633 6s. 8d.
 (Gladys
 Weekes),
 29th
 November
 1946.

Re No. 2 and 2A Kissy Street, Freetown.

Received from Mr. C. B. Rogers Wright, of 27 Liverpool Street, Freetown the sum of Six Hundred and Thirty Three Pounds Six Shillings and Eight Pence (£633. 6. 8d.) in complete payment of my own one-third share in the purchase price of £1,900 for the above premises at which price I and my brother John Williams and sister Henrietta Spaine the owners have today sold the said premises to Mr. C. B. Rogers Wright. The Conveyance to be executed when ready.

10

Dated this 29th day of November, 1946.

(Sgd.) GLADYS WEEKES.

29/11/46.

Witness :—

ALFRED WILLIAMS,
 122 Circular Road,
 Clerk to C. B. Rogers Wright.

G.

Letter to
 Appellant's
 Solicitor,
 28th
 November
 1946. . .

G.—LETTER to Appellant's Solicitor.

Turace House,
 4, Lake Street,
 Freetown.

20

28th Nov. 1946

Dear Mr. Wright,

We have agreed to sell to Mr. H. M. Basma, the property at No. 2 and 2A Kissy Street for the sum of £1,950 (One thousand Nine hundred and Fifty Pounds).

We have received full payment of this amount.

(Sgd.) G. M. WEEKES.

(Sdg.) LLOYD SPAIN for
 ETTIE SPAINE.

30

(Sgd.) J. KABIA WILLIAMS.

(Sgd.) ETTIE SPAINE.

(Sgd.) BANKOLE WEEKES.

H.—CHEQUE for £633 6s. 8d. (Gladys Weekes).

N61/G15037

Freetown 29th Nov. 1946.

**BARCLAYS BANK (DOMINION COLONIAL AND
OVERSEAS).**

formerly

THE COLONIAL BANK.**FREETOWN, SIERRA LEONE.**

PAY Gladys Weekes—Six hundred and Thirty-three pounds six shillings and eight pence only.

10 £633. 6. 8d.

(Sgd.) C. B. ROGERS WRIGHT.

Exhibits.

H.
Cheque for
£633 6s. 8d.
(Gladys
Weekes),
29th
November
1946.

J.—CHEQUE for £633 6s. 8d. (Mrs. Spaine).

No. 61/G15036

Freetown 29th Nov. 1946.

**BARCLAYS BANK (DOMINION COLONIAL AND
OVERSEAS).**

formerly

THE COLONIAL BANK, FREETOWN, SIERRA LEONE.

PAY Henrietta Spaine—Six hundred and thirty-three pounds six shillings and eight pence only.

£633. 6. 8d.

(Sgd.) C. B. R. WRIGHT.

J.
Cheque for
£633 6s. 8d.
(Mrs.
Spaine),
29th
November
1946.

Exhibits.

K.—BANK PAYING-IN SLIP, Account Wright.

K.
Bank's
Paying-in
slip
a/c. Wright,
4th
December
1946.

BARCLAYS BANK (DOMINION COLONIAL AND OVERSEAS).
formerly
THE COLONIAL BANK.
FREETOWN BRANCH.

4.12.46.

Credit C. B. Rogers Wright

Currency Notes	£1	633	—	—	633	—	—
do.	10/-						10
<hr/>							
Alloy Coin—							
	2/-						
	1/-		6				
	6d.						
	3d.						
Silver							
Nickel							
Postal Orders		—	—	8		6	8
<hr/>							
Paid in by J. B. K. Williams					633	6	8

L.—DEED OF CONVEYANCE to H. M. Basma.

Exhibits.

L.
Deed of
Conveyance
to H. M.
Basma,
2nd
December
1946.

THIS INDENTURE made the 2nd day of December in the year of Our Lord One thousand nine hundred and forty-six BETWEEN JOHN ERNEST BANKOLE WEEKES of 4 Lake Street and GLADYS MURIEL WEEKES née Williams his wife, LLOYD G. SPAINE of 5, Trelawney St. and ETTIE SPAINE née Williams his wife and JOHN KABIA WILLIAMS of 5, Trelawney Street all of Freetown in the Colony of Sierra Leone (hereinafter referred to as the Vendors) of the one part and HAMED MOHAMMED BASMA of 2 Kissy Street Freetown in the Colony aforesaid

10 Trader (hereinafter referred to as the Purchaser) of the other part WHEREAS Jacob Jenkins Johnson late of 52 Westmoreland Street in Freetown aforesaid was seised in fee simple in possession of the lands and tenements intended to be hereby granted and conveyed and hereinafter more fully defined and described AND WHEREAS the said Jacob Jenkins Johnson (hereinafter referred to as the Testator) duly made and executed his Last Will and Testament bearing date the 23rd day of May 1918 in which he devised the said lands and tenements unto his Executors and Trustees therein named in Trust for his daughter Nancy Rebecca Williams and her children as tenants in common AND WHEREAS the Testator died

20 on the 20th day of November, 1918 without revoking the said Will and without parting with the ownership and possession of the said lands and tenements Probate of which will was on the 24th day of December 1918 granted by the Supreme Court of the Colony aforesaid to the Executors therein named AND WHEREAS on the 23rd day of July 1921 the Executors and Trustees by Deed of Release bearing the above-named date did release and convey the legal estate in the said lands and tenements to the said Nancy Rebecca Williams and her husband Henry T. Williams AND WHEREAS the said Nancy Rebecca Williams and three children namely Gladys Muriel Weekes née Williams, Ettie Spaine née Williams and John

30 Kabia Williams AND WHEREAS the said Nancy Rebecca Williams died on the 11th day of April, 1930 and the said Henry T. Williams died on the 8th day of September 1934 AND WHEREAS on the death of the said Nancy Rebecca Williams as aforesaid her said children Gladys Muriel Weekes, Ettie Spaine and John Kabia Williams entered into possession of the said lands and tenements and have been receiving the rents and profits up to the present time AND WHEREAS the Vendors have agreed with the Purchaser for the absolute sale to him in fee simple in possession free from incumbrances of the said lands and tenements at the price of One thousand nine hundred and fifty pounds NOW THIS INDENTURE

40 WITNESSETH that in pursuance of the said agreement and in consideration of the sum of ONE THOUSAND NINE HUNDRED AND FIFTY POUNDS paid by the Purchaser to the Vendors (the receipt of which the Vendors collectively and each of them individually hereby acknowledge) They the Vendors as beneficial owners hereby grant and convey to the Purchaser and his heirs ALL THAT piece or parcel of land situate lying and being at Kissy Street in Freetown aforesaid and numbered 2 and 2A by the Municipal Council of Freetown for the payment of rates and bounded on the north by Garrison Street fifty-seven feet six inches on the south by Kissy Street aforesaid sixty-five feet on the east by properties in the

50 respective possession of M. Sabra and M. S. Deed thirty-five feet nine inches and twenty-one feet six inches respectively and on the west by Garrison Street aforesaid All which said premises are with the boundaries

Exhibits.
 L.
 Deed of
 Conveyance
 to H. M.
 Basma,
 2nd
 December
 1946,
continued.

and abuttals thereof delineated in the plan attached to these presents and therein coloured red To HOLD the same UNTO AND TO THE USE of the Purchaser in fee simple and the said John Ernest Bankole Weekes and Lloyd Spaine by executing this Conveyance individually abandon and release whatever marital or other rights they might have had or have in the said lands and tenements and hereby as Trustees with the consent and approval of the said Gladys Muriel Weekes and Ettie Spaine convey the Legal estate of the undivided shares of the said Gladys Muriel Weekes and Ettie Spaine to the said Purchaser. IN WITNESS whereof the Vendors have hereunto set their hands and Seals the day and year first above 10 written.

(Sgd.) J. BANKOLE WEEKES (L.S.)
 (Sgd.) GLADYS M. WEEKES
 Née Williams (L.S.)
 (Sgd.) LLOYD GEORGE SPAINE (L.S.)
 (Sgd.) ETTIE SPAINE (L.S.)
 (Sgd.) JOHN KABIA WILLIAMS (L.S.)

SIGNED SEALED and DELIVERED in the }
 presence of

? ? GRIFFIN,
 26, Lewis Street, Freetown,
 Law Clerk.

20

This Deed marked "A" was this day produced before me and acknowledged by Gladys Muriel Weekes née Williams the wife of John Ernest Bankole Weekes therein named, and Ettie Spaine née Williams the wife of Lloyd George Spaine therein named to be their respective act and deed previous to which acknowledgment the said Gladys Muriel Weekes and Ettie Spaine were examined by me separately and apart from their respective husbands touching their knowledge of the contents of the said deed, and their consent thereto and declare the same to be 30 freely and voluntarily executed by them.

Dated the 16th day of December, 1946.

(Sgd.) E. S. BEOKU-BETTS,
 Acting Chief Justice.

No. 632/22636/46. This instrument was proved by the testimony of Henry Thomas Griffin, within named to be the respective act and deed of John Ernest Bankole Weekes, Gladys Muriel Weekes née Williams, Lloyd Spaine, Ettie Spaine née Williams and John Kabia Williams, within named before me this 16th day of December, A.D. 1946 at 2.30 o'clock in the afternoon.

40

(Sgd.) E. J. McCORMACK,
 Deputy Registrar-General for
 the Colony of Sierra Leone.

This instrument is registered as No. 632 at page 61 of volume 153 of the Books of Conveyance kept in the office of the Registrar-General at Freetown.

(Sgd.) E. J. McCORMACK,
 Deputy Registrar-General.

In the Privy Council.

ON APPEAL FROM THE WEST AFRICAN COURT OF APPEAL.

BETWEEN

ABDUL KARIM BASMA - - - - - *Appellant*

AND

GLADYS MURIEL WEEKES and Others - - - *Respondents*

RECORD OF PROCEEDINGS.

LAWRENCE JONES & CO.,
WINCHESTER HOUSE,
OLD BROAD STREET, E.C.2.
Solicitors for the Appellant.

CREE, GODFREY & WOOD,
13 GRAY'S INN SQUARE, W.C.1,
Solicitors for the Respondents.