

~~G.H.S. 12~~

7, 1953

No. 21 of 1951.

**In the Privy Council.**

33480

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**ON APPEAL**  
**FROM THE COURT OF APPEAL OF THE COLONY OF SINGAPORE,**  
**ISLAND OF SINGAPORE.**

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UNIVERSITY OF LONDON  
W.C.1.  
FEB, 1954  
INSTITUTE OF ADVANCED  
LEGAL STUDIES

Appeal No. 21 of 1949.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS, deceased.

BETWEEN

ISAAC PENHAS (Defendant) - - - - *Appellant*

AND

TAN SOO ENG (Plaintiff) - - - - *Respondent.*

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**RECORD OF PROCEEDINGS**

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Strand, W.C.2,  
*Solicitors for the Appellant.*

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1 Gray's Inn Square,  
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*Solicitors for the Respondent.*

# In the Privy Council.

## ON APPEAL

FROM THE COURT OF APPEAL OF THE COLONY OF SINGAPORE,  
ISLAND OF SINGAPORE.

Appeal No. 21 of 1949.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS deceased.

BETWEEN

ISAAC PENHAS (Defendant) . . . . . *Appellant*

AND

TAN SOO ENG (Plaintiff) . . . . . *Respondent.*

# RECORD OF PROCEEDINGS

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# In the Privy Council.

## ON APPEAL

FROM THE COURT OF APPEAL OF THE COLONY OF  
SINGAPORE, ISLAND OF SINGAPORE.

Appeal No. 21 of 1949.  
Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS deceased.

BETWEEN

10 ISAAC PENHAS (Defendant) . . . . . *Appellant*

AND

TAN SOO ENG (Plaintiff) . . . . . *Respondent.*

# RECORD OF PROCEEDINGS

No. 1.

CAVEAT.

IN THE HIGH COURT OF THE STRAITS SETTLEMENTS.

Settlement of Singapore.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS deceased.

20 LET nothing be done in the goods of Abraham Penhas late of Singapore, deceased, who died on or about the 9th day of March, 1942, at Singapore, unknown to Isaac Penhas of 36, Yusop Building, Churchgate Street, Fort, Bombay, India, having interest.

Dated this 26th day of February 1946.

(Sgd.) CHAN, LAYCOCK & ONG,

Solicitors for the above-named ISAAC PENHAS.

Address for service: C/o Messrs. Chan, Laycock and Ong, Nunes Building, Malacca Street, Singapore.

*In the High Court of the Straits Settlements.*

No. 1.  
Caveat by Appellant,  
26th February 1946.

*In the High  
Court of the  
Straits  
Settle-  
ments.*

No. 2.  
Caveat by  
Respon-  
dent, 27th  
March  
1946.

No. 2.  
CAVEAT.

IN THE HIGH COURT OF THE STRAITS SETTLEMENTS.  
Settlement of Singapore.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS (Deceased).

To the Honourable THE JUDGES OF THE SUPREME COURT,  
Singapore.

LET nothing be done in the goods of Abraham Penhas late of No. 26 Pierce Road, Singapore, deceased, who died on or about the 5th day 10 of March 1942 at the Detective Station, Singapore, unknown to Tan Soo Eng of No. 26 Pierce Road, Singapore, the lawful widow of the said Abraham Penhas, Deceased, having interest.

Dated this 27th day of March, 1946.

(Sgd.) DA SILVA, OEHLERS & CHOA,

Solicitors for TAN SOO ENG.

The address for service is C/o Messrs. Da Silva, Oehlers and Choa of No. 20 Malacca Street, Singapore, Solicitors.

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ADMINISTRATION OATH.

IN THE HIGH COURT OF THE STRAITS SETTLEMENTS.  
Settlement of Singapore.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS (Deceased).

We, TAN SOO ENG and LIM PANG KIAT swear that we will faithfully administer the Estate and Effects of Abraham Penhas, Deceased by paying his debts so far as such Estate and Effects will extend and the law requires and distributing the residue of such Estate and Effects according to law, and that we will render a just account of our administration when we shall be thereto lawfully required.

SO HELP US GOD.

Sworn to at Singapore this            day of  
March, A.D. 1946, through the interpretation of  
a sworn Interpreter of the Court. The  
said  
20 having first truly, distinctly and audibly read over the contents of this  
Petition to the deponent who seemed perfectly to understand the same and who made her mark hereto in my presence. The deponent having been identified by Ahmad Shah Clerk to Messrs. Da Silva, Oehlers and Choa, who is personally known to me.

Before me,

A Commissioner to take Oaths.

30 Sworn to at Singapore this            day  
of March, A.D. 1946 by the above-named Lim Pang Kiat. The deponent having been identified by Ahmad Shah, Clerk to Messrs. Da Silva, Oehlers and Choa, who is personally known to me.

Before me,

A Commissioner to take Oaths.

*In the High Court of the Straits Settlements.*

No. 3.  
Administration Oath,  
March 1946.



*In the High  
Court of the  
Straits  
Settle-  
ments.*

No. 4.

PETITION FOR LETTERS OF ADMINISTRATION.

IN THE HIGH COURT OF THE STRAITS SETTLEMENTS.  
Settlement of Singapore.

No. 4.  
Petition of  
Respondent for  
Letters of  
Administra-  
tion, 8th  
April 1946.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS (Deceased).

To The Honourable THE JUDGES OF THE HIGH COURT,  
Singapore.

THE PETITION of TAN SOO ENG of No. 26 Pierce Road,  
Singapore, Widow. 10

SHEWETH :—

1. Abraham Penhas who resided at No. 26 Pierce Road, Singapore, died intestate on or about the 5th day of March 1942 at the Detective Station, Singapore, domiciled in Singapore.

2. The whole of the estate and effects of the deceased moveable and immoveable within the jurisdiction of the Court, exclusive of what he may have been possessed of or entitled to as a trustee for any other person or persons and not beneficially, and without deducting anything on account of the debts due and owing from him, other than the principal of any mortgage debt secured upon any immoveable property exceeds in 20 value the sum of Dollars One thousand (\$1,000-00) to the best of the Petitioner's knowledge, information and belief.

3. The said Abraham Penhas, deceased, who was a British subject and a Jew died intestate leaving him surviving the Petitioner his lawful widow and two children namely, Lency (f) (6½ years old) and Honglet (son) (4 years old) as his next-of-kin.

4. The Petitioner is the only lawful widow of the said Abraham Penhas, deceased.

5. There are minority interests in the estate of the said Abraham Penhas, deceased, that is, 30

(A) The said Lency, aged 6½ years, a lawful daughter

(B) The said Honglet, aged 4 years, a lawful son.

6. The Petitioner desires that Lim Pang Kiat of No. 2 Upper Circular Road, Singapore, Merchant, be appointed Co-Administrator with her of the estate of the said deceased. The consent in writing of the said Lim Pang Kiat so to be appointed is hereto annexed.

BE IT SO

The Petitioner prays that Letters of Administration of the Estate and Effects of Abraham Penhas, deceased, may be granted to her as the lawful widow of the above-named 40 deceased and to Lim Pang Kiat as Co-Administrator.

Registrar.

The address for service of the Petitioner is c/o Messrs. Da Silva, Oehlers and Choa, of No. 20 Malacca Street, Singapore, Solicitors.

*In the High Court of the Straits Settlements.*

X Mark of Tan Soo Eng.

I, TAN SOO ENG, the Petitioner make oath and say that the statements contained in the foregoing Petition are to the best of my knowledge, information and belief in all respects true.

No. 4.  
Petition of Respondent for Letters of Administration, 8th April 1946, *continued.*

10 Sworn to at Singapore this 8th day of April A.D. 1946, through the interpretation of (Sgd.) C. M. Wong a sworn Interpreter of the Court. The said C. M. Wong having first truly, distinctly and audibly read over the contents of this Petition to the deponent who seemed perfectly to understand the same and who made her mark hereto in my presence. The deponent having been identified by Ahmad Shah Clerk to Messrs. Da Silva, Oehlers and Choa, who is personally  
20 known to me

Mark of X Tan Soo Eng.

Before me,

(Sgd.) E. TOON HEE,

A Commissioner to take Oaths.

No. 5.

CONSENT OF LIM PANG KIAT.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE,  
Island of Singapore.

*In the High Court of the Colony of Singapore.*

Probate No. 119 of 1946.

No. 5.  
Consent of Lim Pang Kiat to act as Co-administrator, 8th April 1946.

IN THE ESTATE of ABRAHAM PENHAS deceased.

30 WHEREAS ABRAHAM PENHAS, deceased, late of No. 26 Pierce Road, Singapore died intestate in March 1942 at the Detective Station, Singapore.

Now I, LIM PANG KIAT of No. 2 Upper Circular Road, Singapore, Merchant, hereby consent to be appointed Co-administrator with TAN SOO ENG, the lawful widow of the said Abraham Penhas of the estate of the above-named deceased.

Dated this 8th day of April, A.D. 1946.

Signed by the above-named Lim Pang Kiat in the presence of } (Sgd.) LIM PANG KIAT.

40 (Sgd.) ERIC CHOA,  
Solicitor,  
Singapore.

*In the High  
Court of the  
Colony of  
Singapore.*

No. 6.  
Notice of  
Caveat,  
2nd May  
1946.

No. 6.

**NOTICE OF CAVEAT.**

**IN THE HIGH COURT OF THE COLONY OF SINGAPORE.**  
Island of Singapore.

Probate No. 119 of 1946.

**IN THE ESTATE of ABRAHAM PENHAS, deceased.**

**NOTICE OF CAVEAT.**

TAKE NOTICE that a Caveat has been filed on 26th day of February 1946 by Messrs. Chan, Laycock & Ong on behalf of Isaac Penhas of 36 Yusop Building, Churchgate Street, Fort, Bombay, India, a person 10 having interest in the above estate.

Dated this 2nd May 1946.

(Sgd.) [Illegible,]

Dy. Registrar.

Messrs. Da Silva Oehlers & Choa,  
Advocates & Solicitors,  
Singapore.

No. 7.  
Citation,  
3rd May  
1946.

No. 7.

**CITATION.**

**IN THE HIGH COURT OF THE COLONY OF SINGAPORE.**  
Island of Singapore.

20

Probate No. 119 of 1946.

**IN THE ESTATE of ABRAHAM PENHAS (Deceased).**

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

To : Isaac Penhas, of 36 Yusop Building, Churchgate Street, Fort, Bombay, India, and to his Solicitors, Messrs. Chan, Laycock & Ong, (L.S.) Singapore.

Whereas Tan Soo Eng of No. 26 Pierce Road, Singapore, Widow, has presented a Petition to Our High Court at Singapore, praying for a Grant of Letters of Administration of the Estate and Effects of the said Abraham Penhas Deceased to her as the lawful widow of the said deceased and to Lim Pang Kiat as Co-Administrator.

And whereas it appears by a Caveat filed herein on your behalf that you claim to be interested in the above estate.

Messrs. DA SILVA, OEHLERS & CHOA or their clerk AHMAD SHAH is at liberty to serve the Citation herein.  
Dated this 3rd day of May, 1946.  
(Sgd.) C. F. J. Ess,  
Registrar.

Now this is to command you that, within eight (8) days after service hereof inclusive of the day of such service, you do enter or cause to be entered an appearance for you in Our said Court, and show cause why such Letters of Administration should not be granted to the said Tan Soo Eng and the said Lim Pang Kiat, and take notice that, in default of your so appearing and showing cause in Our said Court within the said eight (8) days, you will be deemed to have renounced all right and title to such Grant of Letters of Administration and Our said Court will make such grant to the said Tan Soo Eng and the said Lim Pang Kiat or such other person as may seem expedient, your absence notwithstanding.

*In the High Court of the Colony of Singapore.*

No. 7.  
Citation,  
3rd May  
1946,  
*continued.*

Witness, The Honourable Mr. Justice CHARLES WILLIAM VICTOR CAREY, Acting Chief Justice of the Colony of Singapore the 3rd day of May, 1946.

(Sgd.) C. F. J. ESS,

Registrar.

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N.B.—This citation is to be served with 12 calendar months from the date hereof.

The said Isaac Penhas may appear hereto by entering an appearance either personally or by Solicitor at the Registry of the Supreme Court at Singapore.

This citation was issued by Messrs. DA SILVA, OEHLERS & CHOA, of No. 20 Malacca Street, Singapore, Solicitors for the said TAN SOO ENG.

This citation was served on \_\_\_\_\_ by me  
this \_\_\_\_\_ day of \_\_\_\_\_ 1946.

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*In the High Court of the Colony of Singapore.*

**No. 8.  
ORDER OF COURT.**

No. 8.  
Order,  
25th June  
1946.

**IN THE HIGH COURT OF THE COLONY OF SINGAPORE.**  
**Island of Singapore.**

**Probate 1946 No. 119.**

**IN THE ESTATE of ABRAHAM PENHAS, deceased.**

(L.S.) **Before The Honourable THE CHIEF JUSTICE. In Open Court.**

UPON the Petition of Tan Soo Eng dated the 8th day of April, 1946 and preferred unto this Court and upon hearing Counsel for the Petitioner and for Isaac Penhas, the Caveator being a person duly served with Citation herein, and upon reading the said Petition and by Consent **THIS COURT DOTH ORDER** that an issue be tried whether or not the above-named Abraham Penhas, who resided in Singapore, is or is not dead and if so when he died **AND THIS COURT DOTH FURTHER ORDER** that the further hearing of the said Petition be adjourned until after the determination of the said issue hereinbefore ordered. 10

Dated this 25th day of June, 1946.

(Sgd.) C. F. J. ESS,  
Ag. Registrar.

No. 9.  
Affidavit  
of Evan  
Nuttall  
Taylor,  
11th  
December  
1946.

**No. 9.  
AFFIDAVIT OF EVAN NUTTALL TAYLOR.**

20

**IN THE HIGH COURT OF THE COLONY OF SINGAPORE.**  
**Island of Singapore.**

**Probate No. 119 of 1946.**

**IN THE ESTATE of ABRAHAM PENHAS (Deceased).**

and

**IN THE MATTER of an Issue**

Between **TAN SOO ENG . . . . . Plaintiff**

and

**ISAAC PENHAS . . . . . Defendant. 30**

I, **EVAN NUTTALL TAYLOR**, of 18, Ridley Park, Singapore, Official Assignee of this Honourable Court, make oath and say as follows :—

1. I am Custodian of Enemy Property for the Colony and have in my office a number of files containing correspondence conducted by and with the Japanese Custodian of Enemy Property during the period of enemy occupation.

2. On the 3rd December, 1946, a Subpœna to produce the Japanese File No. 725 of 2602 was served on me.

*In the High Court of the Colony of Singapore.*

3. On the same day I received a letter from Messrs. Chan, Laycock & Ong, the solicitors for the party at whose instance the said subpœna was issued, explaining that they desired to use in the proceedings a letter from one Tan Soo Eng dated 15th June, 2602, and a letter from her solicitors, Mr. K. P. K. Menon, dated 31st August, 1942.

No. 9.  
Affidavit  
of Evan  
Nuttall  
Taylor,  
11th  
December  
1946,  
*continued.*

4. I examined the said file for the first time on that day. It has been dormant for a long time.

10 5. I object, on grounds of public policy, to produce the file.

6. The letter of 15th June, 2602, is the first letter on the file. It is signed with a thumb print which is not very clear but might be identifiable. To avoid risk of damage to the finger print I have retained the original in a safe in my Chambers and annex to this Affidavit a certified copy marked " A " (see Exhibit D.2 p. 134). I will produce the original if and when the Court so directs. The original of the letter of 31st August, 2602, is hereunto annexed and marked " B " (see Exhibit D.9 p. 132). I know Mr. Menon's handwriting from official correspondence over some years and I am satisfied that the signature is his.

20 7. So far as I can judge both these letters were received by the Japanese Custodian in the ordinary course.

Sworn at Singapore this 11th day of  
December, 1946, by the said Evan  
Nuttall Taylor

(Sgd.) E. N. TAYLOR.

Before me,

(Sgd.) H. A. FORRER (L.S.)

A Commissioner for Oaths.

*In the High Court of the Colony of Singapore.*

**No. 10.  
JUDGMENT.**

No. 10.  
Judgment,  
30th  
January  
1947.

**IN THE HIGH COURT OF THE COLONY OF SINGAPORE.  
Island of Singapore.**

**Probate No. 119 of 1946.**

**IN THE ESTATE of ABRAHAM PENHAS (Deceased)  
and**

**(L.S.) IN THE MATTER of an Issue**

**Between TAN SOO ENG . . . . . Plaintiff**

**and**

**10**

**ISAAC PENHAS . . . . . Defendant.**

**30th January, 1947.**

The Issue directed by the Order made herein and dated the 25th day of June, 1946 to be tried before this Court coming on for trial this day before The Honourable Mr. Justice Charles Murray Murray-Aynsley, Chief Justice, in the presence of Counsel for the above-named Plaintiff on the said Issue and for the above-named Defendant on the said Issue and upon hearing the evidence adduced and what was alleged by Counsel as aforesaid **THIS COURT DOTH DECLARE** that the above-named Abraham Penhas, who resided in Singapore, is dead and that he died on or after the 10th day of March, 1942 **AND THIS COURT DOTH ORDER** that the costs of the above-named Plaintiff on the said Issue and of the above-named Defendant on the said Issue of and incidental to the said Issue be taxed as between Solicitor and Client and be paid out of the estate of the above-named Abraham Penhas deceased. **20**

Entered this 10th day of February, 1947 in Volume XLIX Page 379 at 11 a.m.

(Sgd.) **FORRER,**  
Registrar.



No. 11.  
ORDER OF COURT.

*In the High  
Court of the  
Colony of  
Singapore.*

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.  
Island of Singapore.

No. 11.  
Order,  
3rd March  
1947.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS deceased.

(L.S.)

Before The Honourable THE CHIEF JUSTICE. In Open Court.

UPON the adjourned Petition of Tan Soo Eng dated the 8th day  
10 of April, 1946, and preferred unto this Court and UPON HEARING  
Counsel for the Petitioner and for Isaac Penhas, the Caveator being a  
person duly served with Citation herein, and UPON READING the said  
Petition and the judgment delivered by this Court on the 30th day of  
January 1947 in this matter and By Consent THIS COURT DOTH  
ORDER that the following issues be tried between the said Petitioner  
and the Caveator namely whether the Petitioner Tan Soo Eng is or is  
not the lawful widow of Abraham Penhas and if the answer is in the  
affirmative when the said Tan Soo Eng married the said Abraham Penhas  
AND IT IS FURTHER ORDERED that the said Tan Soo Eng be the  
20 Plaintiff on the said issues and the said Isaac Penhas be the Defendant  
on the said issues AND IT IS FURTHER ORDERED that the said  
Tan Soo Eng do file Particulars in the nature of a Statement of Claim  
on the said Isaac Penhas within 21 days from the date hereof and that  
the said Isaac Penhas do file Particulars in the nature of a Defence to  
the said particulars in the nature of a Statement of Claim within 15 days  
from the filing of the said Particulars in the nature of a Statement of  
Claim and that thereafter this matter do proceed in this Court as a Civil  
Action AND THIS COURT DOTH LASTLY ORDER that the further  
hearing of the said Petition be adjourned until after the determination  
30 of the said Issues hereinbefore ordered to be tried and that the costs of  
and incidental to this application be costs in the cause.

Dated this 3rd day of March 1947.

(Sgd.) TAN THOON LIP,

Dy. Registrar.

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*In the High  
Court of the  
Colony of  
Singapore.*

No. 12.  
Statement  
of Claim,  
19th  
April 1947.

No. 12.

STATEMENT OF CLAIM.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.

Island of Singapore.

Probate No. 119 of 1946.

Suit No. of 1947.

IN THE ESTATE of ABRAHAM PENHAS (Deceased)

Between TAN SOO ENG (Widow) . . . . Plaintiff

and

ISAAC PENHAS . . . . Defendant.

1. The Plaintiff is a Chinese and a British Subject and the above- 10  
named Abraham Penhas deceased was a Jew and a British subject.

2. The Plaintiff is the lawful widow of the above-named Abraham  
Penhas deceased (hereinafter called " the Deceased ") having been married  
to him at No. 508 Sims Avenue, Singapore, according to Chinese rites on  
or about the 25th day of December 1937.

3. After the said marriage the Plaintiff lived and cohabited with  
the said deceased as his wife at No. 508 Sims Avenue, Singapore.

4. The deceased died on or after the 10th day of March 1942 leaving  
him surviving the Plaintiff, his lawful widow and two lawful children,  
a daughter Lency and a son Honglet. 20

5. The said Lency was born on the 12th day of September 1938  
and her birth was duly registered in the Singapore Municipal Registration  
Centre on the 8th October 1938. She was baptised into the Christian  
Faith at the Christian Chinese Church, No. 142 Prinsep Street, Singapore.

6. The said Honglet was born on the 16th day of January 1941  
and his birth was duly registered in the Singapore Municipal Registration  
Centre on the 13th day of February 1941. He was baptised into the  
Christian Faith at the Christian Chinese Church, No. 142 Prinsep Street,  
Singapore, with the Consent of the deceased.

7. On the 9th day of April 1946 the Plaintiff filed in this Court a 30  
Petition for Letters of Administration of the Estate and Effects of the  
deceased in Probate No. 119 of 1946.

8. The Plaintiff craves leave to refer to the said Petition and to  
the Order of Court made therein on the 3rd day of March 1947, copies  
whereof are hereto annexed and marked " A " and " B " (see pp. 4 and 11)  
respectively.

9. The Plaintiff claims that she is entitled to Letters of Administration  
as the lawful widow of the deceased and to all such further and other  
relief as to this Honourable Court shall seem just.

Dated and delivered this 19th day of April, 1947.

40

(Sgd.) DA SILVA, OEHLERS & CHOA,

Solicitors for Tan Soo Eng the  
above-named Plaintiff.

No. 13.  
DEFENCE.

*In the High  
Court of the  
Colony of  
Singapore.*

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.  
Island of Singapore.

Probate No. 119 of 1946.

No. 13.  
Defence,  
13th May  
1947.

IN THE ESTATE of ABRAHAM PENHAS deceased.

Between TAN SOO ENG . . . . . Plaintiff

and

ISAAC PENHAS . . . . . Defendant.

10 1. With regard to paragraph 1 of the Statement of Claim on the Issue which the Statement of Claim was dated and delivered on the 19th day of April, 1947, the Defendant on the Issue admits that the above-named Abraham Penhas was a Jew by race and by religion and that he was a British subject. This Defendant does not admit any other allegation contained in paragraph 1 of the Statement of Claim.

2. This Defendant denies each and every the allegations contained in paragraph 2 of the said Statement of Claim.

3. This Defendant denies each and every the allegations contained in paragraph 3 of the Statement of Claim.

20 4. This Defendant admits that this Honourable Court has on the 10th day of February, 1947 adjudged and declared that the said Abraham Penhas died on or after the 10th day of March, 1942. Save and except as aforesaid this Defendant denies each and every the allegations contained in paragraph 4 of the Statement of Claim.

5. This Defendant denies each and every the allegations contained in paragraph 5 of the Statement of Claim.

6. This Defendant denies each and every the allegations contained in paragraph 6 of the Statement of Claim.

7. This Defendant admits paragraph 7 of the Statement of Claim.

30 8. With regard to paragraph 8 of the Statement of Claim, this Defendant admits the making of the Order of Court of the 3rd day of March, 1947 therein referred to but he denies each and every the allegations contained in the said Petition and he says that the fact that such Petition was referred to in the said Order of Court does not in any way amount to a verification or adoption or recognition of the truth of the averments contained in the said Petition or any of them.

9. This Defendant puts in issue the claims made in paragraph 9 of the said Statement of Claim.

Dated and delivered this 13th day of May, 1947, by

40 (Sgd.) CHAN, LAYCOCK & ONG,  
To : Solicitors for the above-named Defendant.

The above-named Plaintiff  
and to her Solicitors  
Messrs. Da Silva, Oehlers & Choa.

*In the High  
Court of the  
Colony of  
Singapore.*

No. 14.  
ORDER OF COURT.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.  
Island of Singapore.

No. 14.  
Order,  
7th  
October  
1947.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS deceased.

Between TAN SOO ENG . . . . . Plaintiff

(L.S.) and

ISAAC PENHAS . . . . . Defendant.

Before THE CHIEF JUSTICE in Chambers.

10

UPON the application of Isaac Penhas the above-named Defendant made by way of Summons-in-Chambers No. 555 of 1947 this day and UPON READING the affidavit of the Applicant sworn to and filed in these proceedings on the 4th day of October 1947 and UPON HEARING the Solicitors for the Plaintiff and the Defendant THIS COURT DOTH ORDER that the above-named Defendant be at liberty to examine Wing Commander Reverend S. M. Block as a witness de bene esse in these proceedings saving all just exceptions on the ground that the said Wing Commander Reverend S. M. Block is about to leave Singapore and go abroad AND THIS COURT DOTH ALSO ORDER that the costs of and 20 incidental to this application be costs in the cause.

Dated this 7th day of October, 1947.

(Sgd.) TAN THOON LIP, .  
Ag. Registrar.



No. 15.  
NOTICE TO ADMIT FACTS.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.  
Island of Singapore.  
Probate No. 119 of 1946.

*In the High  
Court of the  
Colony of  
Singapore.*

No. 15.  
Notice to  
Admit  
Facts,  
19th  
May 1949.

IN THE ESTATE of ABRAHAM PENHAS, deceased  
and  
IN THE MATTER of an Issue.

10 Between TAN SOO ENG . . . . . Plaintiff  
and  
ISAAC PENHAS . . . . . Defendant.

NOTICE TO ADMIT FACTS.

TAKE NOTICE that the Defendant in this cause requires the Plaintiff to admit for the purpose of this cause only the facts respectively hereunder specified, and the Plaintiff is hereby required within six days from the service of this Notice, to admit the said several facts, saving all just exceptions to the admissibility of such facts as evidence in this cause.

Dated this 19th day of May, 1949.

(Sgd.) CHAN, LAYCOCK & ONG,

20 Solicitors for the Defendant.

To : Messrs. Da Silva, Oehlers & Choa,  
Solicitors for the Plaintiff.

The facts, the admission of which is required are :—

1. That Abraham Penhas duly made and executed his last Will and Testament on the 3rd day of April 1936 in the presence of the late Lee Choon Kwee and V. D. Knowles, then of Messrs. Braddell Brothers, Advocates and Solicitors.
2. That between the period 15th February, 1942 and 5th September, 1945 all the properties belonging to Abraham Penhas were under the  
30 control and administration of the Japanese Custodian of Enemy Property.
3. That on the 15th day of June, 1942, the Plaintiff caused a letter to be written and addressed to the Japanese Custodian.
4. That on the 15th June, 1942 she admitted to one Choor Singh, Office Assistant to the Japanese Custodian of Enemy Property that the said letter referred to in (3) hereof was written on her instructions.
5. That on the 31st day of August, 1942 the Plaintiff instructed Mr. K. P. Kashava Menon to act for her and acting on her instructions the said Mr. K. P. Kashava Menon on her behalf wrote a letter to the Custodian Jewish Estate Branch, Meyer Chambers, Singapore.
- 40 6. That the Japanese Custodian investigated the applications made by the Plaintiff for relief out of the properties of Abraham Penhas and refused to grant her any relief.



*In the High Court of the Colony of Singapore.*

No. 16.  
Admission of Facts,  
24th May 1949.

No. 16.  
ADMISSION OF FACTS.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.  
Island of Singapore.

Probate No. 116 of 1946.

IN THE ESTATE of ABRAHAM PENHAS deceased  
and

IN THE MATTER of an Issue.

Between TAN SOO ENG . . . . . Plaintiff

and

ISAAC PENHAS . . . . . Defendant.

10

The Plaintiff in this cause for the purposes of this cause only, hereby admits the several facts respectively hereunder specified subject to the qualifications or limitations, if any, hereunder specified saving all just exceptions to the admissibility of such facts, or any of them, as evidence in this cause.

Provided that this admission is made for the purposes of this cause only, and is not an admission to be used against the Plaintiff on any other occasion or by anyone other than the Defendant.

Delivered this 24th day of May, 1949.

20

(Sgd.) DA SILVA, OEHLERS & CHOA,

To : Messrs. Chan, Laycock & Ong,  
Solicitors for the Defendant.

Solicitors for the Plaintiff.

Facts admitted	Qualifications or Limitations, if any, subject to which they are admitted
1. That Abraham Penhas duly made and executed his Last Will and Testament on 3rd April 1936 in the presence of Lee Choon Kwee and V. D. Knowles then of Messrs. Braddell Brothers, Advocates and Solicitors.	1.
2. That all the properties belonging to Abraham Penhas were under the control and administration of the Japanese Custodian of Enemy Property during the Japanese occupation.	2. But not from 15th February, 1942.
3. That on 15th June 1942 a letter was written and addressed to the Japanese Custodian and signed by the Plaintiff.	3. But not that she caused it to be written. The letter was suggested and written by Mr. Chua Lye Swee and on his advice.
4. Not admitted.	4.
5. That on the 31st August 1942 Mr. K. P. Kashava Menon on her behalf wrote a letter to the Custodian Jewish Estate Branch, Meyer Chambers, Singapore.	5. But that the Plaintiff accompanied Mr. Chua Lye Swee to the office of Mr. K. P. Kashava Menon and all instructions were given to Mr. Menon by Mr. Chua Lye Swee.
6. That the Japanese Custodian investigated the applications made by the Plaintiff for relief out of the properties of Abraham Penhas and refused to grant her any relief.	6.

30

40

50

No. 17.  
ISSUE FOR TRIAL.

*In the High  
Court of the  
Colony of  
Singapore.*

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.  
Island of Singapore.

Probate No. 119 of 1946.

No. 17.  
Issue for  
Trial,  
30th May  
1949.

IN THE ESTATE of ABRAHAM PENHAS deceased

and

IN THE MATTER of an Issue.

Between TAN SOO ENG . . . . . Plaintiff

10

and

ISAAC PENHAS . . . . . Defendant.

ISSUE FOR TRIAL

Pursuant to Order of Court made herein and dated the 3rd day of March,  
1947.

20 Whereas Tan Soo Eng, the Plaintiff in this Issue affirms and Isaac Penhas, the Defendant in this Issue denies that Tan Soo Eng is the lawful widow of Abraham Penhas and if the answer is in the affirmative when the said Tan Soo Eng married the said Abraham Penhas and by an Order made in these proceedings and dated the 3rd day of March 1947 it has been ordered that the said question be tried before the High Court, therefore let the same be tried accordingly.

Dated this 30th day of May, 1949.

(Sgd.) DA SILVA, OEHLERS & CHOA,  
Solicitors for the Plaintiff.

(Sgd.) CHAN, LAYCOCK & ONG,  
Solicitors for the Defendant.

*In the High  
Court of the  
Colony of  
Singapore.*

No. 18.

**EVIDENCE de bene esse of Wing Commander Reverend Sebastian Morton Block.**

Probate No. 119/46.

Begins 10.35 a.m.

*Defendant's  
Evidence.*

Ends 11.20 a.m.

No. 18.  
Wing  
Commander  
Reverend  
Sebastian  
Morton  
Block,  
*de bene esse.*  
Examina-  
tion.

Evidence de bene esse of :—

Wing Commander Reverend S. M. Block.

Order of Honourable Chief Justice in Chambers dated 7th October.

Mr. Da Silva for Plaintiff.

Mr. Laycock for Defendant.

10

Sebastian Norton Block sworn in English states—

Wing Commander R.A.F. Senior Jewish Chaplain to the Armed Forces of the Crown in Far East.

I am well acquainted with marriage laws and customs of the Jews in England, Singapore and the Far East. I first came to Singapore in December 1945. Prior to that my Service Headquarters were in Calcutta. Since December 1945 I have spent much time in Singapore with broken periods over the Far East. I have conducted a number of Jewish marriage ceremonies in Singapore and the Far East and elsewhere. I have heard of Civil Marriage Ordinance of Straits Settlements.

20

Exh. I.

I understand that under that Ordinance a Jew may contract a civil marriage—apart from that Ordinance a Jew can only marry by a Jewish wedding ceremony conducted by a Rabbi or minister of religion according to the laws and customs of the Jews. I produce Volume IV Code of Jewish Law which I know well. It is the standard book on the subject to date. In Chapters 145, 146, 147, 148 and 149, the Jewish marriage Law is correctly set out. In places the local customs have the force of law but there are basic laws which are essential and which are observed all over the world. Local ceremonies may be added.

Essential features of a Jewish marriage are :—

30

(1) Ketubah i.e. the marriage contract in writing and read out at the marriage ceremony before the bride and bridegroom and two Witnesses (Jewish).

(2) A ring must be given by groom to bride. This is a modern custom. Formerly money was given. Ring symbolises the price of the bride.

(3) Presence of witnesses.

(4) Consummation of marriage.

I have read *Goldsmid v. Bormer* (1 Hagg. Con. 323 ; 161 E.R. 568).

That is still a correct statement of the Jewish custom to-day. 40  
According to Jewish laws and customs, a Jew may not marry a non-Jew under any circumstances.

It is not permissible for a Jew who cohabits with a non-Jew to marry her or him afterwards, even if she or he is thereafter converted to Judaism. A Jewish marriage can be celebrated in a private house but it is usual to be performed in the Synagogue.

*In the High Court of the Colony of Singapore.*

*Xad.* by Da Silva.

*Defendant's Evidence.*

A marriage of a Jew to a non-Jew is repugnant to Jewish law. Such marriage before a Marriage Registrar cannot be prohibited but *cannot* be recognised by Jewish law. That also applies to marriage between Jews before a Registrar only. Jewish law and custom does not override Civil law. Where it is customary or compulsory for a marriage to be before a Registrar in addition to the Jewish ceremony the Jewish law and customs must permit such marriage. Jewish law says that Civil law must be adhered to.

No. 18.  
Wing  
Commander  
Reverend  
Sebastian  
Morton  
Block,  
*de bene esse,*  
*continued.*  
Cross-  
examina-  
tion.

Jewish law re Marriage does not concern itself with succession. That is left to the Civil Law unless the decision of a Jewish Court is accepted by the parties concerned. Jewish law and customs does not interfere with Civil status ; it is a matter of religion and conscience.

Official consent of the family is not normally necessary for a Jewish wedding.

20 *Re-xn.*

In deciding the status of a wife, consideration can only be taken of two possibilities, viz. the marriage either fulfils the requirements of the Civil Marriage Laws or the requirements of the laws and customs of the Jews.

Re-examin-  
ation.

If there is no Civil Marriage then one must look to the Jewish laws and customs.

(Sgd.) S. M. BLOCK.

Taken by me.

Read over to witness.

30 Acknowledged by him to be correct and signed by him in the presence of Counsel.

(Sgd.) W. G. THOROGOOD.

Registrar.

(L.S.)



**JUDGE'S NOTES OF EVIDENCE.**

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.  
Island of Singapore.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS deceased.

Between TAN SOO ENG (Widow) . . . . . Plaintiff

and

ISAAC PENHAS . . . . . Defendant.

*CORAM* : GORDON-SMITH, J.

31st May, 1949. 10

Da Silva for Pltff. (with him G. E. N. Oehlers).

Laycock for Isaac Penhas, Deft. (with him Mr. Murphy).

Da Silva opens :—

Order of Court 3/3/1947. Issue for trial.

Pleadings :

Statement of Claim read. Defence read.

How far a Jew can contract a marriage with a person not of his faith, a marriage otherwise recognized in this country.

Facts :

1937 Chinese ceremony. Ancient and modern.

20

Simple declaration of marriage before 2 or more witnesses. (Jewish custom.)

Laycock :

q.v. evidence : see file—evidence de benne esse—Exhibit I has vanished—from the Court—and cannot be found. (Suggests further search and possibly will have to ask for adjournment. Has cabled Jerusalem for another copy.)

Da Silva quotes :

*Civil Code—Republic of China*—(translation read, subject to objection by Laycock later).

30

Published in Shanghai by Kelly & Walsh—at p. 254, paras. 980 to 983.

Dacey's Conflict of Laws : (5th Ed.) p. 732 *R.* 182 (validity of Marriage) and see *In Est. Cheang Thye Phin v.* 1920 A.C. 369.

*Rule* 159 (p. 641) Contract.

Will submit that the ceremony was a good binding contract which law of this Colony recognizes.

Not correct that Jewish law and custom is the overriding law.

The law applicable to wife's domicile is just as important as the law of husband's domicile, in modern times.

*Brinkley v. Attorney General* 1890. 15 P. p. 76.

Principle enunciated.

*Carolis de Silva v. Thim Kim* (1905) 9 S.S.L.R. @ p. 8 & see p. 12.

Pltff. lived with him as his wife—etc. etc. (unknown to his father, a very orthodox Jew).

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

P. Pltff.'s Documents (to be proved) :

- 10 p. 1 Pltff.'s Rent Receipts. p. 5. Dispensary Bill and receipt.  
p. 6. "Mrs. A. B. Pang & Birth Certificate of girl."  
p. 7. duplicate p. 8 Birth Certificate of boy. Honglet. (p. 9. duplicate) Vaccination Certs.  
p. 11 *Baptism Certificate.*  
Correspondence between Solicitors . . .

D. Defendant's Documents :

I. Will 3.IV.1936.

II. Letter—(written by Deft.'s employee).

Admission of facts. 24.v.49.

Calls.

20 TAN SOO ENG (f) D/Sworn. 26 Pierce Road, Singapore.

I know Abraham Penhas, my husband (deceased).

He became my husband in 1937. I was introduced to him by an Eurasian lady whom I had known for over a year. I addressed her as "Mamma." She is an old lady and such was respectful. She used to bring things to the house for sale, sarongs, laces, etc. I was living then at 88, Selegie Rd. (off Sophia Road) with my mother. No one else. I was introduced by "Mamma" to deceased in the Botanical Gardens. My mother was present. We all conversed in Malay. Deceased spoke to my mother asking if she would consent to a marriage between him and myself. My mother consented. My mother stipulated that it must be a proper wedding. Deceased gave me \$500.00 as a gift in an envelope. He asked me where I was then living. I told him my address and that we were living upstairs, the ground floor being business premises.

When he gave me the present he asked me to look out for a house elsewhere, with the money.

40 I subsequently found a house at 508 Sims Avenue. We associated with each other for a few months at 508 Sims Avenue. I mean social associations and nothing beyond that. One day when he visited me he said that since we were temperamentally compatible we should have an early marriage. I suggested a Church Ceremony. He said such was not possible in the Jewish Synagogue—because they would not allow any but Jews to go in. Then I suggested a marriage according to Chinese rites and he asked for details and I told him—An appointed day, before friends and relatives as witnesses, and of course my mother would be there.

*Plaintiff's Evidence.*

Tan Soo Eng.  
Examination.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Plaintiff's  
Evidence.*

Tan Soo  
Eng.  
Examina-  
tion,  
*continued.*

I addressed him as Ah Phang and he called me Soo Eng. During these few months he was not always in Singapore and would be away on business. I would see him about once a week. In December 1937, I received this letter from him from the Runnymede Hotel, Penang. I recognize his writing—tendered, no objection—Put in Ex. A.

When in Singapore he lived at Katong with his brother, sister and father.

I used to go about with deceased in his own motor car. A date was chosen by agreement, after a discussion between us and mother.

We decided to have the marriage in my house at Sims Avenue and according to Chinese rites. He was to pay the expenses. The date fixed was in December 1937, 3 or 4 days before Christmas. Friends and relatives gathered together and deceased came at 11 a.m. with 3 of his friends, to 508 Sims Avenue. 10

One was an old Chinese gentleman and 2 Jews. I don't know their names but could recognize them. I have not seen them since the marriage. There 16 or 17 guests, including his 3 guests. The old Chinese gentleman brought by deceased solemnized the marriage. We stood before him. We worshipped the Heavenly God and I worshipped with Joss Sticks and he asked us each separately whether we were willing to be man and wife, and we both said Yes. 20

Deceased put a handkerchief over his head while I worshipped. I bowed twice (curtsied) (stooped) holding joss sticks (illustration by witness) and worshipped to Heaven.

Deceased told me it was their custom to put a handkerchief on the head.

He raised his right hand the whole time while I was worshipping. I was murmuring a prayer to Heaven for long life.

I could not understand what he was murmuring, it was in his language.

After worshipping, his two Jewish friends shook hands with me and deceased also shook hands with me and kissed me. This ceremony was in the outer Hall and we then went into the Inner Hall—My mother was sitting in a Chair. 30

We both went before her—I knelt down and deceased bowed, and then offered her a cup of tea—according to Chinese custom. We had a feast immediately afterwards. After the feast the old Chinese gentleman gave us his blessing before he left. He came to live with me at Sims Avenue, passing 3 to 4 nights there per week but he came there every day. After that he permanently resided in Singapore—but would sometimes go up-country on business but would tell me so before going. He would write to me when away. 40

I received a letter 13.9.38 dated from Medan.

(letter and Envelope put in Ex. B & B1). It is his handwriting. I also received a post card 3.3.40 from Penang. This is it.

(Ex. C put in) in his handwriting. Also post card 4.8.40 from Cameron Highlands.

This is it in his handwriting (Ex. D).

I also produce a bundle of letters received from him at various times from various places. Put in (Ex. E).

He would sign himself "A.B.," "Abe," "Abbey" but I don't read English.

I did not move from 508 Sims Avenue until a year or two after the Japanese occupation.

I had two children by him (both in Court) a girl and a boy. The girl was born at Sims Avenue about 10 months after our marriage. The birth  
10 was reported by a neighbour Tan Ah Bah.

He brought a paper—put in Ex. F (Registration Certificate: see p. 6 No. 9 of P.)

I also produce a Certified Extract of this birth Registration (Ex. G).

The boy was born in 1941 in D'Cotta Clinic, Hill Street.

I reported the birth myself. I received this duplicate put in Ex. H.

I also produce a certified extract of this birth registration (Ex. J).

I produce vaccination notice of both children (Exs. K & L). Dr. Tan Tong Yap attended me on the birth of the girl.

I produce 2 bills Ex. M and 1 receipt Ex. N in this receipt.

20 I have the envelope in which one of the bills came—addressed "Mr. A. Penhas . . ." put in (Ex. O), and the bill is made out to him.

Ex. O. Dr. D'Cotta attended me on birth of the boy. I produce his receipt in my name and Mr. A. B. Phang put in Ex. P.

Both children were baptised in Say Mia Tng Church in Prinsep Street. The last time I saw deceased was on the 27th day of 12th moon—approximately 2 days before Singapore surrendered at Sims Avenue.

Adjourned 1 p.m.

Resumed at 2.30 p.m. 31.V.49.

30 After 15.2.42 I sold articles for my livelihood, which lasted for several months. Then I lived on loans from friends and relatives until finally I decided to apply to the Japs. for relief. I saw a clerk working for deceased Chua Lye Swee, he said he would prepare a letter and take me to the Japs. I had got to know him 2 years after I had married deceased. Two days later he came to see me with a letter prepared by him—in which he mentioned I had been living with deceased for about 10 years. He read it through to me. It was a long typed letter. He then brought me to see the Japs. I put my thumb print on the letter. We did not see the Japs but saw a Bengali and he and Lye Swee spoke in English and I was told a letter would be sent me, Subsequently I received a letter from Tan Thoon  
40 Lip, refusing me any relief.

Lai Swee brought me a lawyer named Menon and they spoke together in English. I did not myself give any instructions but Lye Swee told Mr. Menon. I received no other letter.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Plaintiff's Evidence.*

Tan Soo  
Eng.  
Examina-  
tion,  
*continued.*



*In the High  
Court of the  
Colony of  
Singapore.*

No. 19.

Judge's  
Notes of  
Evidence,  
*continued.*

*Plaintiff's  
Evidence.*

Tan Soo  
Eng.  
Examina-  
tion.  
*continued.*

Cross-  
examin-  
ation.

About 2 years afterwards Lye Swee told me to approach Shinozaki to see if he could give us relief. He and I went to his office and I did enter but only stood at the door and Lye Swee spoke to the Jap. in English. Lye Swee prepared a letter asking for the return of documents from Mr. Menon, but I did not recover any.

The Pastor of the Church came to see us and deceased said he would like to have the boy baptized. I was present. Deceased gave him all the particulars himself. I was at the Baptism and held the boy in my arms. I was given a Certificate of baptism. It is with you. (da Silva is calling the person.)

10

*Xxn.*

(on Cert. p. 11.) "Tan Sek Geck" is another of my names.

I have a sister Seok Sim.

I don't know whether he observed the ceremonial observances of an orthodox Jew. I don't know if he went to the Synagogue. He did not eat pork.

I was married previously to Ng Ah Heng. I did not have a son by him.

At the Jap. Office my statement was taken down by the Bengali, Choor Singh. I did not tell him I had a son by previous husband. I went there with Lye Swee. I can't say who handed over the letter. It was the same day that the Bengali (Choor Singh) took my statement (15th June) (Commencement of Statement put to her verbatim as to instructions for letter). I did not say this. Nor did I say about deceased father's business.

I did mention about him giving me \$250 per month regularly for household expenses and also told Lye Swee this. I spoke to Lye Swee in Hokkien. I am Teochiu. Lye Swee, Hokkien. I mentioned also that the last payment was on 12.2.42 before Choor Singh to Lye Swee. This is the last occasion I saw deceased. (Other statements put, some admitted, some not admitted.) I mentioned my mother but no mention of any child by a previous husband. I had a child given to me by my eldest sister. I said the rent was \$28 per month in answer to a question and that I required another \$72.00, making altogether \$100.00 per month. I don't remember exactly what was said about the children's ages. I spoke to Lye Swee and he spoke to the Bengali. I was required to finger print the statement. I did receive letter of 8.7.42 (2602) and I went with Lye Swee and saw Tan Thoon Lip with Lye Swee. Perhaps I took my daughter with me. I did not see Tan Thoon Lip write anything down. I told him I had 2 children by deceased but I had 3 conceptions and one was aborted. I told him, in reply, that I had never met any of the deceased's relatives.

I have no younger brother, Tan Ah Bah, or at all. Tan Ah Bah was merely a neighbour.

I did not invite Tan Thoon Lip to look at my daughter in order to see that her father was a Jew. She was 3½ years old. I was requesting some

relief from the Japs—I knew the Custodian was collecting the rents of deceased property. (Denies mentioning to Tan about being deceased's mistress and not having been legally married to him.)

*In the High Court of the Colony of Singapore.*

I received the letter of 25.7.2602.

I did not supply the list of houses mentioned by Mr. Menon. Lye Swee was living at Lorong 33, not far from my house in Sims Avenue. I don't know "Mamma's" actual name. I think she was a hawker. I gave her "a red packet" for the introduction, according to the Chinese custom, after the marriage. The meeting in the gardens lasted about  $\frac{3}{4}$  hour.  
 10 Mother was there, Mamma and deceased. He proposed a marriage straight-away. He asked my mother if she had any objection to his not being a Chinese. My mother's reply was there was no objection provided there was a proper marriage.

No. 19.  
 Judge's  
 Notes of  
 Evidence,  
*continued.*

*Plaintiff's  
 Evidence.*

Tan Soo  
 Eng.  
 Cross-  
 examina-  
 tion,  
*continued.*

(Ceremony) The 17 did not include self and deceased but did include mother. I have forgotten the name of the old Chinese who married us, and the names of the 2 Jews. I knew they were Jews by their appearances—and deceased introduced them to me as such.

Mamma was not there.

One of the guests was (f) Khoo Cha Boh Poh another (f) Sim Geak  
 20 Eee, (f) Sim Geak Choo, my sister, Tan Seok Sim, there were a few children amongst the 17, the husband of Sim Geak Choo was there, don't know his name. Sister's husband not there. Maid servant and sister prepared the food, with other assistance. Deceased took the food and the curry.

They did not have a lot, fish, curry, chicken soup, aerated water. There was beer and stout. I knew that he had to be careful with his diet and that Dr. Thomson had been treating him (for duodenal ulcers) for some time. I never met his father, sisters (2) or brother. I knew that the eldest sister died. He wore a black tie. She died during the first month of our association. I am now a Christian but not baptised, since soon after the  
 30 birth of the 1st child. I have gone to Church regularly to Chinese Christian Church under Cheng Shen Chu.

Page 9 Certificate

I was the informant. The Clerk asked my name and I told him in Teochew. He asked my husband's name.

I told him—Abbey Phang. He asked his occupation but *not* his race. I told him the place of birth as N.E.I. as deceased himself told me so.

Page 10 Certificate

Informant Tan Ah Bah. I asked him to make the report on my behalf. I told him deceased was born in the N.E.I. but don't know what he told  
 40 the Clerk. I also told him that he was a business man, and a Jew.

(See information given by Tan Ah Bah.)

(? Horoscopes—custom). It is only in the case of people who worship Buddah that horoscopes are obtained. Modern ceremonies do not require horoscopes.

Adjourned to Thursday 2.6.49 at 10.30 a.m.

(Initialled F.G.S. 31.V.49).

*In the High Court of the Colony of Singapore.*

2nd June 1949. Probate 119/46 (continued) Cor. Gordon-Smith.

*Tan Soo Eng—Xxn.* (continued).

Choor Singh produced.

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

I saw him during the Japanese occupation. He is the man I referred to as the Bengali to whom I made a statement. I see this document but cannot recognise the thumb print. I cannot say if it is the document.

(Witness interposed).

*Plaintiff's Evidence.*

CHOOH SINGH, D/sworn.

Tan Soo  
Eng.  
Cross-  
examina-  
tion,  
*continued.*

On subpoena, and subpoena has been served on the Custodian. He has asked me to produce two documents. I now produce these two documents 10 from the custody of the Custodian. Documents put in (Exs. D.1 & D.2).

(Letter of 15/6/2602 (1942) from Tan Soo Eng to Custodian of Enemy Property endorsed "Statement taken before me" and signed by Deponent and dated 15.6.2602.

Choor  
Singh.  
Examina-  
tion.

This is the letter referred to in the Statement. No. Xxn.

(This witness is released, until required by the defence.)

Tan Soo  
Eng.  
Cross-  
examina-  
tion,  
*continued.*

Witness *Tan Soo Eng* continues :—

This, *Ex. D.II*

"I do not remember if I have seen this before. I cannot read. This is the letter I produced to the Bengali. I remember putting a thumb print 20 but cannot recognise the thumb print." (Witness puts her thumb print on 3 blank pieces of paper—

Two finger prints on each—one is marked as *Exhibit D.III*, and one copy retained each by Plaintiff and Defendant Solicitors).

(15.6.'42). I went with Chua Lye Swee to the Custodian, alone. Lye Swee was then living in Lorong 33. I was told the Jap was not in and the first person we saw was Choor Singh. I can't remember if I then saw Tan Thoon Lip. I don't remember seeing Mr. Tan Thoon Lip then. It is true that Lye Swee interpreted at this interview. A young lady was with us then who interpreted, looking like an Indian 30 but who spoke Chinese. It is not true that she interpreted. Lye Swee was there and did the interpretation. (Marriage Ceremony) (guests present) Khoo Chah Boh Poh is a friend. She has been subpoenaed. I have never seen her husband. I have not heard her addressed as "Kathar." I call her ? "Kachi." I have seen a group of her daughters. She is dark and the daughters. We converse in Malay. I have not heard her speak Chinese. I did not take one of the daughters to interpret for us on the 15th June.

Lye Swee, as far as I knew, was then living in Lorong 33. I had been there in the early part of Japanese occupation not long before my application. 40 I did not go there in February to ask him to contact deceased, if possible.

Lye Swee went with me to Menon's office. He came to my house and it was his suggestion going to Menon. I only went to visit him once,

at Lorong 33. In 1944, Mr. Lye Swee suggested seeing Shinozaki. He came frequently to my house to discuss my getting relief from the Japs, and would come about once a week, and he stopped coming after we failed. This was in 1944.

*In the High Court of the Colony of Singapore.*

I left 508 Sims Avenue about 2 years after Occupation. Then I lived in the Church and thence to No. 8 Lorong Limau with my maternal uncle. I was still at Sims Avenue when I saw Shinozaki and Lye Swee suggested seeing him.

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

(Marriage Ceremony.) I was born in the 12th moon, I don't know  
10 the Chinese year.

*Plaintiff's  
Evidence.*

I was first married when I was 20 (? 1926) (Chinese) now I am 43. I was the principal wife. Same ceremonies as performed when I married deceased. Ho Ah Heng was name of first husband. As far as I remember the ceremonies were the same except that Ah Heng had joss sticks and did not cover his head. We did not shake hands.

Tan Soo  
Eng.  
Cross-  
examina-  
tion,  
*continued.*

(Botanic Gardens.) It was in the afternoon, about 5 p.m. Don't remember if a Saturday—but in September (1937). He, deceased, suggested fixing a date for the marriage. Discussion took place and a date was then fixed about a fortnight ahead. I suggested marriage in  
20 the synagogue and he said that was not possible—and then we discussed a Chinese ceremony and I explained what he would have to do. This was about a fortnight before the marriage took place (i.e. about 8th December 1937).

He had not suggested fixing a date previously. I have forgotten if we discussed who was to perform the ceremony.

Perhaps my mother would have done the necessary if deceased had not brought the old Chinese man along.

There were no scrolls or certificates signed at my ceremony. I have seen some signed at Church. He came approximately at 11 a.m. or a  
30 little later and the Ceremony took about  $\frac{1}{2}$  hour, the feast started about 1 p.m. He did not go home afterwards—and remained until next a.m. and left (for office) after 8 a.m.

After that he would come for 3–4 nights a week, arriving sometimes in the afternoon and sometimes in the evening. He would come to see me every day but would spend 3–4 nights a week with me.

This continued until 1942.

I don't know if his father was a very strict Jew (see letter 15.6.42). He did not tell me as (5th S ).

*Re-xn.*

40 Neither Choor Singh nor Tan Thoon Lip spoke to me direct but through the Interpretation of Lye Swee. Lye Swee did not read over any documents to me in their presence.

Re-  
examina-  
tion.

Choor Singh nor anybody read this over to me.

Tan Thoon Lip did not speak in Chinese at our interview. (Endorsement on Ex. D1) Lye Swee gave the information as to deceased's

*In the High Court of the Colony of Singapore.*

property. I myself don't know if he was asked about it. I knew that his property consisted of house property. Deceased had told me but I did not know details.

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*By Court.*

The Meeting in the Gardens had been previously arranged by Mamma. She was not a professional marriage broker but I learnt from Mamma that deceased had asked her to find a lady of good family for marriage.

*Plaintiff's Evidence.*

Neither I nor mother had ever seen deceased prior to the meeting. My mother is alive.

Tan Soo  
Eng,  
Re-  
examina-  
tion,  
*continued.*

My first husband died more than 2 years before I married deceased. 10  
It was at the first meeting in the gardens before we parted that he gave me the \$500.00.

A few days later, mother and I moved to Sims Avenue. Prior to the ceremony, we did not cohabit together. It was after the ceremony that I gave Mamma the Red Packet. I asked if he had a wife and he said none.

Mother continued to live at Sims Avenue with me.

YU HUAN TSAN D/Sworn.

Yu Huan  
Tsan.  
Examina-  
tion.

1st Avenue, Bukit Timah. Advocate & Solicitor. Barrister. Inner Temple. M.A. Camb. Have served in the Chinese Embassy, London, Berlin, Norway, Sweden, Finland, as Secretary and Attache (London and 20 Berlin). Practised Law in Singapore since 1940.

Have studied Chinese Law and Custom for 15 years and had gone through the necessary examinations in China during the Chinese Dynasty (before the Republic in 1911).

(Explains the Chinese Degrees etc. in China.)

Have studied both before and since the Republic in 1911. Under the Republic the law was codified, starting in 1910, and published about 1927 with a translation.

I know of such translations by persons known to me. This publication, "The Civil Code of Republic of China". Bks. I-IV by Kelly & Walsh 30 has 4 authors. I know Liu Chieh in particular and he was first Chinese Ambassador to India and Foreign Minister before that. I knew him as a student when he was at Oxford and I was at the Chinese Legation.

This book has been used as a text book in China and is quoted in China as being of authority. I was acquainted with pre- and post-republic marriage customs. I see p. 254 Articles 980-983. This is a correct statement of Chinese Law and Custom.

In Singapore I have been present at modern Chinese marriages and have presided and conducted such.

The present form of Singapore marriage is usually :—

40

There is a middle man or go-between—the principal witness and a Master of Ceremonies—then there is a relative of either side.

Generally the ceremony is conducted by the people gathering together and the happy couple come in together. They are asked whether they are willing to marry each other—either they nod their heads or otherwise consent.

*In the High Court of the Colony of Singapore.*

Then each of them signs on a printed form, which is also signed by the Master of Ceremonies, broker and elder relative. The essential part is that there should be two or more witnesses to the consent to marry.

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

If no paper is signed it would be a perfectly valid marriage, the form is only a *recent* introduction. They can be bought from any Chinese Bookshop. There are different forms, and decorations vary and the language. I see this form. It is a common form of marriage record.

*Plaintiff's Evidence.*

Put in Q and Q1 (Translation).

Yu Huan  
Tsan.  
Examina-  
tion,  
*continued.*

I have read the six widows' case (Choo Eng Choon decd . . . 12 S.S.L.R. p. 120).

At p. 123 (para. 2) and p. 124/125.

To-day it is sufficient if the parties consent to marry each other, and 2 or more witnesses being present, before whom the two pledge to marry each other.

In my opinion the facts stated in this case, are sufficient to constitute a valid marriage. Chinese are not prohibited from marrying outside their races—and princesses of rulers have done so. I know of instances (quoted Sir Halliday McCarthy and the son of this marriage was knighted when a Consul General. He was Sir William . . .). In Shanghai a Jew who started as a Jaga with a European firm contacted a Chinese girl (of humble origin)—he fell in love with her and married her and left his whole fortune to her (? Name ? Sardon).

*Xxn.*

Cross-  
examina-  
tion.

My evidence follows Chinese law and Custom as in force in Singapore. I say that the greater part of the customs in China are in force here.

There may be Singapore customs which are not in force in China.

I agree with the statement in *Kok Heng Chow v. Lay Mee Yin* 1948 M.L.J. 157.

Both here and in F.M.S. Chinese may have created customs not the customary law of China.

Braddell's Monograph "Legal Status of the Malay States" on Chinese Marriage in the S.S. in 1931 p. 165.

"S It will be seen then that the English Law has been mated by our Judges in Chinese Law and from the Union a half-caste offspring has resulted."

I would take this to mean that in certain cases in Courts here certain dicta have become (Judge made) Law—

which is neither the law of England nor China—and I agree to this extent.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Plaintiff's Evidence.*

Yu Huan  
Tsan.  
Cross-examination,  
*continued.*  
Re-examination.

Sim Peng  
Neo.  
Examination.

I have not said that I am an expert on Singapore customs, except to the extent that such customs are based on Chinese customs.

I know that there are differences (as per decisions in the Courts) between Singapore and Chinese Customs.

*Re-æn.*

I have associated with Chinese in Singapore for over 10 years and am acquainted with their marriage customs.

*By Court:* I have presided at a number of marriages in Singapore between Singapore Chinese.

Adjourned to 2.30. 10

Resumed at 2.30.

SIM PENG NEO D/Sworn.

26 Pierce Road, Singapore.

Widow. Plaintiff is my daughter. I knew a man Abraham Penhas (deceased) through the introduction of "Mamma." She was a seller of laces etc. She was an Eurasian. I knew her for over a year, she used to call at our house 2-3 times a month to sell things.

We then lived in the main Road facing Sophia Road.

One day when Mamma paid us a visit she told us she had been asked by Abe (deceased) to find a good lady for a wife. 20

A meeting was arranged by Mamma which took place in the Botanical Gardens.

Four were present, Abe, daughter, self and Mamma.

We were introduced by Mamma to Abe.

I spoke in Malay to Abe after a conversation between my daughter and him.

Abe (deceased) spoke to me saying "I have seen your daughter and I like her—do you like me?"

I told him I had no objection so long as there was a proper marriage. He mentioned marriage first. 30

Then he spoke to my daughter. We sat down for a while and he asked us where we were then living.

My daughter told deceased our address—Selegie Road.

He agreed to a proper marriage.

(Witness says it was a long time ago and her memory is not too good since the occupation.)

He said he would call when he was free and before parting he handed an envelope to my daughter which we later discovered contained \$500—and doing so he told her "to look for a house with this."

We did so and found a house a few days later. 40

He called to see us once at Selegie Road, and after we moved once every 3-5-6 days at Sims Avenue, No. 508 to which we had removed. Deceased paid the rent through me. I think it was 1937 that we moved and the marriage took place 2-3 months after moving there.

*In the High Court of the Colony of Singapore.*

It was September we moved (after ref. : to Christmas and New Year) and the marriage took place 3-4 days before Christmas.

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

The three of us, deceased, daughter and self, had a discussion about the marriage. Deceased one day, on a visit, asked my daughter : " Shall we not be married " ? and my daughter said " at any time." He said a ceremony could not possibly be performed in the Synagogue and my daughter said it would have to be according to Chinese custom.

*Plaintiff's Evidence.*

" Abe agreed " and a date was then fixed. He said we could invite our friends and relatives and he would invite his.

Sim Peng  
Neo.  
Examina-  
tion,  
*continued.*

He gave \$500/- for the expenses.

On the wedding day he came with three friends, one an old Chinese gentleman and 2 Jews. Our friends were present and it took place at Sims Avenue.

When he came, my daughter was upstairs but hearing his voice, she came down and the old Chinese gentleman congratulated her. The 2 Jews smiled and spoke to her in English but I did not understand.

Then he and my daughter stood side by side before the Chinese gentleman and the latter spoke, referring to the auspicious occasion, etc., etc., and finally asked both of them if they were willing to marry each other. Both of them answered : " Yes." Then he said : " You are now husband and wife and I wish you a happy and life-long union."

I remember that Abe was dressed in a particular jacket. My daughter was in silk, bedecked with flowers, and holding joss sticks. She raised and lowered the joss sticks and while she was so doing Abe pulled out a handkerchief and put it on his head and was murmuring something. He raised his right hand up. She was doing this (raising the joss sticks) to Heaven. After this worship, Abe took off his handkerchief and put his hand down.

Then the couple came to me and Abe offered me a cup of tea, a Chinese custom of paying respect, as the tea was sweetened. Then it was almost time for the midday meal—a long table was spread in the rear hall and all present remained for the meal.

Abe remained and stayed the night there. Next a.m. he had breakfast and then left.

He was very good to my daughter. He would come home for 2-3 nights a week—he would go away on business at times. About 10 months after the marriage the 1st child was born, Nancy. Abe's surname was Phang. I now know his full name was Abraham Penhas. Another child was born later over a year later—a boy. We were still living at 508 Sims Avenue. I remember February 1942 when the Japs came in. His last visit to Sims Avenue was the 27th of the 12th moon. I saw him then—daughter and children were present. We all wept. Then he left the house after giving my daughter some cash—a few hundred dollars but I can't saw how much. I never saw him again.



*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Plaintiff's Evidence.*

Sim Peng  
Neo.  
Examina-  
tion,  
*continued.*

Cross-  
examina-  
tion.

We tried to trace him after the Japs came in and I learnt something from a neighbour living next door named Lee and I went with him to the Detective station. The Japs were then in Singapore, and I saw a number of persons and I saw Abe on the verandah but we could not get in, or contact him. The Japs were in charge of the station. I went again about a week later, as the result of further information from Lee. I could not get permission to enter and could only look through the fencing but I saw some dead bodies on the lawn and one of them was Abe's. I was frightened and left the place.

We continued to live at Sims Avenue with daughter and children for 10 over a year and then went to the Church. From there to Lorong Limau.

On 10.12.43 I made a Statutory Declaration, I signed it with my name. I can write only my name.

Put in Ex. R. Subsequently I gave evidence in Court as to his death.

*Xxn.*

I started to go to Church as a child—when at school. I have not been baptised. (In answer to question as to whether she considers herself a Christian): When I was in School I "followed" my teacher to school. After my marriage I gave it up. I am thinking of doing so again since the occupation. 20

On occasion my daughter followed me to Church, but seldom. I don't remember the Chinese year my daughter was married. I don't remember the Chinese year I was married.

I remember the ceremony when I was married. Married once in Singapore.

I am now 72 and was married at 21-22 years.

My husband and I took joss sticks and worshipped the Family God. I offered tea to my father-in-law and mother-in-law. No exchange of horoscopes, nor date fixed by horoscope. I was born in Singapore—he came from China. 30

I have 2 daughters. Plaintiff is the younger.

Elder married Seah Eng Khoon—his 2nd (Secondary) wife. I was present at her marriage, it is over 20 years ago now. There was no ceremony because she was supposed to be the 2nd wife.

2nd daughter first husband was Ng Ah Heng.

There was no ceremony at her marriage. I consented to the marriage. I knew him personally and his mother and the marriage was arranged between her and me.

Adjourned : date to be fixed by Registrar by agreement.

(Initialled) F. G. S. 40

2.VI.49.

- CORAM*—GORDON-SMITH, J. 8.8.1949. *In the High Court of the Colony of Singapore.*
- Mallal for Da Silva with Oehlers for Plaintiff.  
Laycock and Murphy for Defendant.
- SIM PENG NEO :  
Evidence continued—on former oath. *No. 19. Judge's Notes of Evidence, continued.*
- Xxn. by Laycock.*  
(page 16 of her evidence in chief read to her—discussion about the marriage.) *Plaintiff's Evidence.*  
(asked for further details of this discussion.) *Sim Peng Neo. Cross-examination, continued.*
- 10 My daughter suggested a ceremony in Church but deceased said a Jew was forbidden to enter. (Interpreter corrects it and says she says "a place of worship" and that witness suggested the Synagogue.)  
Deceased replied that the Jewish Synagogue his place of worship could not be entered except by Jews. Deceased said this and my daughter suggested marriage according to Chinese rites. He agreed. I do not remember that she suggested a marriage according to Jewish rites outside a Synagogue. That is all I can remember of the discussion.
- Re-xn.* *Re-examination.*  
Deceased agreed to a marriage according to Chinese rites.
- 20 Witness released. She is rather a frail old Chinese lady but has given her evidence very intelligently.
- KHOO CHEH BOH POH : d/a 42 Oxley Road. Widow. *Khoo Cheh Boh Poh. Examination.*
- I know Plaintiff. Formerly I lived in Penang and came to Singapore during the Coronating (1937) and got to know her about 3 months later, i.e., about August 1937. I was then living in Bencoolen Street, I think 38. Plaintiff was living in Selegie Road. Near to Christmas her mother told me Plaintiff was going to be married soon. I was invited to and went to the wedding, taking place approximately 21st December—about 4 days before Christmas, at Sims Avenue No. 508.
- 30 Plaintiff married "Abe." I heard he was a Jew. I did not know his full name at the time but during the Japanese Occupation I came to know his name was Abraham Penhas. This is the man (in photo). I was quite well acquainted with Abe and we would discuss horse racing. When I visited his house at Sims Avenue, I would ask him for tips if the races were on.  
Photo put in—Exhibit S.
- I see this photo. The one of the extreme left is "Abe"—put in Exhibit T.
- 40 On the marriage day I went to Sims Avenue 508. I saw Abe arrive in a motor car with 3 other persons. After his arrival we took our seats. On the table were spread out cakes, etc. The 3 other persons were a Chinese and the other two same nationality as Abe.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Plaintiff's Evidence.*

Khoo Cheh  
Boh Poh.  
Examina-  
tion,  
*continued.*

Cross-  
examina-  
tion.

Re-  
examina-  
tion.

We had drinks and cakes and I saw Soo Eng came out from the rear Hall. I saw her holding Joss Sticks, Abe standing beside her. The old Chinese who came with Abe was standing in front of them and said "To-day you both Tan Soo Eng and Abe are willing to marry each other, you are husband and wife." She proceeded to worship with Joss Sticks and Abe covered his head with his handkerchief, his hands uplifted in an attitude of prayer and he was murmuring. The old Chinaman's statement was preceded by questions before he made this statement. He asked if they were willing to marry each other and both said "Yes." Tan Soo Eng was bowing with the Joss Sticks in her hands and was smiling and pleased. 10 After this ceremony Abe kissed her—at his friends' suggestion.

We all returned to the rear hall and had our food there, bride and bridegroom being present.

During the ceremony her mother was there and after the kissing they turned round and faced her mother and Abe offered a cup of tea to the mother, sweetened with rock sugar (crystal sugar). Then we had the marriage feast. There were about 18 persons present.

After the marriage I was a visitor about once a month at Sims Avenue.

I knew there were two children. I went to a feast there after the first child (female) was a month old. I went in the a.m. Abe was not there 20 but was expected in the p.m. Another child was born, a boy.

*Xxn.*

I came from Penang with my younger brother and two children (female). Then one was 8 and the other 6. They could speak Hokien and Malay. They are still living with me.

I did not meet Plaintiff during the Japanese Occupation until near the end of the occupation.

I heard rumours that Abe had been beheaded by the Japanese. I asked who it was and heard it was one who had a Chinese wife living in Sims Avenue. By the description I knew it must be Abe. I heard him 30 described as a Jew. I knew about 20 Jews in Singapore then.

I lived in Bencoolen Street. Do not remember exactly the number—I was living with my second husband Karthy, an Indian gentleman, no children by him, a Palmist and Astrologist.

I can remember attending 2 other Chinese marriages apart from my own. My marriage was in the house, at 15 years old, 37 years ago. I cannot remember the details. I have been married to Karthy for the last 13 years (details the food). An old Indian said prayers for us and split a cocoanut—according to Indian rites as I understood them. (Buddah 40 apparently).

My first marriage was to a Singhalese—Second to a Hindu. The other two marriages I attended were between Chinese and Chinese and were the modern form of ceremony.

I saw Abe and the three others arrive by car.

I met one of the two Jews brought by Abe two or three times afterwards. I think I could recognise him now.

*Re-xn.*

*By Court :* I met him before the war and have not seen him since.

NG AH KIA, d/a. 71 Tank Road. Widow.

I know plaintiff and was employed by her once as an Amah, looking after her baby boy. In Geylang near Lorong 33. Her husband was a Jew. He lived in the house. I addressed him as Towkay. I was employed before the birth of the boy and not long after the boy was born—towards the end of the year—I ceased this employment when the Japanese came in. There was another child, a girl.

Tan Soo Eng addressed him as Abe or what sounded like that.

*Xxn.*

10 He stayed in the house at nights, 3-4 times a week.

No Re-xn.

*By Court:* As far as I know, he was the master and I was in his employment and Tan Soo Eng was his wife.

CHEANG SIEW BENG, D/a. of 29 Lorong 24-A off Geyland Road.  
Clerk in Maints Production.

I lived in 504 Sims Avenue from 1940. From 1942 after the Japanese occupation.

20 I knew Plaintiff who lived two doors away from me. I met her husband once when I visited her. I knew her first. She introduced me to him as her husband. She told me his name was Abraham Penhas. I knew he was a Jew.

I used to visit her often but only occasionally saw him. She had a daughter Nancy and at end of 1941 a son was born, called Conrad.

I asked her husband about his health. He referred to Tan Soo Eng as his wife. I thought in my own mind they were husband and wife.

I went to a party at 508 Sims Avenue after the birth of the son. About 8 to 10, all Chinese except her husband. Two tables for the guests and drinks. We drank toasts, etc.

*Xxn.*

30 After the party I used to see him and nod but only on one occasion we had a conversation.

We had drinks together at the party.

No Re-xn.

On introduction he referred to her as his wife.

CHAN SOONG POH, d/a. of 45 Rochore Road, Singapore, Sundry goods dealer, at same address, Chop Tan Soon Seng.

40 Have been in Singapore over 30 years. I knew Abraham Penhas and had dealings with him. I bought from him imported Japanese goods. Penhas carried on business in Cecil Street. I would go there once or twice a month. He had a Salesman also.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Plaintiff's Evidence.*

Ng Ah Kia.  
Examina-  
tion.

Cross-  
examina-  
tion.

Cheang  
Siew Beng.  
Examina-  
tion.

Cross-  
examina-  
tion.

Chan  
Soong Poh.  
Examina-  
tion.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Plaintiff's  
Evidence.*

Chan  
Soong Poh.  
Examina-  
tion,  
*continued.*  
Cross-  
examina-  
tion.

I have been to his house on his invitation, at 508 in a road running parallel to Geylang—known as the Geylang New Road to Chinese. I have not heard of Sims Avenue.

I first visited his house until beginning of 1941 but had had dealings with him since 1935.

At his house I saw the Plaintiff there. He introduced me to her as his wife ("Bini" in Malay).

My visits were not regular, more often on Saturday or Sunday, about once a month.

I met his two children, in 1941. He told me they were his children. 10

I last saw him in October 1941—not after that. I do not know Defendant (in Court).

*Xxn.*

He invited me to call on him at his house—about business—a few hundred dollars a month credit business (\$683.06 put to him as maximum business per year). As far as my memory goes my business average \$200 to \$300 a month. I cannot remember the actual figure (\$200.28 put to him for 1936). It was far more than that. Perhaps that figure is for one deal.

(as to Bill Head, names R. Penhas and the Chinese characters 20

Yah Ha Hin) Illustration 777 put to him and agreed as to the bill (Star of David and three sevens in it).

I do not remember the total of my dealings in 1937 or 1938 or 1939.

(Total \$1,345.26 for the 4 years, according to Laycock.)

(Letter Press handed to him—Put in Exhibit D.4.)

All bills I received bore similar trade mark 777 but also a Chinese translation.

He dealt with all dealers big and otherwise and was a shrewd business man. I did not see other customers at Sims Avenue. I only remember the last Chinese characters for Penhas. 30

He did not tell me about the business belonging to his father and him being only a partner.

Re-  
examina-  
tion.

*Re-xn.*

I bought goods on credit, never for cash.

*By Court:* I spoke to him in Malay. He knew both Malay and Chinese with a Hokien Twang. (Witness speaks Teochew Chinese.)

When I went to the house we would talk business on occasions and he would offer me refreshments.

CHENG SHEN CHU, d/s. of 142 Princep Street, Singapore, Pastor in Charge Chinese Christian Church, of same address.

I first came to Singapore at end of 1939 and took up duties of my office.

Three classes attend service. 1st Class—Registered members, the members registered in book—all baptised as Christians and professing Christianity. 2nd Class—Children members—all having been baptised in our Church. 3rd Class—Attending members. Seekers after truth but not baptised. (Recruits.)

10 I keep records of 1st and 2nd Class but not of 3rd Class, officially and merely for personal reference by Pastor himself.

I know Plaintiff Tan Soo Eng. When I arrived in Singapore she was already a member of the 3rd Class.

I visit attending members as part of my duty.

I visited Plaintiff at her house, after I had met her at Church. I had made some enquiries about her, according to custom. As a result, I ascertained she had one child at that time, a daughter, who had already been baptised by my predecessor. But I have not been able to find any record of it.

20 I understood she was married to a Jew by name of Abraham Penhas. (Objection by Laycock over-ruled.)

I paid her a visit about 6 months after my arrival, i.e., about the middle of 1940. Usually I visited her Saturdays. On my first visit, a Saturday, she was living at 508 Sims Avenue, Geylang. I met her husband there on my first visit. He introduced me to her as his wife—after she had been called downstairs and after I had enquired for Madam Tan Soo Eng. He told me his own name—I saw a little girl there—introduced to me by Penhas as his child. I spoke to Penhas in English and to Plaintiff in Chinese. I continued to visit the house, once in 2–3 months. Sometimes he was there, sometimes not.

30 A second child was born, a boy. This is he (identified in Court). I baptised this boy (see p. 11 bundle). I produce my Register—at page 56, 4th entry on left—This is a true copy—Exhibit U put in. (Original entry is partly in Chinese and partly in English giving “Abraham Penhas” “Father—Jew” “mother—Chinese,”) (Date of Baptism “14.12.1941,” etc.)

I suggested baptising the child to both father and mother and both consented.

40 The father was not present at the baptism but mother was. It would be preferable for both parents to be present but not necessary for the father to attend, nor necessary if he is a non-Christian father.

I last saw Abraham Penhas just before the occupation and not afterwards.

*Xxn.*

I know 26 Pierce Road and have stayed there, slightly over a year from the whole of last year until 3 months ago. I came to know that Plaintiff went into occupation on the reoccupation but afterwards. I came to know of litigation about it afterwards to do with the estate. An Order was posted up there. I went and lived there. I paid no rent and lived there as a temporary measure.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Plaintiff's  
Evidence.*

Cheng  
Shen Chu.  
Examina-  
tion.

Cross-  
examina-  
tion.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Plaintiff's  
Evidence.*

Cheng  
Shen Chu.  
Re-  
examina-  
tion.

*Re-xn.*

I knew the contents of the Order posted up. Approximately it was to the effect that the house was subject to litigation and that no one was to disturb the occupation of Madam Tan Soo Eng.

Close of case for the Plaintiff.

Laycock opens for Defence :

First question is : What is the law to be applied to determine whether there is a valid marriage.

*Sottomayer v. de Barros.* C/A. 3 Probate Div.

A marriage performed according to *lex loci* is good provided no personal incapacity in contracting parties which arises from law of domicil, i.e., personal law.

*Sottomayer v. de Barros* : at p. 5 Law (marked in pencil).

*Brook v. Brook*, 11 English Reports, p. 709.

*Conway v. Beasley*, 162 English Reports, p. 1292, page 1297.

Penhas being a Jew is personally incapacitated by the law of this Colony from contracting a valid marriage of the nature alleged.

Further that as long he remained a Jew, he was prevented by law from contracting any marriage except one according to Jewish law and rights, until the Civil Marriage Ordinance. There was no means by which a Jew could contract a civil marriage until Ordinance 9/1940, and could only contract a Jewish marriage. 20

(Charters) Harwood. Ordinances S.S. 1867-1877 Vol. I, page 11. "Several religions, manners and customs." *Regina v. Willans*, 3 Kyshe. p. 25 last paragraph.

4 p.m. Adjourned to Tuesday August 9th.

9.8.49—10.30 a.m.

Laycock continues :—

Woods Oriental Cases, p. 30. *Chulas v. Kolson* (1867). (Malacca) 2nd paragraph at p. 31. Mohamedan law applied, prior to Mohamedan Ordinance (1880). Woods Oriental Cases—Appendix. *Choa v. Spottiswoode* (referred to by P.C.) at pages 8/9. "In this Colony . . . Mohamedans Hindus . . . without and it is held inapplicable to them" (and submitted applies to Jews).

*Yeap Cheah Neo and others v. Ong Cheng New H/N.* Vol. 6. P.C. p. 381 (1875).

"The law of England . . ."

pages 385 and 386 "It is said . . ." "2nd paragraph. 392/3 (as to Charters) . . . and in their Lordships' view . . ."

394. *Choa v. Spottiswoode*, approved, and at 396 and 397.

Six Widows Case. *Choo Eng Choon, deceased.* Vol. XII, S.S.L.R. 1911, page 120. 40

At page 153. Law, Ag. Chief Justice.

At pages 157/8 q.v.

At pages 161/2 and p. 160.

In principals it refers to all marriages amongst non-Christians.

(Referred to Maxwell on contract and refers to Law, p. 160, approved by C/A at page 192, 2nd paragraph. Hyndman Jones, C.J.)

Laycock agrees that domicil of deceased was Singapore but that his personal law (Jewish) applies.

10 Braddell, J., at p. 208, 209, 210 and 212, quoting Lord Brougham and Maxwell in *Regina v. Willian* (1927 *Meyer v. Meyer*, S.S.L.R. at page 4. Jews are monogamous—Brown, J.).

A Jew is subject (as per Braddell), etc., etc., page 212.

Laycock replies on these passages, quoted above.

*Cheang Thye Phin v. Tan Ah Loy*, 1920 A.C., page 369, at pages 374/5 and 376. Six Widows Case, supported and approved.

*Khoo Hooi Leng v. Khoo Hean Kwee*, 1926 A.C., page 529 approving above to cases, para. H/N at pp. 533 and 537. Six Widows Case referred to and apparently approved.

20 *Khoo Hooi Leng v. Khoo Chong Yiok*, 1930 A.C., at page 346 (Lord Ressel reviews the above cases) and approves the Six Widows Case.

*Meyer v. Meyer*, 1938 S.S.L.R., at p. 112, Terrell, J., approving *Regina v. Willians*, pages 116/17. "They must be regarded as persons having foreign domiciles."

(In our case viva voce evidence has been given.) Jewish rites and customs as recognised by the English Court.

English Reports, 161, page 530. *Lindo v. Belisario*, and on Appeal page 636.

*Goldsmid v. Bormer*, Eng. Rep. 161, p. 568 (reads most of it).

30 q.v. Reads evidence of Wing Commander Rev. Block given de bene esse. shewing requirements of Jewish law and customs to contract a valid marriage.

Adjourned 2.30.

Resumed 2.30.

Code of Jewish Law, Chapter CXLV, page 6, C paragraph 7, Section 11 and see s. 18 and 19. Nothing as to marriage ceremonies.

161 Eng. Rep. p. 535. Laycock adopts Scotts judgment in argument, "I will venture . . ." (3rd paragraph) read and p. 536 (marked).

Marriages. Christian Marriage Ordinance. Chapter 82 (Repealed). Section 3. A Jew could have married a Christian under this Section.

40 cf. Section 3 Ordinance 10/1940 and cf. Ordinance 9/40 (Civil).

*In the High  
Court of the  
Colony of  
Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*



*In the High  
Court of the  
Colony of  
Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

(Now says he is not concerned with these, as cases to be quoted are prior to these.)

A Jew could marry a Christian before a Registrar under Part VI of Chapter 82.

1933 S.S.L.R. *Soong Voon Sen v. Ang Kiong Hee*, page 580 (1924 case).

Facts—a valid marriage ceremony between Chinese.

Marriages between Chinese and non-Chinese.

*Re Tay Geok Teat*, S.S.L.R. 1934, page 88. Terrell reversed by C/A on findings of facts and inferences therefrom. H/N. A marriage may be presumed from cohabitation and repute when the husband is Chinese 10 and the (secondary) wife is Japanese.

The woman followed the man's personal law and turned herself into a Chinese Secondary wife.

*Chia Teck Leong v. Estate & Trust Agencies*, 1939 S.S.L.R., page 94 (read at length) Eurasian mother of plaintiff (a difficult case to follow), q.v. page 104. Horne, J., adopts Horne's dicta, pages 104 and 105.

(Passage at page 106 top, now out of date owing to Civil Marriage Ordinance.)

4.05 adjourned to 10.30 a.m.

10.8.49—10.30 a.m.

20

LAYCOCK: As to Choor Singh. Puts in Medical Certificate. Unavailable for 3 weeks (point as to his evidence is left over).

Refers again to Horne's, J. and refers to 1926 Appeal Cases page 543 (Petronella's case) *Khoo Hooi Leong's* case. Does not agree with Horne, J. that the Christian Marriage Ordinance does not apply—it was merely obiter dicta.

*Rex v. Teo Kim Choon*, 1948 M.L.J., page 145 (1947 case of bigamy).

Now says that the cases quoted earlier cannot be relied on in determining this case on the existing facts.

*Re Bethell*, 38 Chancery Div. 221 at p. 227, 234.

30

Dicey, p. 224, 6th Edn., p. 16, p. 488.

Bethell at p. 234 (on "marriage" and classical definition).

What is said here on Christian marriages applies equally to Jewish marriages in Singapore.

The Jews are not a polygamous people (?)

Deceased's marriage to a Chinese was according to Chinese rites. A Jew can only be married according to Jewish rites or in accordance with the Civil Law of the country.

All the local cases of Chinese marriages before the Courts have all been of a polygamous character.

40

## Submissions

A marriage may be a formal marriage clothed with religious rites or it may be an irregular or informal marriage without being a valid marriage.

10 But in the case of the Jews there are certain legal institutions which the Jews in Singapore practise and which must be considered as having the force of effective law in this Colony. These include the Jewish marriage laws and customs. Apart from any form of marriage expressly authorised by the Statute Law of this Colony—a Jew cannot be lawfully  
20 married in Singapore in any way except by compliance with the Jewish marriage service.

The laws and usages of the Jews in matrimonial matters must be applied to Jews on the same principles and with the same limitations as foreign law is applied in our Courts to foreigners and foreign transactions.

They must be regarded for this purpose as though they were persons having a foreign domicile and as though they were governed for many purposes and particularly matrimonial purposes by their own laws (i.e. laws including their religious law), because in the case of the Jews, as of Mohammedans and Hindus, their laws are part of their religion and  
20 their religion part of their law.

Therefore it follows that this is not a valid marriage.

Only one case to answer.

*Carolis de Silva v. Thim Kim*—1905. 9 S.S.L.R. an F.M.S. case—Both parties were Buddhists and of the same creed.

Calls :

ISAAC PENHAS. a/s. (with hat on and on Old Testament) of  
117A Cecil Street, Singapore. Defendant in Issue.

Deceased was my elder brother—Father's name Rahamin Penhas—who died 24.8.1946.—80 years old—Will proved—I am Sole Executor.

30 Father had six children—(1) Cary (female) dead, (2) Abraham Penhas, born in Baghdad in 1897, (3) Regina born 1901 in Singapore, also dead, (4) Flora born 1905 in Singapore, still alive, and lives with me, unmarried. I am the fifth born 1907 in Singapore, (6) Emma born in Singapore 1914, deceased.

We are all Jews of Sephardic Branch. I am not married. In February 1942 my sister and I went to India leaving Abraham here and taking father with us. We all three returned after the reoccupation.

Abraham left a Will, now in my custody and I am sole executor but have not yet applied for Probate, pending conclusion of these proceedings.

40 Father came to Singapore about 50 years ago and lived here ever since with his family—He brought Abraham with him from Baghdad in about 1900/01.

I produce Abraham's Passport—Put in Exhibit D.5.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Defendant's Evidence.*

Isaac  
Penhas  
Examina-  
tion.

*In the High  
Court of the  
Colony of  
Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Defendant's  
Evidence.*

Isaac  
Penhas.  
Examina-  
tion,  
*continued.*

Abraham's home was permanently in Singapore, all his life. He was naturalized as a British Subject in 1928 and I produce Certificate; put in Exhibit D.6 (issued locally).

I was born in a house in Middle Road, our then family home. We moved variously and then in 1932 to 5, Amber Road and lived there until 2nd May 1941 when we went to live at No. 26 Pierce Road a house of our own until just before the occupation. On return from India I found Plaintiff in possession of 26 Pierce Road. Father carried on business in Singapore. General Merchant, Importer, Exporter and in real estate, carried on in Cecil Street from May 1938 and previously to that in Selegie Road and thence to Robinson Road. The firm name was Rahamin Penhas. On moving to Cecil Street we had a house warming and invited regular customers, refreshments, photo taken and published. 10

I and my brother assisted father in the business, after leaving school. Later Abraham was made a partner prior to the war, still carried on as "Rahamin Penhas". We would arrive first and leave last.

I am an orthodox Jew. So was father and a very strict one.

Abraham also a strict one.

We were all brought up strictly in accordance with the Jewish religion, always Kosher food. 20

Friday night we had prayers before dinner and insisted on all members of family taking part.

On Saturday the office was always closed and no work done in office or house and no cooking on Saturday.

We had to observe all festivals and sabbaths. I and the whole family attended the Synagogue (male members being required to do so by father) in October 1941. As far as I know last day Abraham attended Synagogue on New Year's day. I left for India on 6th February.

I went a few Saturdays after New Year 1941 with my father—Whenever he went he insisted on our going with him. Abraham did not go. He had a Duodenal ulcer and was ill. We had duties in the Synagogue. Deceased and I carried the scrolls of the Law. We made special subscriptions to the Synagogue Funds, and as scroll carriers. I see bundle of receipts of such subscriptions, last one paid by deceased 21.11.41—Put in Exhibit D.7. 30

Father died in 1946 aged 80 so was in 1937 was 71. He was a light sleeper. After dinner he would dose for a couple of hours and would watch us and insisted that we should be in by midnight, and he would open the door and let us in. He would not go to bed until we were all in and gone to bed. 40

Abraham never slept out of the house when in Singapore. If he had stayed a night out, we would all have known.

Abraham once mentioned wanting to get married in 1936, in England—when on a world trip. He wrote about this from England—mentioning a nice Jewish girl and asking father's permission. My father cabled for information about the girl's family—and not being satisfied, my father did not consent and he came back without being married.

As far as I know he never got married.

A Jew in Singapore can get married in the Synagogue or in a Private house. Until 1946 I had never seen nor heard of the Plaintiff. I never heard of Abraham being mixed up with a Chinese girl, before I came back until you reported it by letter. I never knew that she had anything to do with my brother in any way.

My firm had a bill collector—Chua Lye Swee (identified). We had a Secretary, Tan Hock San, for 2 years prior to Japanese occupation.

10 Flora lived with us previous to and subsequent to the Japanese occupation.

*Xxn.*

I have been to various schools and lastly Raffles Institution, Victoria Bridge School, St. Anthony's School, and primary Raffles Girls School. Deceased also attended Raffles Institution as the last school.

20 I did not have meals at school, nor Abraham as far as I know. I had non-Jewish school friends but never went to their houses—also Abraham. I have attended Chinese dinners but only eaten vegetables fish—and eaten in non-Jewish restaurants but only proper food—fish—not prawns. By orthodox I mean we keep strict to Kosher food—go to Synagogue—contribute, etc., etc.

We were brought up by father. I have not studied Jewish Law but learnt from father.

Main things of orthodoxy are Kosher food, going to Synagogue and observe Jewish festivals strictly.

I drink foreign liquor—a local custom allowed. I did not know it was not allowed by Jewish law.

I am not a member of the Singapore Turf Club. Abraham was a member. He was interested in backing horses. I knew he went to the Races and on Saturdays.

30 Orthodox Jews go to Races on the Saturday. I can't say if they would be allowed to bet. They can handle money, but cannot sign a cheque for business purposes.

Prior to war Father was not ill but came to office but did not take an active part for some years prior to Japanese occupation. Abraham was an active Manager and I was.

He had quite a number of business friends but would not visit them in their houses as far as I am aware. He had many social friends amongst Jews and English (non-Jews) and who would come to our house. He would not go to their houses or very seldom.

40 I do not remember when I met you first. I was never in Mr. Reshly's house.

He would go to the Synagogue in the forenoon and perhaps to the Races in the afternoon. I do not attend regularly now except for Jewish holidays and festivals. I am not so particular now—father's restraining hand is absent but I am still strict "Kosher" at home.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Defendant's Evidence.*

Isaac  
Penhas.  
Examina-  
tion,  
*continued.*

Cross-  
examina-  
tion.

*In the High  
Court of the  
Colony of  
Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Defendant's  
Evidence.*

Isaac  
Penhas.  
Cross-  
examina-  
tion,  
*continued.*

Exhibit D.6 represent fees paid for privileges, etc.—that is all. These do not show general contributions to the funds.

Abraham did not travel often. One trip round the world—and business trips in Malaya once or twice a year. To Penang—He went to Java, etc., about 3 or 4 times prior to Japanese occupation. We had a branch in Sourabaya and Medan. He would visit the branches occasionally. He would make out a schedule and discuss it and would be in contact with us.

I heard Plaintiff's evidence and that he spent a few nights every week with her. I absolutely disbelieve it.

As far as I am aware he had nothing to do with her. My father would 10  
make trouble if we were out too often at night. Deceased did go out after dinner.

Amber Road is one storey—not a big house. Deceased had his own bedroom. We all did. No bathroom to his room. A verandah. It would have been physically possible for him to have gone out at night but the gate door would make a noise and wake my father.

Father strict orthodox and non-believer in visiting non-Jewish houses. He would definitely not have liked deceased's association with the Plaintiff.

I see this bundle. The handwriting looks similar to deceased's. 20  
(Exhibits A, B, C, D.)

I see this bundle. The handwriting looks similar to deceased's.  
(Exhibit E.)

This is not a photo of deceased. (Exhibit S.) It does not resemble my brother.

This (Exhibit T.) shows my brother (on a camel). I had something similar. He did this tour April-October 1936. The photo is that of my brother (Exhibit T.) I called him "Brahim." His Jewish friends always called him Abraham, not Abe. I am called Ikey, Isaac, Penny. I do not remember non-Jews calling him Abe. I know some Jews "Abraham" 30  
in Singapore who are not referred to as Abe. I know late Joe Elias. First full name Joseph, always referred to as Joe. My brother was not called Abe. I did not know you called him Abe.

I said S. was not "Abe's" photo as he has been referred to as Abe but, I can't say it is a picture of him. (Looks again at "S" and the other photos. Again says he can't say it is of deceased's.)

No Re-xn. on this.

*By Court:* He was 10 years older than me. He was my senior and I would obey him and look up to him.

My father discussed the question of his marriage to the London girl with me and the family in 1936. My brother replied to the cable by 40  
airmail. My father refused his consent. We had a talk about it on his return. He was disappointed.

We both lived and had our business in Selegie Road, 127-129 for a period, but we removed from there about 1918. I have never seen the Plaintiff before or heard of her from my brother or otherwise. He never discussed it with me.

We had a branch in Penang.

I can't say that the letters are his—to Plaintiff.

I can't read Hebrew. I can't speak Yiddish. My father was very strict and orthodox and my brother. I do not know if he owned race horses. Racing was a pastime with him. My brother managed the business mostly and I looked after the internal affairs and accounts. I visited the branches once or twice myself. I do not know and have never seen the witness Khoo Cheh Boh Poh.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Defendant's Evidence.*

FLORA PENHAS: d/s. of 117A Cecil Street with my brother.

10 Father was a strict orthodox Jew. I had to do with the food in the house it was kosher food.

Prior to the fall of Singapore, my father, two brothers and self lived in the house at 26 Pierce Road. I had charge of food. Deceased was an orthodox Jew. He ate Kosher food I prepared, and no other, to my knowledge. Neither I nor two brothers were married. I did not go out to business but looked after the house.

Isaac  
Penhas.  
Cross-  
examina-  
tion,  
*continued.*

Flora  
Penhas.  
Examina-  
tion.

They did not spend nights away except when on business, i.e. my two brothers.

20 Abraham went regularly to the Synagogue with my father—all his life. We had festivals. New Year, Feast of Atonement, Passover. He was always in the house and would take part in the ceremonials. Friday nights and Saturday forenoons we had prayers in the house, Abraham taking part.

30 Friday nights he was always in the house and on Saturday forenoons. He was always at home at the weekends (even when travelling). Sometimes he would go out before and sometimes after dinner but being on a strict diet, duodenal ulcers, and come back for food. He so suffered before 1936. It would be "soft" food, mostly milk. Dinner would be between 7 and 8 and he would go out after dinner at times but would have to be back by midnight. My father would have a sleep after dinner.

I had the front door key, no one else.

He never stayed out the whole night—nor have I—my father would have been very angry.

I never heard of any association with a Chinese woman prior to the occupation. We heard of it after the re-occupation. I have never seen Plaintiff. Abraham never married.

*Xxn.*

40 I called him Abraham (in full) and my father did. I never heard his friends call him Abe. Never call defendant Ikey nor his friends but I have heard them call him "Penny."

Cross-  
examina-  
tion.

I see Exhibit S. I don't think it looks like my brother. He is not the same as this. It might be his, it might not. I see my brother on the camel in this Photo (Exhibit T). I had a copy myself.

*In the High Court of the Colony of Singapore.*

“ Orthodox ” means a Jew who only eats “ Kosher ” food. We would get Calcutta cheese prepared by Jews. I have not bought cheese from the Singapore Cold Storage. I think the bread we eat is Kosher but I cannot say if it is prepared by Jews.

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

I don't go out alone in the evenings but when I do I would go with Abe (corrected to Abraham). I would go out to tea at non-Jews but not for lunch or dinner. “ The family house is strictly orthodox.” If I went (once in three months) to a non-Jew's house I would eat fish, vegetables (prepared by non-Jews) not meat.

*Defendant's Evidence.*

I know about his trying to get consent of father to marry a nice Jewish girl when on his world tour. My father did not consent as her particulars were not satisfactory. My brother liked her very much. “ Abe ” and my father talked about it. 10

Flora  
Penhas.  
Cross-  
examina-  
tion,  
*continued.*

Exhibits A, B, B1, C and D shown to witness.

I can't say if they are in his handwriting. He has never written to me. I am not familiar with his handwriting. I had not seen these before today.

He had never slept away from home except when travelling for the firm.

I can't say who his intimate friends were. 20

*No Re-xn.*

*By Court:* He would be away on business for more or less a week at a time. I would know when he was expected back. We never had a message to say that he had been detained.

Chua Lye  
Swee.  
Examina-  
tion.

CHUA LYE SWEE. d/a.

9 Bukit Terrace, Kampong Bahru, Singapore. 69 and working for Penhas family for last 20 years. Bill Collector. I know a little English.

I first knew Plaintiff during the Japanese occupation when she called at my house in Geylang Road, No. 631. She told me she was Penhas' wife but I did not know her before. Perhaps Penhas was still alive but in custody. She asked me to get money from the shop. I said I could not do so as I did not know her. Later I moved my house to Kampong Bahru. I moved once or twice during the Japanese occupation. 30

I see Exhibit D.2 (15.6.2602, referred to in Statement D.1). I can understand a portion of the letter. I was not responsible for writing this letter. I have no knowledge of this letter and have not seen it before to-day.

I don't know an Advocate named Menon. I did not take Plaintiff round to see Menon. I did not suggest taking her round to him. I had nothing to do with the letter Menon wrote and no knowledge of it. (Letter of 31.8.2602). I did not take Plaintiff to the Office of the Custodian. I know a Choor Singh. I did not dictate the statement as in D.1 nor interpret it. I don't know Tan Thoon Lip. I did not see Plaintiff again to speak to again after she had come that once for money. 40

*Xxn.*

I am in the employ of Isaac Penhas. Pre-war employed by Rahamin Penhas.

631 Geylang Road is near Lorong 33. Plaintiff lived in Sims Avenue near Lorong 33. I never went to her house. I know the house 508, I have strolled by, during the occupation. I sometimes saw her there. When she came to see me at my house in Geylang Road I did not know who she was, before she spoke to me or where she lived.

I did not know why she should come to me. She told me about the 10 children (and her difficulties). Perhaps she had been told I was employed by Penhas. People knew I did so.

I did not see any children then. I did nothing then to assist her.

There was not much business being done by the firm then. I was not in receipt of salary for February and March (1942) nor after then, until the reoccupation, when I was re-employed by Isaac. Abraham was taken away in March 1942 by the Japanese. It was not long after, about a month that Plaintiff had come to see me.

Adjourned to 11 a.m.

11.8.49. Resumed 11 a.m.

20 Except for the one occasion I never saw the Plaintiff to speak to. I have seen the children with the Plaintiff on the road. I removed from house in Geylang Road in July or August 1942. I never took the Plaintiff to see any customers of the business, for assistance.

Tan Hock San is Secretary of business. I never took her to see him. I don't remember if Far Eastern Trading Company of 165 South Bridge Road was a firm dealing with Defendants. I did not take Plaintiff and her children to this firm. I know Koh Keng Siang. He was a Salesman of the Penhas business. (Koh Keng Siang, id.)

30 I did not meet him at Far Eastern Trading Company with Plaintiff and children. I was at Mr. Koh's place but don't remember the date but I saw him one day in his shop and I sat down. About 5 to 10 minutes later the Plaintiff came in with the children. This was after I had seen her at my house. (? April/May 1942.) I did not speak to her and sat and listened.

I did not see the Far Eastern Trading Company give Plaintiff \$50.00. I did not go with the Plaintiff and Koh to Chop Kim Liong, 5 Upper Circular Road.

I have a good memory.

40 I know Wah Peng, Assistant Bill Collector of Penhas—employed there for 10 years or more—I did not go with Plaintiff and Wah Peng to customers.

I deny doing so. Wah Peng is not outside.

I first saw the Bengali (Choor Sing) in connection with Post Office Savings Bank Book (Passbook) about 2 or 3 months after Japanese occupation as they had taken it and I heard it was with Custodian.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Defendant's Evidence.*

Chua Lye  
Swee.  
Cross-  
examina-  
tion,  
*continued.*



*In the High Court of the Colony of Singapore.*

This was before the Plaintiff had come to see me. I did not take Plaintiff to see Choor Sing. I was not responsible for preparing D.2 (letter). I deny this and had no knowledge of it.

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

I was born in Singapore. I know Bonham Building. I have nothing to do with lawyers. I have collected bills here after the occupation not before. During the occupation there were not many practising lawyers in Singapore. I don't know Menon and have not heard of him. I did not take Plaintiff to his office nor given him instructions to write a letter on behalf of Plaintiff. I am Bill Collector of the firm but don't collect rents from them. Pre-war two persons collected the rents, Wah Peng and Bah Chi now deceased. During occupation I had nothing to do with rents. 10

*Defendant's Evidence.*

Chua Lye Swee.  
Cross-examination,  
*continued.*

I cannot explain why Plaintiff should say I took her as alleged to Menon, etc.

I did not know a Japanese Shinozaki and had not heard of him. I did not know he was a Welfare Officer, Singapore. I did not take the Plaintiff to him.

*By Court.*

(As to Bill collecting and seeing Debtors.) I do not know a rent collector Teng Neo—Far Eastern Trading Company (Koh) meeting. I did not pay attention to what she said but the gist of the conversation was about deceased and she said Mr. Koh that she was his wife. I did not hear her ask for assistance. I was not interested because I guessed that Penhas had no wife. I did not do anything for her when she first appealed to me and on this second occasion I took no interest. 20

Tan Thoon Lip.  
Examination.

TAN THOON LIP, d/s. Deputy Registrar, High Court.

Attending on subpcena.

During early part of Japanese occupation I was attached to a branch of the Japanese Custodian, the moveable property and business branch. I was an Assistant Custodian. This branch managed the property, etc., of firms classified as Enemies. The Jewish branch was separate to my branch. Asaki was the head. My superior was also Asaki. Choor Singh, now Deputy Coroner, was an Inspector in my office, to inspect property of so-called enemy firms. I dealt with the Penhas property. 30

I produce the Custodian file. Exhibits D.1 and D.2 were extracted from this file. File put in Exhibit D.9.

I see D.2 dated 15.6.2602 (1942) I endorsed on the first document on the file. On this 15th June. Am not clear but I do remember having seen the Plaintiff but can't say when it was. I have a faint recollection that she came and saw me. I think there was another lady with her but I am not very clear. I see last witness. I do not recollect seeing him with her. I don't recognize him. 40

To the best of my recollection I think I told Choor Singh to make preliminary investigation on this letter of hers and to take a statement from her. On this letter there appears to be some pencil marks by me but I cannot say when I made them.

I see D.1. Choor Singh produced this statement by the Plaintiff to me. I was not present when it was taken. I think this letter and statement was referred to Asaki and I was instructed to make a report. It is in the file. I am not certain whether I saw her once or twice. She was applying for a monthly allowance out of the assets of Penhas. This question depended to some extent on whether she could show she was Penhas' wife and in fact she got no allowance.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Xan.*

10 Penhas affairs were treated as those of Enemy subject. I can't say if, having proved herself to be wife, she would have been an Enemy subject. The Japanese policy was variable, sometimes Chinese wives were treated as being enemy subjects themselves. I can't say if this was so with Indians but I know the Indian Policy was changed.

*Defendant's Evidence.*

Tan Thoon  
Lip.  
Examina-  
tion,  
*continued.*

I had a room to myself not shared by Choor Singh—he shared the main office with the other clerks.

Cross-  
examina-  
tion.

*Re-xn.*

I spoke to her through an Interpreter. I don't know about Choor Singh doing so.

Re-  
examina-  
tion.

By Permission (Mallal).

20 I can't recognise her definitely and cannot say whether it was the Plaintiff who actually came to see me. I must have seen the daughter, judging by my report. I can dimly remember another lady being with her. It is quite possible that Chua Lye Swee accompanied her but that he did not come into my room.

I could not say either way whether I saw him or not.

TAN HOCK SAN, d/s. 115 Devonshire Road.

Tan Hock  
San.  
Examina-  
tion.

30 Now on business on own at Raffles Place. Pre-war I had worked as Secretary for Penhas, as Secretary for 1940/41—2 years prior to occupation. I knew them well. Just prior to fall, father, Isaac and sister left for India—Abraham left behind. We carried on up to the fall and then shut down. Two days after the fall I saw Abraham at the office. I went there to see and if he was safe. I was put in concentration camp and never saw him again. A few days before the fall and afterwards I know that he slept in the office.

I had never heard he was married. I saw Plaintiff 2 years after the occupation, not before.

I see these documents (Power of Attorney and Blank cheques)—he gave them to me two or three days before the fall. He was intending to get away.

40 Cheques, Letters to Banks and Power of Attorney. Exhibit D.8. I was also given keys of office, etc. He did not mention Plaintiff and I did not know of her existence. Two years later after October in 1944 I was on my own and Plaintiff was brought to me by Kok Keng Siang and others.

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Defendant's Evidence.*

Tan Hock  
San.  
Examina-  
tion,  
*continued.*

She alleged she was Abraham's widow and asked for assistance. I could not assist her as Japanese Custodian was in charge. I had not seen her before this or heard of her existence. Kua Cheow Keng was Chief Salesman—now deceased. Plaintiff brought her children with her. I cannot remember the other person who came except once her old mother came. She came many times.

I can't remember definitely if Chua Lye Swee came with her. All the staff of Penhas came to see me during the occupation, including Lye Swee—possibly once or twice—I do not remember if Lye Swee told me about the Plaintiff. I see the newspaper cutting—one of them on 10 the extreme left must be Abraham. Cutting 1.6.38 Tribune—put in Exhibit V.

Exhibit S (cutting of Abraham) and figure in extreme left look very much the same.

No Re-xn.

1.00 p.m. adjourned (*sine die*). Efforts will be made so that Choor Singh's evidence can be taken in hospital.

Initialed F. G. S. 11.8.49.

11.8.49 at General Hospital.

Choor  
Singh.  
Examina-  
tion.

CHOOH SINGH (on former oath in Ward I, General Hospital). 20

During Japanese occupation, I was attached to Custodian of Enemy Property as Inspector. In 1942 Plaintiff came to my office. Tan Thoon Lip was the Assistant Custodian.

Tan called me to his room—I saw Plaintiff—two children and another lady who appeared to be a Tamil and who spoke very good Chinese and Tan Thoon Lip instructed me to take a statement from the lady. He also handed me a letter, this is it—D.2 and I took Plaintiff the other lady and 2 children to my room. There I took a statement from her after reading this letter. The other lady who spoke Chinese acted as Interpreter. Exhibit D.1 is her statement, of which I made a draft, had it typed, explained 30 it to her and she put her Finger Print on it.

I see (Chua Lye Swee)—he was not present when the statement was taken—I believe he is the man who brought Plaintiff to the office but he was not in my office when the statement was recorded.

He saw me once as regards his own affairs about a Savings Bank Passbook. He did not interview me about Penhas affairs nor act as Interpreter for Plaintiff.

Cross-  
examina-  
tion.

*Xxn.*

I had a room to myself then. I do not think Chua Lye Swee came into the room at all. The two ladies and two children were in the room 40 only. I believe he brought the lady to the office. I saw her going away with him after going up to him. I do not remember Chua signing any book or paper in my room. I did not keep any Attendance Book.

I think he got his Savings Bank Book after some delay. I am not certain but don't think he got it that same day he came with the lady.

I think I saw Plaintiff once only. Plaintiff gave me the information as to the names in the statement.

No Re-xn.

Initialed F.G.S.

11.8.49 4.05 p.m. at General Hospital.

12.8.49—Resumed at 11 a.m.

*Murphy :*

10 Evidence for Defence concluded.

Facts : Executor must call on Plaintiff to prove the marriage. There seems to have been some ceremony—with deceased putting a handkerchief on his head thereby disclosing his Jewish Faith. Ceremony insufficient—Plaintiff must prove deceased to have been of polygamous Faith. She relies on Chinese custom. Must show he has renounced his Jewish religion (subject to the law). Entering on a " connubial union " does not abandon a religion. Does not rely on the secrecy as shewing this did not happen. There was a reason for secrecy.

20 Both parties knew the ceremony had no binding effect (see D.1 and D.2). A matter of inference.

Suggestion by Plaintiff as to D.1 and D.2.

Evidence of Choor Singh concluded matter as regards Chua Lye Swee writing the letter, etc., and conclusively disproved such.

(Mallal interrupts.)

In view of these statements they must cast doubt on the veracity of Plaintiff's evidence.

Distinguishes between letter and statement, as to details. (Did Choor Singh read this letter to her—he does not say so.)

30 Accepts there was some sort of ceremony—a face saving one and not binding.

She has to prove the marriage and prove that both parties were subject to such ceremony.

Six Widows Case. Customs applicable when both parties are Chinese and subject to Chinese customs page 190 Hyndman Jones, C.J., last paragraph—1911 S.S.L.R. Vol. XII at p. 190—p. 191 Bethell q.v. Bethell's marriage barred on two grounds. He was a Christian and also domiciled in England and therefore incapacitated to enter into a polygamous marriage. Incapacity of both parties and see para. 2, p. 192. See also Braddell, J., p. 217.

40 English law recognize polygamous marriages because of the hardship otherwise accruing to the children in succession.

But such marriage must confirm to the custom of the parties. Six Widows case was as regards the Chinese customs of both parties to the marriage. (See Braddell, p. 218.)

*In the High Court of the Colony of Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*Defendant's Evidence.*

Choor  
Singh.  
Cross-  
examina-  
tion,  
*continued.*

*In the High  
Court of the  
Colony of  
Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

Is there a custom here of marriage between Christian and non-Christian. No evidence of proof of such a custom. page 219 "That being so . . ." Bethell, 38 Ch., p. 234 "I conceive . . ." Horne, J., 1939 S.S.L.R. at p. 98 "Whether . . ." p. 99 "up to this date . . ." p. 101 "So far . . ." (Horne avoided saying there was a "legal and valid marriage") p. 106 "this is a country . . ."

These cases did not extend "marriage" to polygamous unions. Horne, p. 104 last line—not quite correct as the point was not raised.

*Petronella Case.* 1926. A.C. at page 543.

*Petronella Case.* 1930. A.C. at page 349. Russell, L.J., p. 352 10 (Horne disregards some of these findings).

Woods Oriental Cases, page 31 "If the Criminal law . . ." "Having this rule . . . it appeared to me impossible . . ." p. 32.

This custom must be a custom to which both parties subscribe. *Estate of Yeo Kian Kee—deceased*: 15 M.L.J. June 1949, page 171 at p. 172 2nd Volume "no formalities . . . both parties . . ." Chief Justice.

There is no case on all fours with the present case. *Sunny Tay* case not in point etc.

Nearest approach is *Carolis de Silva* IX S.S.L.R. at page 11. M.L.J. 1948 Vol. XIV Brown J. *Rex v. Theo* (no authority—a Chinese case). 20

Custom applying to both the parties is the only binding custom (Six Widows case) and no custom under which a Chinese can validly marry a Jew.

No authority to the contrary—All other cases are those in which this point was never considered or considered wrongly as by Horne.

Adjourned to 2.30.

Resumed at 2.30.

Final address.

Mallal for Plaintiff.

Three principles of law.

30

I. Strong legal presumption in favour of marriage which can only be met by strong and satisfactory evidence of disproof. *Piers v. Piers* 9 Eng. Rep. p. 1118, H/N, L/C. 2nd paragraph p. 1129—Approved in *Sastry Velaidier Aronegary*—6 A.C. 364 at page 372.

II. Law presumes against vice and immorality etc. Best on Evidence—12th Edn. p. 309 "so the law presumes, . . . proved."

III. Pedigree even remote and slight evidence is allowed—*Vowles v. Young*, 33 Eng. Reports, page 247.

Jews? Monogamous or Polygamous. Old Testament Jews definitely not monogamous. No authority or case for saying they are not polygamous, although European Jews may have not practised it. Dicey 6th edition pages 223/4 and Note 57. 40

No evidence that Singapore Jews are monogamous and in absence of evidence it must be presumed they are polygamous. *Meyer v. Meyer*, 1927 S.S.L.R. page 1, at page 4. Brown, J., but see 1926 S.S.L.R. page 24. No evidence taken as to polygamy.

*In the High Court of the Colony of Singapore.*

Submits :

Jews in Singapore are polygamous and even if they are not it makes no difference to the validity of the marriage in question.

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

Jews in England. Eversley on Domestic Relations—5th Edn. page 70 q.v.

10 *Lindo v. Belisario*—161 Eng. Rep. Both parties Jews.

Laycock adopting argument on page 535. I also adopt this argument as it applies to all marriage. We are not having to consider Jewish practices of marriage. It is a marriage between Jew and Chinese.

*Goldsmid v. Brommer*—page 568 Eng. Rep. 161—does not carry us any further.

*Brook v. Brook*—11 Eng. Reports p. 703—Deceased's wife's sister. Marriage in Denmark where it was valid was held to be invalid at page 709 (Principles *lex loci contractus* and *lex domicilii*). This does not help Defendant.

20 *Conway v. Beazley*—162 English Reports p. 1292—also *lex domicilii*.

A marriage performed according to *lex contractus* is valid so long as there is no legal incapacity (not religious incapacity). Does not agree with Laycock as to the latter. It must be legal incapacity.

*Despatie v. Tremblay*. 1921 A.C.1 p. 702 (Quebec appeal. Parties cousins—prohibited by Ecclesiastical law. Marriage held valid).

*Sottomeyer v. de Barros*—3 Probate Div. Incapacity was imposed by the law of Portugal where both parties were domiciled. v.p. 5 (marked).

30 2nd *Sottomeyer v. de Barros*—5 Probate Div. p. 94—Marriage held lawful because husband was in fact domiciled in England not in Portugal and wife only domiciled in Portugal. pages 99/100 and pages 101, 102 and 103. Courts must apply their own law so as to protect their own subjects.

*Chetti v. Chetti*—1909 Probate—page 67.

Principles stated on page 78.

*Rex v. Regr. Hammersmith*—1917, 1 K.B. 634 at 639 2nd paragraph onwards.

4 p.m. adjourned to 10.30 to-morrow (Saturday).

Initialed F. G. S.

13.8.49.

40 (Ditto—at page 642/3) Jurisdiction—Reading J. Applied to facts. Assuming a valid marriage her domicile is Singapore but according to Defendant her domicile is Jewish !

*Jones v. Robinson*—161 Eng. Rep. 1146. (Jewess married when minor.)

*In the High  
Court of the  
Colony of  
Singapore.*

No. 19.  
Judge's  
Notes of  
Evidence,  
*continued.*

*In re de Wilton.* 1900 2 Ch. 481. H/N. and 488 last paragraph and 490. Both Jews.

If domiciled in this country you are bound by the laws of this country irrespective of religion. *Ogden v. Ogden*—1908 Probate Div. p. 46 at 58/59/60.

Our case is stronger by reason of deceased being domiciled in Singapore.

q.v. *Goodman v. Goodman*—1859, 23 L.J.L.S. p. 745. What is the law in Singapore.

15 M.L.J. (1949) p. 171. *Estate of Yeow Kian Kee* at p. 172 “the 10 Courts have decided . . . ”

Consensual—agreement of parties is sufficient—apart from habit and repute.

There was a ceremony—there was habit and reputation. (*Habbit.* 1871, 25 L.T. 183—habit and repute. If consensus is proved, lapse of time is unimportant.)

There was consensus—distinctly proved and Chinese customs performed.

Bethell insisted on being married as a Baralong as a member of a semi savage tribe Vol. 38 Ch. p. 221.—Deceased did not prefer to marry 20 as a Jew or anything else.

The Charter allowed freedom of religion to all.

Chinese polygamous.

Jew also allowed freedom but this did not . . .

No Civil Ordinance in 1937. A Christian Marriage Ordinance in force.

Nothing to forbid a Chinese or a Jew from contracting a consensual marriage except Christian Marriage Ordinance if one a Christian.

C.A.V.

Saturday, 13/8/49.

(Initialled) F. G. S. 30

Certified true Copy.

(Sgd.)

Private Secretary to Judge,  
Court No. 3,  
Supreme Court, Singapore.

No. 20.  
**WRITTEN JUDGMENT OF GORDON-SMITH, J.**  
 IN THE HIGH COURT OF THE COLONY OF SINGAPORE.  
 Island of Singapore.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS deceased.

Between TAN SOO ENG (Widow) . . . . . Plaintiff  
 and  
 ISAAC PENHAS . . . . . Defendant.

*In the High  
 Court of the  
 Colony of  
 Singapore.*

No. 20.  
 Written  
 Judgment  
 of Gordon-  
 Smith J.  
 and  
 Appendix,  
 13th  
 September  
 1949.

10 In this Petition for Letters of Administration against which the Defendant had entered a caveat, an issue was ordered to be tried between the petitioner and caveator in the following terms "whether the petitioner Tan Soo Eng is or is not the lawful widow of Abraham Penhas and if the answer is in the affirmative when the said Tan Soo Eng married the said Abraham Penhas." It is a brief and easy question to ask but difficult to answer in view of the facts and circumstances of the case in relation to the law and it is therefore necessary in the first instance to find what are the definite facts.

20 Briefly, the Plaintiff alleges that she married Abraham Penhas the deceased on or about the 25th December 1937 and subsequently bore him two children. Shortly after the occupation of Singapore by the Japanese in February 1942 the deceased appears to have been liquidated by the Japanese.

By her Petition she asks for Letters of Administration to the estate of the deceased as his lawful widow. A caveat was entered by the Defendant who is a younger brother of the deceased.

30 Evidence *de bene esse* on behalf of the Defendant, of Wing Commander Rev. S. M. Block, the senior Jewish Chaplain to the Armed Forces in the Far East, was recorded in October 1947. I will refer to this evidence later together with the other evidence for the Defendant.

The evidence for the Plaintiff in the main is uncontradicted and cannot be contradicted by the defence because it is alleged that the deceased's family had no knowledge whatsoever of the Plaintiff or of her ever having been married to the deceased. The evidence for the Plaintiff consists of her own evidence, that of her mother, Sing Peng Neo, Koh Chay Bo Poh, Ng Ah Kia and other witnesses. The story told by the Plaintiff and her mother is that in September 1937 an introduction was effected between the deceased and themselves with a view to marriage and this marriage was discussed at a meeting in the Botanical Gardens between them, when there were present the go-between, the Plaintiff, her mother, and the deceased. 40 Apparently satisfactory arrangements were made at this meeting and the deceased gave the Plaintiff an envelope containing \$500/- suggesting that she and her mother looked out for a house as being more suitable than where they were living at that moment, which was on a second floor over some business premises. Shortly afterwards the Plaintiff and her mother found a suitable house at 508, Sims Avenue, and removed there. The deceased came and visited them there and they got better acquainted



*In the High  
Court of the  
Colony of  
Singapore.*

No. 20.  
Written  
Judgment  
of Gordon-  
Smith J.  
and  
Appendix,  
13th  
September  
1949,  
*continued.*

and an early marriage was suggested. The Plaintiff suggested a marriage ceremony but the deceased said that this was not possible in the Jewish Synagogue and on her suggesting a marriage according to Chinese rites and on being supplied with details, the deceased agreed. A day was appointed and a ceremony took place just before Christmas 1937. Both the Plaintiff and her mother and another guest who were present have described this ceremony in detail. The deceased had already given the mother \$500/- for the expenses of the wedding and wedding feast. On the appointed day the deceased arrived with two Jewish friends and an old Chinese gentleman. The ceremony consisted of the bride and bridegroom (the Plaintiff and the deceased) standing before the old Chinese gentleman who made some sort of speech referring to the auspicious occasion and then formally asked them separately whether they were willing to become man and wife and they both responded in the affirmative. During this procedure the Plaintiff was holding joss-sticks, bowing and worshipping. The deceased produced a handkerchief with which he covered his head, raised his right hand and was murmuring something in his own language. After this ceremony the happy couple then paid their respects to and offered the mother a cup of sweet tea in accordance with the Chinese custom. The two Jewish friends shook hands with the bride and kissed her. Following on this ceremony the usual wedding feast took place at which there were about 17 guests. The deceased remained the night there, going to business as usual the next morning. According to the evidence the deceased would spend three or four nights a week at 508 Sims Avenue regularly except when he was away on business trips and this continued right up to the fall of Singapore in February 1942.

On the 12th September 1938 the first child was born (the girl) the birth being duly registered with the Registrar of Births on the following 8th October. A certified extract of this registration was put in as Exhibit "G" which records the name of the father as being "Abbey Phang" and the maiden name of the mother "Tan Soo Eng". The informant was Tan Ah Bah, a neighbour. The father was described as a ship's Clerk, a Chinese Hokien, born Singapore, nationality British, place of birth being recorded as at 508 Sims Avenue. On the 16th January 1941 another child was born, this time a boy, which was duly registered with the Registrar of Births on the 13th February 1941. A certified extract of this registration was put in as Exhibit "J," the details showing that the boy was born at the D'Cotta Clinic, 26 Hill Street, the home address of the parents having been given as 508 Sims Avenue. The details are similar except the country of birth of the father is given as Dutch East Indies and his nationality as being a Dutch subject, the name of the father is similarly given as Abbey Phang, Trader. There is further evidence of the birth of the girl in that a bill for medical expenses due to the Tan Dispensary was put in as an exhibit, amounting to two hundred odd dollars. This account is dated the 20th September 1938 and is made out to "Mr. A. Penhas" and a receipt dated the 1st October 1938, Exhibit "M" for \$40/- on account is similarly made out in the name of Mr. A. Penhas. Similarly there is a receipt dated the 18th January 1941 for \$50/- for professional services for maternity signed by Dr. D'Cotta. This receipt is made out in the name of A. B. Phang. There is further confirmatory evidence in the form of a Municipal Vaccination Notice, Exhibit "K," dated the 8th October 1938 made out in the name of "Phang" of 508 Sims Avenue and another one,

- Exhibit "L" dated the 13th February 1941, no name being inserted but the word "Male" is given and the address D'Cotta Clinic, Hill Street, and place of residence (508 Sims Avenue). In addition the Rev. Chong Shen Chu, Pastor in charge of the Chinese Christian Church of 142 Princep Street, Singapore, gave evidence. He first came to Singapore at the end of 1939. The effect of his evidence is that he came to know the Plaintiff, who at times attended his church as a third-class member. He described the first two classes of membership of his congregation as including only baptised Christians professing Christianity and their children, and the third
- 10 class as not having been baptised but being "seekers after truth." He visited the Plaintiff at her house after he had met her in his church and made enquiries about her in accordance with his duties. He stated that he ascertained that she had a daughter who had already been baptised by his predecessor. On his first visit to 508 Sims Avenue about the middle of 1940 he met the Plaintiff's husband there who introduced the Plaintiff to him as his wife, and he also saw a little girl whom the deceased introduced to him as his child. Later on, after the birth of the boy, he suggested to them both that the child should be baptised and they both agreed, which was done. The father was not present at the baptism but the mother was.
- 20 He produced his Register of Baptisms a certified copy of which is put in as Exhibit "U." This shows the Christian name of the child as "Honglet," the parents' names as Abraham Penhas and Tan Sok Geck, their respective nationalities, the father "Jew" and the mother "Chinese," date of Baptism 14th December 1941, the address 508 Sims Avenue, Lorong 35, Geylang, and under "remarks," "Tan Sok Geck alias Tan Soo Eng."

One of the guests at the wedding, Koh Chay Bo Poh, also gave evidence confirming in detail the ceremony that took place.

- A Chinese Amah, Ng Ah Kia, who was employed at Sims Avenue before and after the birth of the boy, also gave evidence confirming that
- 30 the Plaintiff's husband was a Jew and that he would stay 3 or 4 nights a week in the house at Sims Avenue. In answer to the Court, she stated "as far as I know he was the master and I was in his employ and Tan Soo Eng was his wife." Other witnesses gave evidence of the deceased referring to the Plaintiff as his wife one of whom had also been at a celebration party at the house after the birth of the boy in January 1941.

- As I have said this evidence for the Plaintiff was not and could not be contradicted by the Defendant and I am satisfied that the facts as detailed above have been abundantly proved. I was particularly impressed by the evidence of the old mother, a Chinese lady of over 70, who gave her evidence
- 40 extremely fairly but, as she stated, her memory had deteriorated after and in consequence of Japanese occupation. I have no doubt whatsoever that there were these negotiations for marriage as detailed, that such a marriage took place according to Chinese rites as detailed and that the deceased cohabited and lived with the Plaintiff as his wife and that she bore him two children. The marriage was a happy one and he treated his wife well, paying the rent of 508 Sims Avenue through the mother and providing his wife with sufficient money for the ordinary household expenses, up to the date of the occupation of Singapore by the Japanese and his subsequent liquidation by them.

- 50 Numerous letters and postcards from the deceased to the Plaintiff were put in as exhibits, extending from the 6th December 1937 at the

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Runnymede Hotel, Penang, from Medan in 1938, and numerous other places in the Netherlands East Indies and the Cameron Highlands in Malaya. They were produced with numerous envelopes and I have no doubt whatsoever that they were written by the deceased to the Plaintiff.

There is also abundant evidence that the deceased introduced the Plaintiff as his wife, acknowledged her as his wife and treated her as such and never attempted to deny his paternity of the two children born to the Plaintiff.

The evidence for the defence as regards these facts and circumstances was negative, as the evidence of the Defendant himself and his sister Flora was to the effect that they had never seen nor heard of the Plaintiff prior to these proceedings. Shortly before the fall of Singapore, i.e. early in February 1942, the Defendant and his sister Flora managed to get away from Singapore taking their old father with them to India and they did not return until after the liberation. There were in the family, during the relevant period, the father Rahamin Penhas (since deceased), the deceased Abraham Penhas (born in Baghdad 1897), Flora Penhas born in Singapore 1905 and the Defendant Isaac Penhas born in Singapore 1907. There were three other children who are dead and with whom we are not concerned. The father migrated to Singapore about the beginning of this century and established himself very successfully in business. They were all Jews of the Sephardic branch, and it was claimed that they were very orthodox Jews, the father in particular being very strictly orthodox. 10 20

In 1936 Abraham the deceased went on a world tour and when in England met a nice Jewish girl whom he wanted to marry but after seeking his father's permission and the father not being satisfied, such permission was refused. According to the Defendant, his brother the deceased was very much disappointed at his father's refusal to consent to his marriage. It was not long after his return that he formed this union with the Plaintiff.

The Defendant and his sister both described in detail their family life, the sister in particular being emphatic that the deceased, except when away on business, never slept away from home and could not have done so without their knowledge. In cross-examination she stated that the deceased was always called Abraham in full by her father and family and that the deceased was never called Abbey by his friends. Yet on numerous occasions in her evidence she referred to him as Abbey. She described "orthodox" as meaning a Jew who only eats "kosha food" but she could not say whether the bread they ate at home was prepared by Jews. 30

Apparently the deceased was interested in racing and he was a member of the Singapore Turf Club. It is only natural to assume that, under the circumstances, he would not be anxious to advertise the fact of his marriage to a Chinese lady and would be particularly anxious to prevent such news coming to the knowledge of his father who, I can well believe, would hold very orthodox views on such a misalliance and strongly object thereto. But I find it extremely difficult to believe that he and his brother and sister lived in quite the subjection to the old man as they would have me believe, according to their evidence in this respect. After all, the deceased was a successful man of business of 40 who had been on a world tour and who had already deferred once to his father's wishes in regard to a proposed marriage with one of his own faith, during this world tour. 40 50

A lot of the other evidence for the defence was in connection with some efforts by the Plaintiff later in 1942 to obtain financial assistance from the Japanese Custodian of Property who had, apparently, taken charge of the Penhas business and property.

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There is no doubt in my mind that she attempted to obtain such assistance and was assisted to some extent in her efforts by Chua Lye Swee a past and present employee of the Penhas business and who at the relevant time lived fairly near Sims Avenue. She certainly produced a type-written letter in English, Exhibit D.1, to the Custodian in June 1942 to which she had put her thumb impression and a statement was recorded at the office of the Custodian (Exhibit D.2) as to the facts and circumstances of her claim to be entitled to some financial assistance from the proceeds of such property. Who drew up this letter is not very certain. The Plaintiff says that Chua Lye Swee had it prepared for her signature and that he produced it to her after she had seen him about this relief and that he took her to the Custodian with it. Chua Lye Swee denies all this entirely and there is a distinct conflict in this respect. In any case, I do not think that what happened in 1942 or 1944 during the Japanese occupation in this respect has any material bearing on the issue before me. I must say however that I was not at all impressed by this witness Chua Lye Swee nor by his evidence in many respects. He was an old employee of the deceased and is still employed by the Defendant and at the time he lived near Sims Avenue and although he denied knowing the Plaintiff prior to June 1942 he did admit to knowing the house where she lived and having seen her and the children. The Plaintiff said that she had known him since two years after her marriage to the deceased, and I think that this is probably true and that being an old employee she applied to him for help in obtaining some financial aid from the Custodian and I believe that he accompanied her there. However, she does not know English in which language the letter was typed and I doubt if she appreciated the terms in which the letter was expressed and so long as it was an application for assistance on the grounds specified, that is all she would care about. In no way is it material as regards the earlier facts, which as I have said are not controverted by any evidence for the defence and on which facts I have already expressed my opinion. It remains therefore to apply these facts to the law of marriage in this Colony.

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In this connection, Wing Commander the Rev. S. M. Block, senior Jewish Chaplain in the Forces here, gave evidence *de bene esse*, in 1947, in regard to Jewish laws and customs. He stated that he had read the case of *Goldsmid and Bromer* and confirmed that the statements therein in regard to Jewish law and customs were correct to-day.

He stated that a Jew might not marry a non-Jew under any circumstances and any such marriage was repugnant to Jewish Law. That such a marriage before a Marriage Registrar could not be prohibited but could not be recognised by Jewish law. Jewish law says that civil law must be adhered to and Jewish law does not interfere with civil status; it is a matter of religion and conscience. Official consent of the family is not normally necessary for a Jewish wedding.

On re-examination he stated "In deciding the status of a wife, consideration can only be taken of two possibilities, viz., the marriage

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either fulfils the requirements of the civil marriage laws or the requirements of the law and customs of the Jews. If there is no civil marriage, then one must look to Jewish laws and customs.”

Both the parties to this alleged marriage were domiciled in the Colony at the time, the ceremony took place here and it is the law of this Colony as to marriage which is applicable. Numerous cases and authorities were quoted to me by both sides during the course of the argument, a list of which I set out in an Appendix to this judgment. Many of such cases were as to the validity of marriages between parties who were both of the same race and religion and of the same domicile and in other cases the parties were of different races, different religions and different domiciles but it has not been possible to trace a case exactly on all fours with the present facts and circumstances. 10

At the conclusion of Mr. Laycock's submissions as to the law applicable I recorded the same verbatim but these can be more briefly summarised as follows :—

(A) That in the absence of local statutory provisions covering Jewish marriages, the Jewish marriage rites, ceremonies and customs must be considered as having the form of effective law in this Colony. 20

(B) That, accordingly, the deceased could only contract a lawful marriage here by complying with such Jewish marriage laws.

(C) That he was personally incapacitated thereby from contracting a valid marriage as alleged.

In support of these submissions, Mr. Laycock quoted at length from the judgment of Sir William Scott in the cases of *Lindo v. Belisario* and *Goldsmid v. Bromer*. Both of these cases were decided in the Consistory Court at the end of the 18th century and in both the cases, the parties were Jews. Detailed evidence was taken as to Jewish marriage rites and customs and decisions given thereon. They were decided long before Lord Hardwick's Marriage Act and there was no civil law then providing for dissolution of marriage and cognate matters. 30

Mr. Mallal also adopted *Lindo v. Belisario* as supporting the Plaintiff's case and I therefore quote certain passages from the judgment.

At page 535 (Eng. Rep. Vol. 161) Sir William Scott stated :—

“ The opinions which have divided the world, or writers at least, on this subject, are, generally two. It is held by some persons that marriage is a contract merely civil, by others, that it is sacred, religious, and spiritual contract, and only so to be considered. The jurisdiction of the Ecclesiastical Court was founded on ideas of this last described nature ; but in more correct view of this subject. 40

“ I conceive that neither of these opinions is perfectly accurate. According to juster notions of the nature of the marriage contract, it is not merely either a civil or religious contract ; and, at the present time, it is not to be considered as originally and simply one or the other. It is a contract according to the law of nature, antecedent to civil institution, and which may take place to all intents and purposes, wherever two persons of different sexes engage, by mutual contracts, to live together.

“ But when two persons agree to have that commerce for the procreation and bringing up of children, and for such lasting cohabitation, that, in a state of nature, would be a marriage, and in the absence of all civil and religious institutes, might safely be presumed to be, as it is popularly called, a marriage in the sight of God.

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10 “ It has been made a question how long the cohabitation must continue by the law of nature, whether to the end of life ? Without pursuing that discussion, it is enough to say that it cannot be a mere casual and temporary commerce, but must be a contract at least extending to such purposes of a more permanent nature, in the intention of the parties. The contract, thus formed in the state of nature, is adopted as a contract of the greatest importance in civil institutions, and it is charged with a vast variety of obligations merely civil. Rights of property are attached to it on very different principles in different countries. In some there is a *communio bonorum*. In some, each retain their separate property. By our Law it is vested in the husband. Marriage may be good independent of any considerations of property, and the *vinculum fidei* may well

20 subsist without them.

30 “ In most countries it is also clothed with religious rites, even in rude societies, as well as in those which are more distinguished for their civil and religious institutions. Yet in many of those societies, as I have had occasion to observe, they may be irregular, informal, and discountenanced on that account, yet not invalidated. Scotch marriages have been mentioned. The rule prevailed in all times, as the rule of the canon law, which existed in this country and in Scotland, till other civil regulations interfered in this country ; and it is the rule which prevails in many countries of the world, at this day, that a mutual engagement, or betrothment, is a good marriage, without consummation, according to the law of nature, and binds the parties accordingly, as the terms of other contracts would do, respecting the engagements which they purport to describe. If they agree and pledge their troth to resign to each other the use of their persons, for the purpose of raising a common offspring, by the law of nature that is complete.”

40 In *Goldsmid v. Bromer*, again, both the parties to the alleged marriage were Jews and after evidence had been taken as to the alleged marriage of a young Jewish girl of 16, such marriage was held to be invalid and void on account of the Jewish law requiring two competent witnesses not having been complied with.

I know of no case, and none was quoted to me, as an authority for saying that in the case of a Jew and non-Jew contracting a marriage, the marriage laws and customs of the Jews prevail and must be complied with, nor was any case quoted to me as an authority for saying that a Jew was legally incapacitated from contracting such a marriage by reason of his religion.

50 As the Rev. Block says, a marriage of a Jew to a non-Jew is repugnant to Jewish law but Jewish law and customs do not override Civil Law and do not interfere with civil status ; “ it is a matter of religion and conscience.”

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The nearest case to the existing facts which was quoted was that of *Carolis de Silva v. Thim Kim*. This was a case of a Singhalese man and a Chinese woman intending marriage went through a certain ceremony which, as a Chinese marriage ceremony might have been imperfect, followed by a feast. They subsequently lived together with the habit and repute of matrimony until the husband's death and a child was born and registered by the husband as his own. They were both British subjects of different race and different customs and had been born in different cults. It was held that the marriage was lawful. Jenkins, J.C., said that registration of the marriage in Ceylon was a matter of local procedure and "as to whether a Singhalese Buddhist can marry outside Ceylon or not is, I apprehend, merely a question for his ecclesiastical law, and also immaterial." 10

Another local case to which I might refer is that of *Er Gek Cheng v. Ho Ying Seng* decided last June by the learned Chief Justice and although it was a question of the validity of a marriage between Chinese, some passages in the judgment are relevant. He states: "The legal requirements for marriage with a t'sai and a t'sip are, I think, the same. This means that the law of this Colony merely requires a consensual marriage, that is, an agreement to form a relationship that comes within the English definition of marriage. It is no longer any part of that conception that such a relationship must be life-long. It merely means one of indefinite duration as distinct from one for a definite period as is allowed amongst Moslems. The consensual conception of marriage was originally, in my opinion, that of the common law of England, but I shall now explain how in England the position has been obscured." His Lordship dealt with historical matters and concludes this part as follows: "I think that it is only on the basis of consensual marriage that the Courts can have regarded the validity of Jewish marriages before there was any statutory provision for them. This the Courts in England certainly did. They professed to treat the matter as one of foreign law. But in the case of marriages between British subjects, domiciled in England, this could not have been the case I think in these cases the observance of rites and ceremonies is merely evidence of intention. As with us, the use of Hindu marriage ceremonies is not a matter of legal requirements, it is merely evidence." 20 30

It was not suggested that both the Plaintiff and deceased were not domiciled in the Colony and there is abundant evidence to show that in fact both of them were so domiciled. The law applicable is therefore that of this Colony. 40

A contract to marry has been defined (Halsbury, Vol. XVI, p. 552, Sections 813 and 814) as "a contract between a man and a woman by which they mutually promise to marry one another, the promise of each being the consideration for the promise of the other." Such contract need not be evidenced in writing nor the mutual promises be made in express terms. The conduct of the parties may justify the inference of such mutual promises.

A marriage is valid if each of the parties has according to the law of his or her respective domicile the capacity to marry and the marriage is celebrated in accordance with the local form or in other recognised form (Dicey, 5th Edn., p. 732, Rule 182). 50

At the date of this ceremony in 1937 there was no local Ordinance dealing with marriage in force except the Christian Marriage Ordinance, Chapter 82, wholly inapplicable to the present facts and circumstances, as neither party was a Christian. This Ordinance was repealed by Ordinance 13 of 1940 which came into force on the 1st January 1941 and the latter relates to the solemnization of Christian marriages by ministers of religion and their registration. Simultaneously the Civil Marriage Ordinance No. 9 of 1940 was enacted which provided for the solemnization and registration of monogamous marriages by Registrars of Marriage.

10 Mohammedan marriages were expressly excluded from the operation of this Ordinance.

It was not suggested that Chinese were not polygamous but it was suggested that Jews are monogamous but there was no evidence before me to this effect apart from an *obiter dicta* by Brown, J., in *Meyer v. Meyer*. It is, I think, not really material but I was always under the impression that amongst Jews polygamy was permitted, as illustrated in the Old Testament. There are many local cases, approved by the Privy Council, upholding the validity of marriages between a Chinese husband and varying number of t'sips, i.e., secondary wives, although there is a t'sai, i.e.,

20 principal wife living at the time. What is clear is that both parties to the ceremony were non-Christians and that at the relevant date there was no local law dealing with marriage between non-Christians or for registration of such marriages. Neither is the marriage impugned on account of either party having been previously married or of having any other spouse, living at the relevant date.

In my opinion the whole matter is one of a consensual marriage, i.e., a matter of contract.

Neither party was incapacitated in law or otherwise from entering into such a contract and there is abundant evidence to show not only that

30 such contract was entered into but that the same was fulfilled and carried out right down to the date of the death of one of the parties.

My answer to the questions raised on the issues is therefore that the Petitioner Tan Soo Eng is the lawful widow of Abraham Penhas and that the said Tan Soo Eng married the said Abraham Penhas on or about the 22nd December 1937.

I have not been specifically asked to decide the question of costs of this issue, but I think that the costs of this issue should come out of the estate and there will be an order accordingly. I certify two counsel on both sides.

40

(Sgd.) F. GORDON-SMITH,

Judge.

Supreme Court,

13th September 1949.

Certified True Copy.

(Sgd.) Illegible.

Private Secretary to Judge.

Court No. 3,

Supreme Court, Singapore.

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## APPENDIX.

*In the High  
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Singapore.*

No. 20.  
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Appendix,  
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- Dicey, 6th Edn., p. 223/4 and note 57.
- Best on Evidence, 12th Edn., at p. 309, “ So the law . . . ”
- Eversley on Domestic Relation, 5th Edn., p. 70.
- Legal Status of the Malay States, Braddell, p. 165.
- Local Marriage Ordinances.
- Harwoods Ordinances S.S. 1867–1877, Vol. I, p. 11. 10
- Woods Oriental Cases (1867, p. 30/31, *Chulas v. Kelson*).
- Woods Oriental Cases, Appendix *Choa . . . v. Spottiswoods* at p. 8/9.  
“ In this Colony . . . ”
- Code of Jewish Law, Cap. XLV, p. 6 and para. 3, ss. 11, 18, 19.
- S.S. Ordinance Cap. 82 (Repealed), s. 3.
- S.S. Ordinance 9, 1940 (Civil Ord.).
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- Brinkley v. A.-G.*, 1890, 15 Probate, p. 76.
- Piers v. Piers*, 9 English Reports 1118, H/H L/C at 1129. Second para.,  
approved in *Sastry Aronegay*, 6 A.C. 364 at 372. 20
- Vowles v. Young*, 33 English Reports, p. 247.
- Lindo v. Belisario*, 161 Eng. Rep., at 535.
- Goldsmid v. Bromer*, Eng. Rep. 161, p. 568.
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- Despatie v. Tremlay*, 1921, A.C., p. 702.
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- Sottomayer v. de Barros*, 5 Probate Div. 94 see pp. 99/100 and pp. 101,  
102, 103.
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- Rex v. Hammersmith*, Regr. 1917 1 K.B., p. 634.
- Jones v. Robinson*, 161 Eng. Rep. 1146.
- In re De Wilton*, 1900 Ch. 481 at 488 and 490.
- Ogden v. Ogden*, 1908 Probate Div. 46, at 58/60.
- Goodman v. Goodman*, 1859 23 L.J. (N.S.) 745.

- Regina v. Willans*, 3 Kyshe, p. 25, last paragraph.
- Bethell's case*, 38 Chancery, at p. 217, 234.
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- Petronella case*, 1930 A.C., at 349, 352.
- Cheang Thye Phin v. Tan Ah Loy*, 1920, A.C., p. 369.
- Carollis de Silva v. Thim Kim*, 1905, 9 S.S.L.R., at p. 8, 12.
- Kow Heng Chow v. Lay Mee Yin*, 1948 M.L.J., 157.
- Meyer v. Meyer*, 1927 S.S.L.R., p. 1 and 4.
- 10 *Yeap Choo Neo v. Ong Cheng Neo*, 6 P.C., p. 381 (1875), at 385/6, 392/3, 394, 396, 397.
- Choo Eng Choon*, deceased, XIII S.S.L.R. 1911, p. 120 (Six Widows case), at 153 Law, C.J., 578/8, 160, 161/2, 192, 208, 209/10, 212.
- Cheang Thye Phin v. Tan Ah Loy*, 1920 A.C. 369, at 374/5, 376 (approving Six Widows case).
- Khoo Hooi Leng v. Khoo Hean Kwee*, 1926 A.C. 529, at 533, 537.
- Khoo Hooi Leng v. Khoo Hean Kwee*, 1930 A.C., at 346.
- Soon Voon Sen v. Ang Lion Hee*, 1933 S.S.L.R. 380 (1924 case).
- Tay Geok Teah*, S.S.L.R. 1934, p. 88.
- 20 *Chia Teck Leong v. Estate Trust Company*, 1939 S.S.L.R., p. 24, Horne, J., at p. 104/5, 106.
- Rex v. Teo Kim Choon*, 1948 M.L.J., p. 145.
- Estate of Yeo Kian Kim*, deceased, 15 N.L.J., June 1949, p. 117, at 172, 2nd column.

*In the High Court of the Colony of Singapore.*

No. 20.  
Written Judgment of Gordon-Smith J. and Appendix, 13th September 1949, *continued.*

*In the High  
Court of the  
Colony of  
Singapore.*

No. 21.  
Formal  
Judgment,  
13th  
September  
1949.

**No. 21.  
FORMAL JUDGMENT.**

**IN THE HIGH COURT OF THE COLONY OF SINGAPORE.**  
Island of Singapore.

Probate No. 119 of 1946.

**IN THE ESTATE of ABRAHAM PENHAS (Deceased).**

Between TAN SOO ENG (widow) . . . . Plaintiff

and

ISAAC PENHAS . . . . Defendant.

(L.S.)

10

13th September, 1949.

The issues ordered to be tried pursuant to the Order of Court made herein on the 3rd day of March, 1947, coming on for trial before the Honourable Mr. Justice Frederick Gordon-Smith on the 31st day of May, 1949, 2nd day of June, 1949, 8th, 9th, 10th, 11th, 12th and 13th days of August, 1949, in the presence of Counsel for the Plaintiff and the Defendant and UPON READING the pleadings and hearing the evidence adduced and what was alleged by Counsel on both sides, THIS COURT DID ORDER this matter to stand for Judgment AND the same coming for Judgment this day in the presence of Counsel for both parties THIS 20 COURT DOTH ADJUDGE :

(1) That the Plaintiff Tan Soo Eng is the lawful widow of Abraham Penhas.

(2) That the Plaintiff Tan Soo Eng married the said Abraham Penhas on or about the 22nd day of December, 1937.

AND IT IS ORDERED that the costs of the Plaintiff and the Defendant of and incidental to the trial of the said issues be taxed as between Solicitor and Client on the higher scale and be paid out of the estate of Abraham Penhas deceased AND THIS COURT DOTH CERTIFY for two Counsel on both sides.

30

Sgd. TAN THOON LIP,

Dy. Registrar.

Entered this 19th day of September, 1949 at 2.30 p.m. in Volume LII  
Page 290.

No. 22.

NOTICE OF APPEAL.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.  
Island of Singapore.

Appeal No. of 1949.

Probate No. 119 of 1946.

*In the High  
Court of the  
Colony of  
Singapore.*

No. 22.  
Notice of  
Appeal, 1st  
October  
1949.

IN THE ESTATE of ABRAHAM PENHAS, deceased.

Between TAN SOO ENG . . . . . Respondent  
(Plaintiff)

10 and

ISAAC PENHAS . . . . . Appellant  
(Defendant).

NOTICE OF APPEAL.

TAKE NOTICE that the above-named Isaac Penhas will appeal to the Court of Appeal to be holden on the 12th day of December 1949 against the Judgment of the Honourable Mr. Justice Frederick Gordon-Smith delivered on the trial of the Issue herein on the 13th day of September 1949 in so far as it is adjudged that the above-named Plaintiff Tan Soo Eng is the lawful widow of the above-named Abraham Penhas deceased and  
20 that she married the said deceased on or about the 22nd day of December 1937.

Dated this 1st day of October, 1949.

CHAN, LAYCOCK & ONG,  
Solicitors for the above-named ISAAC PENHAS.

To,  
The Registrar,  
Supreme Court,  
Singapore ;

30 And to,  
Messrs. Da Silva, Oehlers & Choa,  
Solicitors for the above-named Plaintiff.



*In the High Court of the Colony of Singapore.*

No. 23.  
Memo-  
randum  
of Appeal.

No. 23.

MEMORANDUM OF APPEAL.

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.  
Island of Singapore.

Appeal No. 21 of 1949.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS, deceased

and

IN THE MATTER of an Issue

Between TAN SOO ENG . . . . . Plaintiff 10  
(Respondent)

and

ISAAC PENHAS . . . . . Defendant  
(Appellant).

MEMORANDUM OF APPEAL.

Isaac Penhas, the Respondent to the issue ordered to be tried under Order of Court dated 3rd March, 1947, appeals to the Court of Appeal in Singapore against the Judgment of the Honourable Mr. Justice Gordon-Smith delivered on the 13th day of September, 1949, adjudging :—

(1) That the Plaintiff, Tan Soo Eng, is the lawful widow of 20 Abraham Penhas ;

(2) That the Plaintiff, Tan Soo Eng, married the said Abraham Penhas on or about the 22nd day of December, 1937 ;

and ordering that the costs of the Plaintiff and the Defendant of and incidental to the trial of the said issues be taxed as between Solicitor and Client on the higher scale and be paid out of the estate of Abraham Penhas, deceased, on the grounds following :—

1. That the learned trial Judge was wrong in law in holding that the uncontradicted evidence was to the effect that the deceased, Abraham Penhas, spent three or four nights a week at the house of the Respondent 30 No. 508, Sims Avenue.

2. That the learned trial Judge was wrong in law in not holding that the events leading up to the claim by the Respondent during the Japanese occupation for money and the letters, exhibit " D.1 " and exhibit " D.2 " had no material bearing on the issues before him.

3. That the learned trial Judge was wrong in law in not holding that the religion law and custom of the husband is the only religion law and custom under which a marriage can be contracted in the Colony.

4. That the learned trial Judge was wrong in law in not holding that a Jew was incapacitated from contracting a marriage with a non-Jew 40 by reason of his religion.

5. That the learned trial Judge was wrong in law in holding that the custom religion and law of the Colony recognised marriages between a Jew and a non-Jew not performed in accordance with any marriage Ordinance in force.

6. That the learned trial Judge was wrong in law in holding that the evidence of Wing Commander Bloch shewed that Jewish Law did not override civil law.

*In the High Court of the Colony of Singapore.*

7. That the learned trial Judge should have held that Jewish marriage law was part of the civil marriage law of the Colony.

8. That the learned trial Judge was wrong in law in holding that the case of *Carolis de Silva v. Thim Kim* was a case of a marriage between two people having different customs and cults.

No. 23.  
Memo-  
randum  
of Appeal,  
*continued.*

9. That the learned trial Judge was wrong in law in not holding  
10 that the Jews in Singapore were and are monogamous.

10. That the learned trial Judge was wrong in law in holding that the question of the Jewish law in the Colony on whether Jews were polygamous or not was immaterial.

11. That the learned trial Judge was wrong in law in not holding that there was no custom under which a marriage between a Jew and a non-Jew could be recognised in the Colony.

12. That the learned trial Judge was wrong in law in holding that prior to and apart from the Colony Marriage Ordinances there was no local law dealing with marriages between non-Christians.

20 13. That the learned trial Judge was wrong in law in holding that the marriage was consensual that is a matter of contract and that consensual marriages are legal in the Colony.

14. That the learned trial Judge was wrong in law in holding that neither party was incapacitated in law or otherwise from entering into a consensual marriage contract.

15. That the learned trial Judge was wrong in law in not holding that the marriage ceremony was performed in accordance with Chinese rites and customs.

30 16. That the learned trial Judge was wrong in law in not holding that Abraham Penhas could only enter into a marriage contract in accordance with Jewish rites and law or the Colony Marriage Ordinances.

17. That the learned trial Judge was wrong in law in holding that there was evidence on which he could find that the alleged marriage took place on the 22nd December, 1937, or on any other date.

Dated at Singapore this            day of            1949.

(Sgd.) CHAN, LAYCOCK & ONG,

Solicitors for Isaac Penhas,  
the Appellant.

FORMAL JUDGMENT.

*In the  
Court of  
Appeal  
of the  
Colony of  
Singapore.*

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.  
Island of Singapore.  
In the Court of Appeal.

No. 21.  
Formal  
Judgment,  
8th  
February  
1950.

Probate No. 119 of 1946.  
Appeal No. 21 of 1949.

IN THE MATTER of the Estate of ABRAHAM PENHAS deceased.

Between TAN SOO ENG . . . . . Plaintiff  
(Respondent) 10  
and  
(L.S.) ISAAC PENHAS . . . . . Defendant  
(Appellant).

8th February, 1950.

The Appeal of the Defendant (Appellant) coming on for hearing on the 30th and 31st days of January 1950 and this day before The Honourable Mr. Justice Charles Murray Murray-Aynsley, Chief Justice of the Colony of Singapore, The Honourable Mr. Justice L. E. C. Evans, and the Honourable Mr. Justice L. V. J. Laville, Judge of the Federation of Malaya, in the presence of Counsel for the Plaintiff (Respondent) and the Defendant (Appellant) and Upon reading the Record of Appeal and hearing what was alleged by Counsel for the Defendant (Appellant) THIS COURT DOTH ADJUDGE that this appeal be dismissed with costs to be taxed on the Higher Scale and paid by the Defendant (Appellant) to the Plaintiff (Respondent) AND THIS COURT DOTH FURTHER ORDER that the costs of the Plaintiff (Respondent) as between Solicitor and Client be taxed and paid out of the estate of Abraham Penhas deceased. AND in the event of the Plaintiff's (Respondent's) costs as between Party and Party being recovered against the Defendant (Appellant) the difference between the amount so recovered and the amount certified as such Solicitor and Client costs to be paid out of the estate of Abraham Penhas deceased AND THIS COURT DOTH FURTHER ORDER that the Accountant-General do pay out to the Plaintiff (Respondent) or to her Solicitors Da Silva, Oehlers and Choa to account of her taxed costs the sum of \$500-00 deposited by the Defendant (Appellant) as security for costs of this Appeal AND THIS COURT DOTH CERTIFY for two Counsel.

(Sgd.) TAN THOON LIP,  
Registrar.

Entered this 25th day of March, 1950 at 11.00 a.m. in Volume LIII.  
Pages 143 and 144.

(Sgd.) ?

No. 25.

## WRITTEN JUDGMENT OF MURRAY-AYNSLEY, C.J.

IN THE SUPREME COURT OF THE COLONY OF SINGAPORE.

In the Court of Appeal.

Island of Singapore.

Civil Appeal No. 21 of 1949.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS deceased

Between TAN SOO ENG . . . . . Plaintiff-Respondent

10

and

ISAAC PENHAS . . . . . Defendant-Appellant.

CORAM : MURRAY-AYNSLEY, C.J.

EVANS, J.

LAVILLE, J.

In this case the facts lie within a small compass. There is a finding of fact that the Respondent Tan Soo Eng went through a ceremony of marriage with the deceased Abraham Penhas. There is no attempt by the Appellant to upset this finding of fact. All that this Court had to consider was whether the ceremony was sufficient to create a valid marriage, and  
 20 secondly, if this were the case, whether either or both of the parties was under any disability which prevented them from contracting a valid marriage.

To revert to the facts. The deceased was a Jew by origin and at the time of the ceremony had not adopted any other religion or renounced the religion of his birth. The Respondent was a non-Christian Chinese. Neither of the parties was married at the time of the ceremony. Both may be regarded as being domiciled in the Colony.

At the time of the ceremony the two could not have married by any of the statutory methods, which means that unless the method they adopted  
 30 was effective they could not have married in the Colony.

The first question to be considered was, what was the law applicable to the question? I do not consider that at this time it is necessary to say more than that English law prevails unless its application would result in the infliction of injustice. If English law were to be applied to this case it would be the common law as it was before the numerous statutes, beginning with Lord Hardwick's Act, were enacted.

For a long time the uncertainty as to whether the decision in *R. v. Millis*, 10 C. & F. 534, applied outside England and Ireland led to doubts as to whether the common law could be applied to marriages in the Colony.  
 40 Since the case of *Wolfenden v. Wolfenden* (1945, P 61) (this was approved in the C. of A. in *Apt vs. Apt* [1948] P., p. 86) I think that it may be taken as settled that the doctrine of *R. v. Millis* has no application in the Colony

*In the  
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No. 25.  
 Written  
 Judgment  
 of Murray-  
 Aynsley,  
 C.J., 24th  
 March  
 1950.



*In the  
Court of  
Appeal  
of the  
Colony of  
Singapore.*

No. 25.  
Written  
Judgment  
of Murray-  
Aynsley,  
C.J., 24th  
March  
1950,  
*continued.*

and the agreement *per verba de præsenti* is sufficient, in the absence of impediment, to constitute a valid marriage. If this is the case I do not think that any question arises as to the common law being applicable to the Colony. The simple requirements of the common law are probably applicable to all or almost all the traditional or customary forms of marriage in use in the Colony. I doubt whether in any event the Courts could recognize a marriage not based on the consent of the parties.

I think that the law as to marriages in the Colony is made clearer by the decision in *Srini Vasan (otherwise Clayton) v. Srini Vasan* (1945, P. 67). This case, I think, puts an end to the doctrine that what may be called non-European marriages were different in character from those contracted in Europe. It is now recognized that all types of marriage are essentially the same, provided that the status so created is of potentially indefinite duration, and not for a definite period of time (as may be contracted by Shias). *Nachimson v. Nachimson* (1930, P. 217) put an end to the idea that it was necessary for the marriage to conform more or less to the Christian type, a doctrine that was enshrined in the often cited *Hyde v. Hyde* (1 P. & M .130). 10

I think it was ideas of the kind now exploded that caused Judges in the Colony in earlier times to doubt whether the common law doctrines as to marriage could be applied here. I do not think that these doubts have any validity in view of decided cases (see e.g. Sir Peter Maxwell in *Choa Cheow Neo v. Spottiswoode*, reported in the Appendix to Wood's Oriental Cases). 20

The Appellant did not in the appeal rely on the allegation that the deceased was monogamous by custom and the Respondent polygamous. It was not proved that Jews in Singapore are monogamous and, in any event, it is hard to see how it could affect the present case, as no one has suggested that Chinese women indulge in polyandry. Here monogamy is a question of personal disability. 30

The marriage ceremony was of a type usual among Chinese. Whether or no it was effective as such is immaterial provided it conformed to the requirements of the common law, *Ussher v. Ussher* (1912, 2 Ir. R. 445). That it did conform to the requirements of the common law the evidence accepted by the learned trial Judge leaves no room for doubt.

The other question raised on behalf of the Appellant was one of personal disability of the deceased, a Jew, to marry a woman who was not a Jewess. It may be conceded that by their rules the Jews are forbidden to contract marriages with outsiders and that orthodox Jews would regard a marriage such as that under consideration as invalid. But it would be begging the question to consider these rules as law. In this Colony they are only the rules of a voluntary body like those of any religious sect. Unlike the Turkish Empire or even India, the Colony has never been a country of personal laws. Except where provision has been made by statute such questions as age of majority, distributions, testamentary capacity, have been regulated by the general law. There have been cases of mixed marriages before the courts. There has never been a case where it has been decided that by reasons of personal law a marriage has been invalid. There is further no authority for the proposition that the custom of the husband 40

should prevail over that of the wife. (See also the remarks of Lord Phillimore in *Khoo Hooi Loong v. Khoo Hean Kwee* (1926, A.C. 529 at p. 543.)

Even where by the law of the domicile such prohibitions exist in the case of marriages within the jurisdiction English Courts will not recognize them (see *Chetti v. Chetti*, 1908, P. 67), Dicey 6th Ed. Rule 169, exception 1).

The disability attaching to the decd., if any, would attach to him only as a member of a religious body and he could at any time by his own volition get rid of that disability.

10 In the circumstances I considered that the marriage under consideration was good and valid and that the appeal should, therefore, be dismissed.

(Sgd.) C. M. MURRAY-AYNSLEY,

Chief Justice,  
Singapore.

Singapore, 24th March, 1950.

True Copy.

(Sgd.) A. T. FERNANDEZ,

Private Secretary to the Chief  
Justice, Singapore.

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Appeal  
of the  
Colony of  
Singapore.*

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Written  
Judgment  
of Murray  
Aynsley,  
C.J., 24th  
March  
1950,  
*continued.*

20

No. 26.

WRITTEN JUDGMENT OF EVANS, J.

IN THE COURT OF APPEAL OF THE COLONY OF SINGAPORE.  
Island of Singapore.

Appeal No. 21 of 1949.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS deceased.

Between TAN SOO ENG . . . . . Plaintiff  
(Respondent)

and

30 ISAAC PENHAS . . . . . Defendant  
(Appellant).

CORAM : MURRAY-AYNSLEY, C.J., S.  
EVANS, J.  
LAVILLE, J.

This is an appeal from a judgment of Gordon-Smith, J., wherein he found that the deceased Abraham Penhas was lawfully married to the

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Written  
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of Evans J.,  
24th  
March  
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Appeal  
of the  
Colony of  
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Written  
Judgment  
of Evans J.,  
24th  
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1950,  
*continued.*

Respondent on or about 22nd December 1937. The only point argued before us was the validity of that marriage. The deceased was a Jew and a British subject.

The learned Judge found :—

“ The Plaintiff suggested a marriage ceremony but the deceased said that this was not possible in the Jewish Synagogue and on her suggesting a marriage according to Chinese rites and on being supplied with details, the deceased agreed. A day was appointed and a ceremony took place just before Christmas 1937. Both the Plaintiff and her mother and another guest who were present have described this ceremony in detail. The deceased had already given the mother \$500/- for the expenses of the wedding and wedding feast. On the appointed day the deceased arrived with two Jewish friends and an old Chinese gentleman. The ceremony consisted of the bride and bridegroom (the Plaintiff and the deceased) standing before the old Chinese gentleman who made some sort of speech referring to the auspicious occasion and then formally asked them separately whether they were willing to become man and wife and they both responded in the affirmative. During this procedure the Plaintiff was holding joss-sticks, bowing and worshipping. The deceased produced a handkerchief with which he covered his head, raised his right hand and was murmuring something in his own language. After this ceremony the happy couple then paid their respects to and offered the mother a cup of sweet tea in accordance with the Chinese custom. The two Jewish friends shook hands with the bride and kissed her. Following on this ceremony the usual wedding feast took place at which there were about 17 guests. The deceased remained the night there, going to business as usual the next morning. According to the evidence the deceased would spend three or four nights a week at 508 Sims Avenue regularly except when he was away on business trips and this continued right up to the fall of Singapore in February 1942.”

After discussing the law he held :—

“ In my opinion the whole matter is one of a consensual marriage, i.e., a matter of contract. Neither party was incapacitated in law or otherwise from entering into such a contract and there is abundant evidence to show not only that such contract was entered into but that the same was fulfilled and carried out right down to the date of the death of one of the parties.”

It will be observed that he did not find that any Chinese custom had been proved, nor that the marriage was in accordance with such custom, nor that such custom was applicable to the deceased.

A large number of grounds of appeal are set out in the notice of appeal, but the appeal was in fact argued on two principal grounds alone, that the acts performed did not constitute a Jewish marriage, and the deceased was capable of marrying by Jewish law alone, and secondly that the judge was wrong in finding a common law marriage *per verba de præsenti*, for the English law always required the presence of a priest, where procurable, and the law laid down *Reg. v. Millis*<sup>(1)</sup> is applicable to this colony.

(1) 10 C. & F. 534.

On the former points a number of cases were cited as to the requirements of Jewish law, and the recognition of Jewish marriages at English law. These were in my opinion irrelevant. The Respondents have always said that the deceased said a Jewish wedding was impossible, nor is there suggestion that any such marriage took place. These cases were, at best, conditionally relevant on the second part of this argument being true. If the deceased was incapable of contracting any kind of marriage other than Jewish ; then admittedly no Jewish marriage has taken place.

10 The Jewish law is said to hold a Jew incapable of any Gentile marriage, This again may be so but is beside the point. The question in this case is not in the first place what Jewish law provides, though that question might arise if it could be invoked by the parties or were required by the law. The first question here is the effect of the transaction between the parties by the law of this colony. The Jewish law may enter into consideration of that question, but the question of what marriages that law recognises is in itself irrelevant.

20 Much the same argument was advanced from another side. This, it was said, is a matter of Succession and must be decided by the " personal law " of the deceased who was a Jew. Much of the language used would have seemed appropriate to matters of Indian law.

The expression personal law is highly ambiguous. It is used in rules of Private International Law applicable to similar cases, but here both parties were British subjects, locally domiciled, and no such rules apply.

30 As the matter concerns a Jew, and reference was made to Greek marriages in Turkey, one may perhaps take a somewhat extensive view of the matter. An origin of some ideas of personal law may be in the decrees of Julius Caesar, and the early emperors, which are said to have allowed the Jews to live under their own law in Alexandria and other places in the Levant, outside their own country. The Christian Empire seems to have sought a uniformity of law, and the heterodox sects, and more particularly the Jews, who regarded excessive uniformity as oppression, assisted and welcomed the Arab invaders. Islam, like the Jews, having law and religion fused, had no law generally applicable to non-Moslems, and a Greek marriage, of the kind referred to, would there under the Turks be pronounced upon by a Greek court administering still, or at least until recently, the Basilica of Basil the Macedonian. Similarly a Jew marriage might be adjudged by a Jewish court. Under such system the religious law is interpreted, if not enforced, by priests or judges practising and living under that law. The Moslem conqueror of India probably encountered similar problems, but  
40 their solution is not of importance, as the English courts, though they may have copied them, did not profess to follow them.

The rules of the Common Law determining the law of newly acquired territory have been more stable than the language of the cases suggests. In the case of the *Postnati* (1608) (1) Lord Coke reports that on conquest of a Christian country the laws of that country continue in force until new provision is made by the conqueror, but on conquest of a pagan country the pagan laws are revoked. In *Blankard v. Galdy* (1693) (2) the case of an uninhabited country newly found is put ; into such country English subjects are said to carry the Common law by settlement. *Campbell v.*  
50 *Hall* (3) (1774) arose in Grenada, recently conquered and ceded, and is

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(1) 2 St. Tr. 559 at 638.

(2) 2 Salk. 411.

(3) XX St. Tr. 239.

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*continued.*

cited as a leading case, though its development of the law seems mainly verbal. That court approved the example of Minorca and held that the continuing law of the conquered country was, while it remained in force, equally binding on the conqueror. Minorca was a Christian island. The decision reported by Coke is somehow scouted as "extra judicial," being considered perhaps not "rationalistic." This decision seems singularly unaffected by actual contemporary events in India, where the conquerors, like, no doubt, their Moslem predecessors, did not submit to any continuing local law. No reference seems to be made to settlement, and English law is said to have been formally introduced in Calcutta by Charter in 1726. 10  
What is there called personal law is said to spring from Warren Hastings, Reg. II of 1774, the reported provisions of which, as to Calcutta and Bombay, seem to find statutory authority in sections 17 and 18 of 21 Geo. III c. 70.

" CVII. Provided always, and be it enacted, That the Supreme Court of Judicature at Fort William in Bengal, shall have full Power And Authority to hear and determine in such Manner as is provided for that purpose in the said Charter or Letters Patent, all and all Manner of Actions and Suits against all and singular the Inhabitants of the said City of Calcutta ; provided that their Inheritance and 20  
Succession to Lands, Rents and Goods, and all Matters of Contract and Dealing between Party and Party, shall be determined, in the case of Mohamedans, by the Laws and Usages of Mohamedans, and in the Case of Gentus, by the Laws and Usages of Gentus ; and where only one of the Parties shall be a Mohamedan or Gentu, by the Laws and Usages of the Defendant.

XVIII. And, in order that Regard should be had to the civil and religious Usages of the said Natives, be it enacted, That the Rights and Authorities of Fathers of Families, and Masters of Families, according as the same might have been exercised by the 30  
Gentu or Mohamedan Law, shall be preserved to them respectively within their said Families ; nor shall any Acts done in consequence of the Rule and Law of Cast, respecting the Members of the said Families only, be held and adjudged a Crime, although the same may not be held justifiable by the Laws of England."

The term itself received statutory authority in the Government of India Act, 1915, section 112 :—

" 112. The high courts at Calcutta, Madras and Bombay, in the exercise of their original jurisdiction in suits against inhabitants of Calcutta, Madras or Bombay, as the case may be, shall, in 40  
matters of inheritance and succession to lands, rents and goods, and in matters of contract and dealing between party and party, when both parties are subject to the same personal law or custom having the force of law, decide according to that personal law or custom, and when the parties are subject to different personal laws or customs having the force of law, decide according to the law or custom to which the defendant is subject."

The local law flows from Penang. The early conditions there have been the subject of judicial consideration and of some differences of opinion. These matters are set out sufficiently for our purpose in pages 4, 5 and 6 50

of Sir Roland Braddell's book.<sup>(1)</sup> The question is left open whether the origin lies in cession or in settlement.

Sir Benson Maxwell speaks in *Reg. v. Willans*<sup>(2)</sup> of the personal law of the garrison. I find difficulty in attaching any exact meaning to this. In India, although the English law was in a sense the personal law of the invader, it is not so called, but the term applies to the exceptions to it. The term, as generally used, seems to imply competing systems, the personal law of one subject being different from his neighbours. On the facts propounded by both judges and described by others, there seems to  
 10 have been no sufficient law administered on the island, nor a resident population.

The practice, and the decisions, seem to rest at bottom less on the mode of acquisition, which is not important, than on the questions of the pre-existence of a system of law, the character of that law, and the continuance of a substantial population observing it. Settlement of vacant lands seems of greater force than cession. The whole Territory of Louisiana was ceded, but the French law surviving seems to be confined to the State. Or to take a nearer and more certain example: Half the peninsular  
 20 of Sierra Leone was ceded by the local king, and immediately settled by British subjects from England and later from Nova Scotia and from Jamaica. It has always been held the Common Law was introduced by settlement.

The "Legal Chaos," as it is called, of the early years seems to have occasioned undue difficulties. Theoretically it would seem of small moment. The law in force and the law enforced are not the same matter, nor after a period of disorder does the law require re-enactment. Reference was made before us to the opinions of Mr. Dickens. There is no recorded decision of that Recorder, even were it binding on this court. His complaints are many and varied. His chief complaint is the lack of  
 30 Ecclesiastical jurisdiction, and of Common Law officers. It is true he speaks of the law of nature, yet professes to act on the "principles of the Criminal Law of England which are not local but universal" and expresses an intention to continue to do so.<sup>(3)</sup> Some of his views would imply that he regarded the Common Law as in force, even if unenforceable. Moreover, as I understand the law, the effect of settlement follows quite independently of the opinions of local officers, or the possible neglect of the East India Company, but as the inherent right of British subjects. The establishment of Common Law courts, or assemblies as contemplated in Grenada, might  
 40 require freeholders, or a royal commission and the mere introduction of Common Law would not seem to vest in the Company or its officers any jurisdiction over British subjects. Such jurisdiction depends on the "Charters." By the Letters Patent of 27th November 1827 (p. 21) and those of 10th August 1855 (p. 13) conferring jurisdiction, the application of the English Law in Ecclesiastical jurisdiction is restricted "as the several, religious, manners and customs of the inhabitants of the said settlement . . . will admit." This is a third and totally distinct system of personal law, if it can be described as such at all. It is at once more general and less strict than the Indian provisions. I cannot understand Sir Benson Maxwell's *dictum* as showing any pre-existing or other form  
 50 of personal law

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*continued.*

(1) Law of the S.S.  
 (2) S.L.R. 66.  
 (3) 1 Kyshe XVIII.

*In the  
Court of  
Appeal  
of the  
Colony of  
Singapore.*

No. 26.  
Written  
Judgment  
of Evans J.,  
24th  
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*continued.*

Under the first form of personal law the succession would be in a Jewish Court and Jew law would probably be applied. Under the Indian, the Defendant's law is to prevail, but no similar law is imported here. Here is full religious freedom. A man may quit a community or seek to relax its restraints. If a man change his faith under the first system, he will be, to some extent, outlawed, unless at the same time he acquire a right of suit in another court. Under the second, the form of action seems to determine the law applicable, but here the Common Law is applicable to all, where the customs of the inhabitants admit. The inhabitants are said to have been a few nomadic fishermen, and this provision has generally to be applied to a population mainly foreign. I understand it to mean, that these customs should be applied where to ignore them would cause substantial injustice or hardship. 10

The transaction must first be considered at Common Law. Where the parties are of different communities, this would normally be the only law applicable. In England there has been no difficulty applying Common Law to Jewish marriages, nor can the Appellant, though asked to do so, refer us to any case in which it was held that Jewish law ousted the Common Law, or that a Jew was under a personal incapacity to contract a Common Law marriage. *In re Wilton*<sup>(1)</sup> and *Chetti v. Chetti*<sup>(2)</sup> would appear clear authority to the contrary. The latter decision turned largely on the husband's personal law which expression there had the double meaning of his law of domicile and his Indian personal law as a Hindu. Neither consideration applies here. Sir Gorell Barnes also attached importance to his supposed capacity to change his status. There is certainly nothing at Common Law to prevent a Jew from quitting his religion, or community. A prohibition by Jewish law would be ineffective. The facts that the woman contemplated a Chinese wedding, and that the husband seems to have imported certain available requirements of Jewish law, while some evidence of consensus, are alike inoperative to prevent the marriage taking effect, if possible, at Common Law (*Lautour v. Teesdale*, 8 Taunton 830). 20 30

*Carolis da Silva v. Tim Kim*<sup>(3)</sup> is a Selangor case on which the above considerations have little bearing. It is quite irrelevant to the present case. In *Sunny Tay's* case<sup>(4)</sup> Chinese law was applied, and was apparently assumed to be the only law applicable, but that, I think, has no application here. *Chia Teck Leong v. Estate and Trust Agencies (1927) Ltd.*<sup>(5)</sup> was decided on questions of limitation of actions and laches, and the greater part of the judgment seems to be *obiter dictum*. It is not binding on this court, and so far as it may be authority for either the proposition that Chinese custom is a common law available to anyone, or that such cases must be decided by the law of the deceased only, I would be prepared to follow it. The latter proposition is in effect introducing the Indian rule, for which I can see no justification. In these cases of succession to a Chinaman, if there be any truth in the frequent assertion that at Chinese law every recognised son has a share in the succession, the validity of the marriage is irrelevant, and reference to this merely excludes adoptives in defiance of the actual Chinese customs. The marriage seems indeed to 40

(1) 1900 2 Ch. 481.  
(2) 1909 P. 67.  
(3) 1905 9 S.S.L.R. App. 8.  
(4) 1934 S.S.L.R. p. 88.  
(5) 1939 S.S.L.R. p. 94.

be presumed, less from the evidence of marriage than because it is thought the son should succeed. The *dictum* of Lord Phillimore in the first *Petronella* case<sup>(1)</sup> is not greatly in Appellant's favour, and I do not think the expression personal law is intended to include a Jewish prohibition of marriage with a Gentile. This passage would allow of both parties contracting at Common Law.

That this transaction could not constitute a marriage at Common Law was the second part of the Appellant's case. Mr. Murphy put forward a very interesting argument that some of the Lords and the Lord Chief Justice in *Reg. v. Millis* regarded the decision as applicable to Common Law marriages in the colonies. He contended that the presence of an episcopally ordained priest, if procurable, was necessary to the validity of a marriage. The onus of showing impossibility lay on the Respondent. It was, he said, possible in Singapore in 1937 to procure a priest. The Common Law is imported as a whole and the courts cannot pick and choose the rules or vary them as to do so would be an act of judicial legislation.

The very basis of the argument is not very strong. It is the Lords whose opinion did not prevail who harped on the danger attendant on the contrary opinion. Those whose opinion Mr. Murphy asks this court to follow do not seem to have committed themselves to any such general and unnecessary proposition. It is, at best, a statement of consequences, but of consequences which depend entirely on whether and to what extent the Common Law has been introduced into a particular Colony. If that introduction were complete the statement might be true. The Common Law introduced here is limited by the words of the Charter. This makes no reference to local law, personal law nor religious law; the words used are far wider and vaguer if less obligatory. Nor is this the only limitation. Blackstone in a passage frequently quoted in connection with settled Colonies says "Such colonists carry with them only so much of the English law as is applicable to the condition of an infant Colony"—he mentions certain branches of law not so applicable, and not here relevant, and goes on—"and a multitude of other provisions are *neither necessary nor convenient* and therefore are not in force. What shall be admitted and what rejected, *at what times* and under what restrictions, must, in case of dispute, be decided in the first instance by their own provincial judicature, subject to the decision and control of the King in Council:"<sup>(2)</sup> As Lord Watson points out in commenting on this in *Cooper v. Stuart*<sup>(3)</sup>, and as Blackstone seems to intend in the words "at what times" the law introduced is itself living and capable of further development or exposition, and of supplement from the same source. There is, thus, a further limitation, to the law applicable at the time of introduction as being necessary or convenient. This limitation applies to the whole Common Law; that in the Charters to the jurisdiction of the Ecclesiastical Courts. These limitations are not in any way in conflict. The latter is a matter primarily of the jurisdiction of the court established and the former of the law introduced. The latter could, I think, only vary the former by specific addition or subtraction. In fact the Charters name certain wide matters to be given first importance in deciding what is "applicable, convenient or necessary."

*In the  
Court of  
Appeal  
of the  
Colony of  
Singapore.*

No. 26.  
Written  
Judgment  
of Evans J.,  
24th  
March  
1950,  
*continued.*

(1) 1926 A.C. at 543.

(2) 1 Comm. 107.

(3) XIV A.C. at 292.



*In the  
Court of  
Appeal  
of the  
Colony of  
Singapore.*

No. 26.  
Written  
Judgment  
of Evans J.,  
24th  
March  
1950,  
*continued.*

Since the time of *Reg. v. Millis* <sup>(1)</sup>, *Catterall v. Catterall* <sup>(2)</sup>, *Maclean v. Cristall* <sup>(3)</sup> and *Wolfenden v. Wolfenden* <sup>(4)</sup> have been decided, and each case has held that the Common Law as expounded in *Reg. v. Millis* <sup>(1)</sup> was not in force in the territory concerned. In the last case there was no British settlement to limit the Common Law applicable and the law applied seems to have been the jurisdiction of the consular courts. Mr. Murphy would have us say that this recent case was really decided on the ground that an episcopally ordained priest was not procurable at Ichang. It is a reason unknown to Lord Merriman President who repeatedly speaks of the law as regards England and Ireland, rather than the Common Law, and whose language at page 543 is unambiguous when speaking of New South Wales (*Catterall & Catterall*) and Bombay (*Maclean v. Cristall*) he says: "In such a territory as this (Ichang) there is, so far as the requirements of English Law are concerned in relation to a Common Law marriage, no obligation that the ceremony shall be performed in the presence of an episcopally ordained priest." 10

The Appellant reinforces this argument with one that what he says is the law of marriage at Common Law, must, if applied, be introduced as a whole or as a whole rejected. There is, however, no unit of law such as this argument assumes, and every classification of law involves arbitrary divisions. We are told that to omit any factor of that law would amount to an act of judicial legislation, a highly reprehensible act, it would seem. Whatever may be thought of the legislative fruits of Benthamite theory, there is no question here, I think, of judicial legislation. Blackstone was, it is true, unenlightened by Bentham, but, in the passage quoted, he ascribes this very function to the "provincial judicature;" and the courts have everywhere performed it. Neither here nor elsewhere has the Common Law been introduced in accordance with the principles suggested. Clearly in *Wolfenden's* and the preceding cases the courts introduced the law only so far as applicable. In rejecting the requirement of a priest, they hardly stretched their authority far. In *Advocate General of Bengal v. Ranee Surnomoye Dossee* <sup>(5)</sup>, when not dealing with a colony by settlement but acting on similar principles, Lord Kingsdown would have discarded in addition to the Common Law of suicide and forfeiture thereof, the matter then under discussion, the crimes of carnal knowledge of a child of 10 and bigamy. While in *Narayana v. Kannamma* <sup>(6)</sup> the high court of Madras, apparently regarding as anomalous the rule of Common Law, that, in an action for slander, a woman suing in defence of her chastity must, like most plaintiffs, prove special damage, refused to apply that rule of the law of slander, and in rejecting it, seem, in fact, to have enacted for their jurisdiction the Slander of Women Act 1891. 20 30 40

As I understand the principles on which this court should act, we have not only authority, but are under a duty to consider both what law is applicable and how far it is applicable. In a country where priests are few and there is no true parochial system, where the vast majority are non-Christians it seems to me neither convenient nor necessary that two

(1) X C. & F. 534.

(2) 1 Rob. 580.

(3) 7 Notes of Cases, Supp. XVII.

(4) 1945 2 A.E.R. 539.

(5) 2 Moo. P.C.C., N.S. 22.

(6) 1932 A.I.R. (Mad.) 445.

persons, such as these, should be required to call in an episcopally ordained priest to effect a marriage. I can see no reason to apply the personal law of one party more than that of the other. The application of the husband's "personal law," far from being necessary to avoid injustice would, in my opinion, only lead thereto by depriving this woman who seems to have been induced to regard herself as a wife, and the child, whose paternity is not denied on any substantial ground, of what may be called their natural rights.

*In the Court of Appeal of the Colony of Singapore.*

No. 26.  
Written Judgment of Evans J., 24th March 1950, *continued.*

(Sgd.) L. E. C. EVANS,

Puisne Judge,  
Singapore.

10

Singapore, 24th March, 1950.

Certified true copy.

(Sgd.) HENG PENG HOE,

P.S. to EVANS, J.

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No. 27.

WRITTEN JUDGMENT OF LAVILLE, J.

IN THE SUPREME COURT OF THE COLONY OF SINGAPORE.

In the Court of Appeal.

20

Island of Singapore.

Civil Appeal No. 21 of 1949.

Probate No. 119 of 1946.

No. 27.  
Written Judgment of Laville J., 24th March 1950.

IN THE ESTATE of ABRAHAM PENHAS deceased.

Between TAN SOO ENG . . . . Plaintiff-Respondent

and

ISAAC PENHAS . . . . Defendant-Appellant.

CORAM : MURRAY-AYNSLEY, C.J.

EVANS, J.

LAVILLE, J.

30

I have had the advantage of reading the judgment of the learned President of the Court of Appeal and have, for the reasons set out below, reached a similar conclusion.

A marriage is valid everywhere if it is valid in the place it was effected between persons having capacity for it (*Berthiaume v. Dastous*, 1930 A.C. at p. 83).

As to capacity there is no evidence that either party taking part in this ceremony of marriage between Abraham Penhas and Tan Soo Eng

*In the  
Court of  
Appeal  
of the  
Colony of  
Singapore.*

No. 27.  
Written  
Judgment  
of Laville J.,  
24th  
March  
1950,  
*continued.*

was anything but solutus, i.e. free to marry. It was said by Lord Phillimore in *Khoo Hooi Loong v. Khoo Hean Kwee* (1926 A.C. 529 at p. 543) that "If the woman be free to contract marriage, soluta, and the man according to his personal law is also free, solutus, and the particular class of marriage or union is in the abstract recognised by the law of the land, it may well be that the religious obstacle is no bar." It follows that the religious rule that a Jew cannot marry anyone save another Jew is not effective to render void a marriage recognised by the law of the land.

What was the law of Singapore as to marriage when Abraham Penhas married Tan Soo Eng? Marriages between Christians according to their ceremonies were accepted by the law. Polygamous marriages of Chinese were accepted, and also polygamous marriages of Muslims and of Hindus, provided the ceremonies attending the marriage complied with their personal religion or custom. As to "mixed marriages" contracted by people of different religions or marriage customs, the Christian Marriage Ordinance provided a means of making a valid marriage where one party was a Christian and the other not. But in addition to this it had been stated by Lord Phillimore in the case previously cited that there seemed to be no reason why a Christian woman could not be a "tsip," i.e. a Chinese secondary but legal wife, even without any ceremony to mark the adoption of such a status, but merely by acquiescence on her part and introduction of her as such on the husband's part into his family.

This seems to establish that no religious ceremony, nor indeed any ceremony, was needed for a valid marriage between persons of different religions and customs. It remains that the essence of a valid marriage in law in the Colony is intention on both sides to contract a permanent union, and an agreement to do so expressed to or made apparent to witnesses.

It was argued by the Appellant that the only common law marriage that could be recognised in the Colony was one that complied with what was the common law of England in 1826 which was introduced into the Colony at its birth. That law acknowledged only a marriage before an ordained priest. Therefore a Chinese and a Jew, being of different religions and customs, could not contract a legal marriage in the Colony except before an ordained priest.

But it has been authoritatively laid down in *Meclean v. Cristall* that colonists take to a colony only so much of the English Common Law as is applicable to the conditions there. It is also laid down in *Regina v. Willans* that it is the Courts of the Colony which must decide how much of the common law is applicable.

It is clear that the Courts of this Colony from the very beginning have decided that the English Common Law requirements for a valid marriage could not be made applicable to the conditions in Singapore Colony and relaxed them in the case of Chinese marriages and Muslim and Hindu marriages; in such cases, however, they could still preserve some sanction for the marriage ceremony, but it is clear that the Courts, when the cases of mixed marriages arose, were forced to abandon the insistence on religious ceremonies of the English Common Law, and thrown back on to the basic essence of marriage, to wit, an agreement between two parties. That

appears to be the only quantum of the common law as regards marriage which the Courts have decided is applicable to the conditions in the Colony of Singapore.

This is plainly discernible in the history of the cases dealing with mixed marriages which have come before the Courts of the Colony.

In 1902 the case of *Carolis de Silva v. Tim Kim* established that a Chinese woman and a Singhalese could by mere *verba de praesenti* contract a legal marriage.

In 1926 the case of *Khoo Hooi Loong v. Khoo Hean Kwee* adumbrated the final abandonment of any necessity for a ceremony at all, and the possibility that a Christian Eurasian could contract a legal polygamous marriage with a Chinese.

In 1934 the case of *Sunny Tay v. Seow See Neo* (S.S.L.R. 1934, p. 88) shows acceptance of a Japanese woman as a legal "tsip" of a Chinese husband.

In 1938 in *Chia Teck Leong & Ors. v. Estate & Trust Agencies* (S.S.L.R. 1939, p. 94) it was held that a professing Christian woman could contract a legal secondary marriage with a Chinese.

I hold therefore that the Common Law of England as to marriage as introduced into the Colony in 1826 was applicable to the marriage of Abraham Penhas and Tan Soo Eng as modified to suit the conditions applicable in a colony where people of different races, customs and religions are domiciled and inter-marry, and that the English Common Law in such cases is satisfied by a marriage *per verba de praesenti* and that the marriage of Abraham Penhas and Tan Soo Eng was good and valid, and the appeal should therefore be dismissed.

(Sgd.) L. V. J. LAVILLE,

Judge, Federation of Malaya.

Certified true copy.

30 (Sgd.) Illegible,  
Secretary to Judge,  
Supreme Court,  
Johore Bahru.

*In the  
Court of  
Appeal  
of the  
Colony of  
Singapore.*

No. 27.  
Written  
Judgment  
of Laville J.,  
24th  
March  
1950,  
*continuel.*

No. 28.

PETITION FOR LEAVE TO APPEAL TO HIS MAJESTY IN COUNCIL.

*In the Court of Appeal of the Colony of Singapore.*

IN THE HIGH COURT OF THE COLONY OF SINGAPORE.  
Island of Singapore.

In the Court of Appeal.

No. 28.  
Petition for leave to Appeal to His Majesty in Council, 10th June 1950.

Civil Appeal No. 21 of 1949.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS, deceased.

Between TAN SOO ENG . . . . . Plaintiff  
(Respondent) 10

and

(L.S.) ISAAC PENHAS . . . . . Defendant  
(Appellant).

To,

The Honourable the Judges of the Court of Appeal.

THE HUMBLE PETITION of ISAAC PENHAS (Appellant) of  
Nos. 117-125, Cecil Street, Singapore, Merchant.

SHEWETH :—

1. That on the 9th day of April 1946 the above-named Plaintiff-Respondent, claiming that she was a lawful widow of the above-named Abraham Penhas, filed a Petition in this Honourable Court praying that Letters of Administration of the estate of the said Abraham Penhas, who she alleged had died on or about the 5th day of March 1942, might be granted to her as such widow as aforesaid. 20

2. That Your Petitioner having on the 26th day of February 1946 lodged a Caveat in this Honourable Court against dealings in the estate of the said Abraham Penhas as he had interest therein, being the sole executor of his Will, the Plaintiff-Respondent, as the Petitioner, on the 3rd day of May 1946 caused a Citation to be served on Your Petitioner who duly appeared to the same. 30

3. That on the 24th day of June 1946 an order was made by the Honourable The Chief Justice upon the said Petition of the Plaintiff-Respondent directing an issue to be tried as to whether or not the above-named Abraham Penhas, who resided in Singapore, was or was not dead and if so when he died.

4. That the issue directed to be tried pursuant to the Order recited in the preceding paragraph hereof duly came on for trial before the Honourable The Chief Justice who found that the above-named Abraham Penhas, who resided in Singapore, was dead and that he died on or after the 10th day of March 1942. 40

5. That on the 3rd day of March 1947 a further order was made by the Honourable The Chief Justice directing the following issue to be tried between the Plaintiff-Respondent, as the Petitioner, and the Defendant-

Appellant, as the Caveator, namely whether the Petitioner, Tan Soo Eng, was or was not a lawful widow of the above-named Abraham Penhas deceased and if the answer was in the affirmative when the said Tan Soo Eng married the said Abraham Penhas and it was further ordered that the said Tan Soo Eng be the Plaintiff on the said issues and Your Petitioner be the Defendant on the said issue and that pleadings be delivered by the said parties.

*In the  
Court of  
Appeal  
of the  
Colony of  
Singapore.*

— — —  
No. 28.

Petition  
for leave  
to Appeal  
to His  
Majesty  
in Council,  
10th June  
1950,  
*continued.*

6. That the said issues directed to be tried pursuant to the Order recited in the preceding paragraph hereof duly came on for trial before the  
10 Honourable Mr. Justice Frederick Gordon Smith on the 31st day of May 1949, 2nd day of June 1949, 8th, 9th, 10th, 11th, 12th and 13th days of August 1949 when judgment was reserved and later delivered on the 13th day of September 1949, and an order was made which reads as follows :—

20 “ The issues ordered to be tried pursuant to the Order of Court made herein on the 3rd day of March 1947 coming for trial before the Honourable Mr. Justice Frederick Gordon Smith on the 31st day of May, 1949, 2nd day of June, 1949, 8th, 9th, 10th, 11th, 12th and 13th days of August, 1949 in the presence of Counsel for the Plaintiff and the Defendants and Upon reading the pleadings and hearing the evidence adduced and what was alleged by Counsel on both sides THIS COURT DID ORDER this matter to stand for Judgment AND the same coming for Judgment this day in the presence of Counsel for both parties THIS COURT DOTH ADJUDGE :

(1) That the Plaintiff Tan Soo Eng is the lawful widow of Abraham Penhas.

(2) That the Plaintiff Tan Soo Eng married the said Abraham Penhas on or about the 22nd day of December, 1937.

30 AND IT IS ORDERED that the costs of the Plaintiff and the Defendant of and incidental to the trial of the said issues be taxed as between Solicitor and Client on the higher scale and be paid out of the estate of Abraham Penhas deceased AND THIS COURT DOTH CERTIFY for two Counsel on both sides.”

7. That Your Petitioner was dissatisfied with the Judgment and Order delivered and made by the Honourable Mr. Justice Frederick Gordon Smith as recited in the preceding paragraph hereon and on the 1st day of October 1949 gave Notice of Appeal to the Court of Appeal against the said Judgment in so far as it was adjudged that the above-named Plaintiff Tan Soo Eng was the lawful widow of the above-named  
40 Abraham Penhas deceased and that she married the said deceased on or about the 22nd day of December 1937. On the 1st day of October 1949 Your Petitioner filed a Memorandum of Appeal in the said proceedings and therein set out the Grounds of Appeal.

8. That the Appeal of Your Petitioner came on for hearing on the 30th and 31st days of January 1950 and the 18th day of February 1950 before The Honourable Mr. Charles Murray Murray-Aynsley, Chief Justice of the Colony of Singapore, The Honourable Mr. Laman Evan Cox Evans,

*In the  
Court of  
Appeal  
of the  
Colony of  
Singapore.*

No. 28.  
Petition  
for leave  
to Appeal  
to His  
Majesty  
in Council,  
10th June  
1950,  
*continued.*

Judge, and The Honourable Mr. Louis Victor Joseph Laville, Judge of the Federation of Malaya when Judgment was delivered dismissing the Appeal of Your Petitioner and an order was made which reads as follows :—

“ The Appeal of the Defendant (Appellant) coming on for hearing on the 30th and 31st days of January 1950 and this day before The Honourable Mr. Charles Murray Murray-Aynsley, Chief Justice of the Colony of Singapore, The Honourable Mr. Justice L. E. C. Evans, and The Honourable Mr. Justice L. V. J. Laville, Judge of the Federation of Malaya, in the presence of Counsel for the Plaintiff (Respondent) and the Defendant (Appellant) and Upon 10 reading the Record of Appeal and hearing what was alleged by Counsel for the Defendant (Appellant) THIS COURT DOTH ADJUDGE that this Appeal be dismissed with costs to be taxed on the Higher Scale and paid by the Defendant (Appellant) to the Plaintiff (Respondent) AND THIS COURT DOTH FURTHER ORDER that the Costs of the Plaintiff (Respondent) as between Solicitor and Client be taxed and paid out of the estate of Abraham Penhas deceased AND in the event of the Plaintiff’s (Respondent’s) costs as between Party and Party being recovered 20 against the Defendant (Appellant) the difference between the amount so recovered and the amount certified as such Solicitor and Client costs to be paid out of the estate of Abraham Penhas deceased AND THIS COURT DOTH FURTHER ORDER that the Accountant-General do pay out to the Plaintiff (Respondent) or to her Solicitors DA SILVA, OEHLERS AND CHOA to account of her taxed costs the sum of \$500.00 deposited by the Defendant (Appellant) as security for costs of this Appeal AND THIS COURT DOTH CERTIFY for two Counsel.”

9. That Your Petitioner is advised and humbly submits that the said Order of the Court of Appeal is erroneous and ought to be reversed 30 on the grounds that Jewish Marriage law was a part of the civil marriage law of Singapore and that the said Abraham Penhas could only enter into a marriage contract in accordance with Jewish rites and law or the Colony Marriage Ordinances and that the said Order is wrong in law.

10. That the subject matter in dispute in this appeal involves a claim to property the amount or value of which exceeds the sum of \$2,500.00.

YOUR PETITIONER therefore prays for a Certificate that this case as regards the amount or value and also as regards the nature of the legal issues and questions 40 involved is a fit one for appeal to His Majesty in Council.

AND Your Petitioner as in duty bound will ever pray etc. etc.

Sd. ISAAC PENHAS.

Dated this 10th day of June, 1950.

Sd/- CHAN, LAYCOCK & ONG.

Nunes Building, Malacca Street,  
Singapore, Solicitors for the  
Petitioner, Isaac Penhas.

It is intended to serve this Petition upon the Plaintiff-Respondent, Tan Soo Eng.

I, ISAAC PENHAS, the Petitioner abovenamed, make oath and say that the statements contained in the foregoing Petition are to the best of my knowledge information and belief in all respects true.

SWORN to at Singapore this 10th day of } (Sgd.) ISAAC PENHAS.  
June, 1950.

10 Before me,  
(Sgd.) NAZIR MALLAL,  
A Commissioner for Oaths.

*In the  
Court of  
Appeal  
of the  
Colony of  
Singapore.*

No. 28.  
Petition  
for leave  
to Appeal  
to His  
Majesty  
in Council,  
10th June  
1950,  
*continued.*

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No. 29.

**ORDER GRANTING LEAVE TO APPEAL TO HIS MAJESTY IN COUNCIL.**

**IN THE HIGH COURT OF THE COLONY OF SINGAPORE.**

Island of Singapore.

In the Court of Appeal.

Civil Appeal No. 21 of 1949.

IN THE MATTER of a Petition dated the 10th day of June, 1950  
of ISAAC PENHAS for leave to appeal to His Majesty in Council

and

20 (L.S.) IN THE MATTER of Section 28 (3) of the Courts Ordinance

and

IN THE MATTER of Order 57 Rules (3) and (4) of the Rules of  
the Supreme Court.

Before THE HONOURABLE THE CHIEF JUSTICE.

In open Court.

30 Upon Motion preferred unto the Court this day by Mr. Denis  
Murphy of Counsel for Isaac Penhas, the Appellant herein, in the  
presence of Mr. G. E. N. Oehlers of Counsel for Tan Soo Eng (w) the  
Respondent herein And Upon reading the Notice of Motion and the  
Petition of the said Isaac Penhas and Upon hearing what was alleged  
by Counsel aforesaid THIS COURT DOTH CERTIFY that this case  
as regards the amount or value and also as regards the legal issues and  
questions involved is a fit one for appeal to His Majesty in Council and  
THIS COURT DOTH GRANT to the said Isaac Penhas leave to appeal  
herein to His Majesty in Council.

Dated this 16th day of June, 1950.

(Sgd.) E. H. D'NETTO,  
Dy. Registrar.

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No. 29.  
Order  
granting  
leave to  
Appeal  
to His  
Majesty in  
Council,  
16th June  
1950.



*Defendant's  
Exhibit.*

EXHIBITS.

D.6.  
Certificate  
of Natural-  
isation of  
Abraham  
Penhas,  
14th  
September  
1928.

D.6—CERTIFICATE OF NATURALISATION of Abraham Penhas.

(S 278)

Certificate No. 27  
(8052/1928)

(A)

Exhibit D-6

Probate 119/46

Supreme Court.

British Nationality and Status of Aliens Act, 1914.

10

CERTIFICATE OF NATURALIZATION.

WHEREAS ABRAHAM PENHAS

has applied for a Certificate of Naturalization, alleging with respect to himself the particulars set out below, and has satisfied me that the condition laid down in the above-mentioned Act for the grant of a Certificate of Naturalization are fulfilled in his case :

Now, therefore, in pursuance of the powers conferred on me by the said Act, I grant to the said ABRAHAM PENHAS this Certificate of Naturalization, and declare that upon taking the Oath of Allegiance within the time and in the manner required by the regulations made in that behalf he shall, subject to the provisions of the said Act, be entitled to all political and other rights, powers and privileges and be subject to all obligations, duties and liabilities to which a natural-born British subject is entitled or subject, and have to all intents and purposes the status of a natural-born British subject. 20

In Witness whereof I have hereto subscribed my name this 14th day of September, 1928.

(Sgd.) Illegible.

(Officer Administering the Government  
of the Straits Settlements.) 30

This Certificate has been submitted to me for my approval and approved by me.

(Sgd.) Illegible.

(One of His Majesty's Principal Secretaries  
of State.)

## PARTICULARS RELATING TO APPLICANT.

Full Name—Abraham Penhas.

Address—2, Wilkie Road, Singapore.

Trade or occupation—General Merchant.

Place and date of birth—Baghdad, Mesopotamia, 9th June, 1897.

Nationality—Ottoman.

Married, single, or widower—Single.

Name of wife or husband—

10	Names and nationality of parents	Rahamin Penhas	(Father)
		Serah Shawol Yeshak	(Mother)
		Toeg	Ottoman.

(For Oath  
see overleaf.)

(Sgd.) H.D.N.

*Defendant's  
Exhibit.*D.6.  
Certificate  
of Natural-  
isation of  
Abraham  
Penhas,  
14th  
September  
1928,  
*continued.*

Unless otherwise indicated hereon, if the oath of allegiance is not taken within one calendar month after the date of this certificate, the certificate shall not take effect. Singapore impressed Stamp \$1.-

## OATH OF ALLEGIANCE.

I, ABRAHAM PENHAS

20 swear by Almighty God that I will be faithful and bear true allegiance to His Majesty King George the Fifth, His Heirs and Successors, according to law.

(Signature of Alien) (Sgd.) ABRAHAM PENHAS.

Sworn and subscribed this 27th day of September, 1928, before me,

(Signature) (Sgd.) Illegible.

(Official Title) District Judge and First Magistrate.

Address } District and Police Courts,  
Singapore.

*Defendant's  
Exhibit.*

**WILL of Abraham Penhas.**

Will of  
Abraham  
Penhas,  
3rd April  
1936.

This is the Last Will and Testament of me ABRAHAM PENHAS of No. 86 Robinson Road Singapore Merchant. I hereby revoke all former Wills and Testamentary dispositions at any time heretofore made by me and declare this to be my Last Will.

1. I appoint Isaac Penhas of No. 86 Robinson Road Singapore to be executor and Trustee of this my Will.

2. I devise and bequeath to my sister Flora Penhas my four houses in Jellicoe Road Singapore being Municipal Numbers 79, 81, 83 and 85 to be her absolute property. 10

3. I devise and bequeath to my sister Cary Manasseh wife of Aaron Manasseh of No. 5 Amber Road, Tanjong Katong, Singapore my two houses in Jellicoe Road Singapore being Municipal Numbers 87 and 89 to be her absolute property.

4. I devise and bequeath all my real and personal estate whatsoever and wheresoever not hereby otherwise specifically disposed of to Isaac Penhas of No. 86 Robinson Road Singapore to pay my debts funeral expenses and legacies and to take the residue of such real and personal property absolutely.

IN Witness whereof I have hereunto set my hand this 3rd day of 20 April One thousand nine hundred and thirty-six (1936).

SIGNED by the abovenamed Abraham Penhas in the presence of us both being present at the same time who at his request in his presence and in the presence of each other have subscribed our names as attesting witnesses :—

(Sgd.) ABRAHAM PENHAS.

(Sgd.) LEE CHOON KWEE,  
Solicitor,  
Singapore.

30

(Sgd.) V. D. KNOWLES,  
Solicitor,  
Singapore.

## D.7—TRANSLATIONS OF RECEIPTS AND BILLS in Hebrew.

Defendant's  
Exhibit.

	ABRAHAM RAHAMIN PENHAS LEVY	TASHRI 5698.	
	Brought forward 1/	..	\$111.00
	Morning of the Feast of Atonement.		
	Reading the Psalm		
	Presented to Mr. Jacob Manasseh .. .. .	..	1.00
	Opening the door of the room where the scrolls are kept ..	..	3.00
	Pointing the paragraph in the scroll		
	Presented to Mr. A. Perry .. .. .	..	1.00
10	Carrying the first Scroll (presented to Mr. Ezekiel Elias)	..	4.00
	Opening the Scroll on the Platform .. .. .	..	4.00
	Reading a portion of the Bible (Levy) presented to		
	R. Penhas .. .. .	..	10.00
	Afternoon of the Feast of Atonement.		
	Opening the door of the room where the scrolls are kept ..	..	1.00
	Pointing the paragraph in the scroll .. .. .	..	1.00
	Carrying the scroll .. .. .	..	1.00
	Opening the scroll on the platform		
	(Presented to Isaac Penhas) .. .. .	..	1.00
20	Carried forward ..	..	\$140.00

Translation certified correct.

(Sgd.) S. H. SHERIDA,

Hon. Secretary, Hased-El, Synagogue.

No. 4

Singapore 1st October, 1937.

ABRAHAM PENHAS LEVY

TASHRI 5698  
Contributions for Privileges  
Brought Forward 2/ .. \$140.00

Afternoon of the Feast of Atonement.

30	Reading portion of the Bible in the scroll (Levy) Presented		
	to Aaron .. .. .	..	1.00
	Reading portion of the bible in the scroll .. .. .	..	4.00
	Opening the door of the room where the scrolls are kept ..	..	2.00
		Total ..	\$147.00

Received Payment

1937

27th October

Shlomo Raphael (Signed)

Translation Certified correct

Sd. S. H. SHERIDA

40 Hon. Secretary, Hased-El, Synagogue.

Defendant's No. 5  
Exhibit.

Singapore 1st October 1937.  
TASHRI 5698

D.7. Translations of Receipts and Bills in Hebrew, 1st October 1937 to 21st October 1941, <i>continued.</i>	Dr. RAHAMIN PENHAS LEVY	Contribution for Privileges	
	Carrying, the scroll (Bible) on New Year's Day Privilege presented to Isaac Penhas .. .. .	\$1.00	
	Prayers from the Portion of the Bible in remembrance of the anniversary of the dead Presented to Isaac Penhas ..	5.00	
	Day of the feast of Atonement.		
	Reading a portion of the Bible (Levy) .. .. .	5.00	10
	Day of the Feast of Tabernacle.		
	Reading a portion of the bible (Levy) .. .. .	2.00	
		<hr/>	
		13.00	
	Cost of reservation of the seats in the Synagogue .. ..	15.00	
		<hr/>	
	Dollars Twenty Eight only	\$28.00	
	Paid 27th October 1937.	<hr/> <hr/>	

Translation certified correct

Sd. : S. H. SHERIDA

Hon. Secretary, Hesed-El, Synagogue.

(H) ABRAHAM RAHAMIN PENHAS

20

No. 4	Singapore 21st October 1941 (H) Month TASHRI Year 5702		
	Carrying the Encased Bible Scroll .. .. .	\$2.00	
	Opening the door of the room where scrolls are kept (privileges presented to I. Penhas) .. .. .	6.00	
	Privilege to read a portion of the bible (Cohen) Presented to Yahya Cohen .. .. .	5.00	
	Privilege to read portion of the bible Presented to Kelly Saleh .. .. .	11.00	
	Eve of the Feast of Atonement (Night about 7 p.m.)		30
	Opening the door of the room where Bible Scrolls are kept	24.00	
	Handing the encased scroll to the carrier .. .. .	5.00	
	Day of the Feast of Atonement.		
	Carrying the Bible Scrolls		
	"    " second Bible Scroll (Presented to Jacob Manasseh) .. .. .	5.00	
	Opening the scroll on the platform before and after the bible is being read (Presented to I. Penhas) .. .. .	17.00	
	Opening the door of the room where the scrolls are kept ..	20.00	40
	Privilege to read a portion of the bible (presented to A. Perry) .. .. .	20.00	
	Evening of the Feast of Atonement		
	Opening the room where the Bible scrolls are kept ..	6.00	
		<hr/>	
	Stamped	\$126.00	
	Paid 21/11/1941	<hr/> <hr/>	
	Shlomo Raphael		

Translation certified correct

Sd : S. H. SHERIDA

Hon. Secretary, Hesed-El, Synagogue.

50

## (H) RAHAMIN PENHAS (LEVY)

No. 6	Singapore 21st October, 1941			<i>Defendant's Exhibit.</i>
	(H) Month TASHRI Year 5702.			D.7.
New Year Day (1st Day)				Translation of
Privilege for reading portion of the Bible (Levi) .. ..		\$6.00		Receipts and Bills
Further contribution after reading above .. ..		5.00		in Hebrew,
New Year Day (2nd Day).				1st
Privilege for reading portion of the Bible (Levi) .. ..		20.00		October
Further contribution for after reading above .. ..		5.00		1937 to
10 Cost of reservation of four seats .. ..		12.00		21st
				October
				1941,
				<i>continued.</i>
			<u>\$58.00</u>	

Stamped  
Paid 21/11/1941  
Shlomo Raphael

Translation certified correct

Sd : S. H. SHERIDA  
Hon. Secretary, Hesed-El, Synagogue.

Note :—Levi is the Jewish Tribe. There are three Jewish Tribes.

- 20
1. Cohen
  2. Levy
  3. Israel

We belong to the Levy Tribe and this is the reason when names written in Hebrew a suffix of the tribe is added sometime.

Levy is sometime spelt as Levi.

## (H) ISAAC RAHAMIN PENHAS.

No. 5.

Singapore 21st October, 1941.  
(H) Month TASHRI Year 5702.

Eve of the Feast of Atonement (evening).			
30 Privilege for carrying the Bible Scroll at the altar			<u>\$101.00</u>

STAMPED  
Paid 21/11/41.  
Shlomo Raphael (SD)

Translation certified correct.

Sd : S. H. SHERIDA,  
Hon Secretary, Hesed-El, Synagogue.

*Plaintiff's  
Exhibit.*

V.

Cutting of  
Group  
Photo from  
The Malaya  
Tribune,  
1st June  
1938.

V—CUTTING OF GROUP PHOTO from The Malaya Tribune.

THE MALAYA TRIBUNE.

Wednesday, June 1, 1938.

*[Photograph not re-produced.]*

Founded in Singapore 30 years ago, the firm of Rahamin Penhas has expanded rapidly and on Sunday the founder entertained business friends in the firm spacious new premises in Cecil Street. After the function the hosts posed for the Tribune. Left to right: Mr. Abraham Penhas (elder son), Miss F. Penhas, Mr. Rahamin Penhas (founder), Mr. Isaac Penhas (second son) and Mr. Aaron Manasseh (son-in-law).

10

A—LETTER A.B. to Soo Heng.

Plaintiff's Exhibit.

Runnymede Hotel  
Penang

6/12/37.

A.  
Letter, A.B.  
to Soo Heng,  
6th  
December  
1937.

Dear Soo Heng,

In Penang I find this new fashion of cloth for Kabaya. Hope you will like it.

I may arrive in Singapore in 3 days or four days.

Hope you are well.

Yours

A.B.

10

B—LETTER Abbey to Soo Heng.

B.  
Letter,  
Abbey to  
Soo Heng,  
13th  
September  
1938.

Grand Hotel Medan  
Medan-Deli

Medan 13/9/38.

Dear Soo Heng,

Hope you are keeping on well. Am sorry I cannot come back to Singapore as quick as I expected, but expect to be one week late this time.

I hope to arrive in Singapore about the 20th September.

Yours

Abbey.

20

B.1—ENVELOPE.

B.1.  
Envelope,  
13th  
September  
1938.

GRAND HOTEL MEDAN  
Medan - Deli - S.O.K.

Stamp 15 cents  
Wilhelmina  
Nederlindie  
Post Mark  
Date : 13.9.38

30

Soo Eng Esq.,  
508 Sim's Avenue,  
Singapore.

Prob : 119/46  
Exhibit B-1

Gordon Smith, J.

(Sgd.) Illegible  
Registrar.

31/5/49



*Plaintiff's Exhibit.*

C.  
Post Card,  
Abe to  
Soo Eng,  
3rd March  
1940.

3/3/40.

Dear Soo Eng,

I hope I shall be in Singapore  
on Thursday. Hope all well.

Yours

Abe.

Soo Eng,  
508 Sims Avenue,  
Singapore.

**C—POST CARD Abe to Soo Eng.**

D.  
Post Card,  
Abe to  
Soo Eng,  
4th August  
1940.

4/8/40.

Dear Soo Eng,

I am in Cameron Highland now.  
I feel much better. I shall go  
to-morrow to Penang. Will be in  
Singapore on Monday 12th Aug.  
Hope you are all well.

Yours

Abe.

Soo Eng,  
508 Sims Avenue,  
Geylang,  
Singapore.

10

**D—POST CARD Abe to Soo Eng.**

E.  
Letter, AB.  
to Soo Eng,  
31st  
January  
1938 and  
envelope

**E—BUNDLE of Letters and Envelopes.  
Envelope and a Letter.**

<p>HOTEL DES INDES Batavia C.</p> <p style="margin-left: 100px;">Madam Soo Eng, 508, Sims Avenue, Singapore.</p> <p><i>At back of envelope.</i> Hotel Des Indes Batavia.</p>	<p>20</p>
--	-----------

Batavia-C., 31.1.1938.

HOTEL DES INDES

Dear Soo Eng,

I am now in Batavia. I hope to be back next week.

Today being a Chinese New Year day, I wish you a very happy new  
year.

30

Sincerely yours,  
AB.

ORANJE HOTEL  
Soerabaja—Java

A.B.C. Codes 6th Ed.  
Bentley's

Prop : L. M. Sarkies

*Plaintiff's  
Exhibit.*

Soerabaja, 2/2 1938.

E.  
Letter, AB.  
to Soo Eng,  
2nd  
February  
1938 and  
envelope

Dear Soo Eng,

I am now in Soerabaia, leaving tomorrow evening for Bandoeng,  
& then to Batavia. Hope to see you on Tuesday evening. I am feeling  
quite well.

10

Yours,  
AB.

Prob : 119/46  
Exhibit E.  
Gordon Smith, J.

(Sgd.) Illegible.  
Registrar,  
31.5.49.

<p>ORANJE HOTEL Soerabaja—Java.</p>	<p>Stamp 15 ct. Nederl. Indie. Post Mark Soerabaja.</p>
<p>M/m. Soo Eng, 508, Sims Avenue, Singapore.</p>	
<p>Prob : 119/46 Exhibit E. Gordon Smith, J.</p>	<p>(Sgd.) Illegible. Registrar. 31.5.49.</p>

20

Rest House  
(Telephone No. 286.)  
Malacca, 18/2 1938.

E.  
Letter, AB.  
to Soo Eng,  
18th  
February  
1938.

30 Dear Soo Eng,

I am here now. Hope to be in Singapore about Tuesday. Will  
let you know in 2 days time when I shall be in Singapore definitely.

Yours,  
AB.

*Plaintiff's  
Exhibit.*

Straits Steamship Company, Limited.

Penang, 9/9 1938.

E.  
Letter,  
Abbey  
to Soo Eng,  
9th  
September  
1938.

Dear Soo Eng,

I am here now. Will leave for Deli this evening. It may take me one week more till I return.

Hope you are keeping well.

Yours,  
Abbey.

Letter, A.B.  
to Soo Eng,  
30th  
January  
1939.

N.V. HOTEL MAATU DE BOER  
Medan—Deli  
O.K. v. Sumatra

10

Medan, 30/1 1939

Code A.B.C. 5th & 6th Edition  
Mercuur Code 3rd Edition  
Bentley's Code  
Waal's Reiscode  
Intern. Hotel Code.

Dear Soo Eng,

Hope to see you on Tuesday or Wednesday. Hope you are well.

Yours  
A.B. 20

Letter, AB.  
to Soo Eng,  
1st August  
1940.

EASTERN & ORIENTAL HOTEL  
Penang.

1/8/40.

Dear Soo Eng,

I am now in Penang. I feel quite well. Tomorrow night I shall go to Kuala Lumpur. Hope to be in Singapore on Monday.

Hope all are well.

Yours  
AB. 30

2/11

Letter, AB.  
to Soo Eng,  
2nd  
November  
1940.

Dear Soo Heng,

I am going to Penang today & hope to be back by Wednesday or Thursday next week. I do not feel myself strong, but hope to be well when I return. I shall see you at once on my return.

Yours  
AB.

Dear Soo Eng,

I am sorry I cannot see you. I had fever since I saw you last. Hope to be well soon and will see you on Monday or Tuesday.

Yours  
Abe.

4/11 *Plaintiff's Exhibit.*  
E.  
Letter, Abe to Soo Eng, 4th November 1940.

Dear Soo Eng,

I have been sick for the last 3 days. I am still not well.  
10 Don't worry, will see you in 2 or 3 days time.

Yours  
AB.

4/12 Letter, AB. to Soo Eng, 4th December.

HOTEL MAJESTIC.

—————  
Kuala Lumpur  
F. M. S.  
—————

Letter, A.B. to Soo Eng, Undated.

Dear Soo Eng,

I am in Kuala Lumpur now. I will be in Singapore on Wednesday. Hope everyone is well.

Best wishes.

20

Yours  
A.B.

16/2 Letter, AB. to Soo Eng, 16th February.

Dear Soo Eng,

Sorry have not been able to see you due to too much work. I am going for Muar, Malacca and K/L today will be back by Monday or Tuesday. Hope to see you on arrival.

Yours  
AB.

*Plaintiff's Exhibit.*

E.  
Envelopes.

Stamp 5 cents  
 Malaya  
 Straits Settlements  
 Post Mark  
 Penang.  
 9 Sep. 38. 6-PM

Madam Soo Eng,  
 508, Sims Avenue,  
 Singapore.

Stamp 5 cents  
 Malaya  
 Straits Settlements  
 Post Mark  
 Singapore.

Soo Eng,  
 508, Sims Avenue,  
 Local.

10

Stamp 5 cents  
 Malaya—Perak  
 Post Mark  
 Ipoh.

Soo Eng Esq.,  
 508, Sims Avenue,  
 Singapore.

*At back of envelope.*  
 Station Hotel,  
 Ipoh.

20

*Plaintiff's  
Exhibit.*  
—  
E.  
Envelopes.

10

Stamp 5 cents  
Malaya  
Straits Settlements  
Post Mark  
Penang.  
Madam Soo Heng,  
508, Sims Avenue,  
Singapore.  
*At back of envelope.*  
Runnymede Hotel  
Penang.

20

HOTEL MAJESTIC  
Kuala Lumpur  
F.M.S.  
Stamp 5 cents  
Malaya  
Perak  
Post Mark  
Kuala Lumpur  
Soo Eng Esq.,  
508, Sims Avenue,  
Singapore.

Mr. Soo Eng,  
508, Sims Avenue,  
Local.  
*At back of envelope.*  
Runnymede Hotel.  
Stamp 5 cents  
Malaya  
Straits Settlements  
Post Mark  
Singapore.

Plaintiff's Exhibit.

Q—FORM OF CHINESE MARRIAGE CERTIFICATE.

[Not printed].

Q.  
Form of Chinese Marriage Certificate [not printed].

Q.1.  
Translation of Exhibit Q.

Q.1—TRANSLATION of Exhibit Q.

Prob. : 119/46.  
Exhibit Q-1.  
Gordon-Smith, J.

(Sgd.) Illegible,  
Registrar,  
2.6.49.

Fol : 3.  
Fee : .90.

Translation No. 65/49.

MARRIAGE CERTIFICATE.

THIS IS TO CERTIFY that.....  
of ..... District, ..... 10  
Province, aged ..... years being born at .....  
hour ..... day ..... month ..... year (and)  
..... of .....District,  
..... Province, aged ..... years being born  
at ..... hour ..... day ..... month .....  
year, through the introduction of Mr. ....performed  
at ..... hour in the ..... noon on .....day  
month ..... year of the Chinese Republic, a marriage  
ceremony at place ..... Mr. ....solemnised the  
ceremony. The two " families " have been united in wedlock and the 20  
marriage contract has been executed before those present. (May) their  
union be forever a happy one, as the parties are well matched. Behold !  
The Peach blossoms are blooming exuberantly to-day. The same  
symbolises the good spouses and augurs that in the future years the couple  
will, like melons and gourds (having countless seeds), bring forth a numerous  
and prosperous progeny and that the lineage will be prolonged to eternity.  
This lifelong agreement is drawn on this lucky " parchment " as an  
evidence that the marriage contract has been recorded in the nuptial list.

Parties to the marriage :  
Person solemnising the marriage : 30  
Introducer :  
Persons giving consent to the marriage :

Dated the ..... day of ..... month .....  
year of the Chinese Republic.

Translated by,  
(Sgd.) CHEW HUI THIAM,  
Sworn Interpreter,  
Supreme Court,  
Singapore.

## F—REGISTRATION OF BIRTH of — Phang.

DUPLICATE (FOR INFORMANT).  
COLONY OF THE STRAITS SETTLEMENTS.*Plaintiff's  
Exhibit.*F.  
Registra-  
tion of  
Birth of

No. 022353. REGISTRATION OF BIRTHS.  
Registration Area : Singapore.  
Registration Sub-Area : Singapore Municipal Registration Centre.

Phang, 12th  
September  
1938.

Full name of child : PHANG. Sex : Female.  
(In Roman Block Characters including Surname, Seh, or Father's Name).

Name : ABBEY PHANG.	Maiden Name : TAN SOO ENG.
10 Father's Occupation : Ship's Clerk.	Age : 28 years.
Race : Chinese Hokien.	Race : Chinese Teochew.
Country of Birth : Singapore.	Country of Birth : Singapore.
Nationality : British Subject.	Nationality : British Subject.

Date of Birth : 12th September 1938.	Place of Birth : Singapore.
Hour of Birth : 7.30 p.m.	Street and Town : 508 Sims Avenue.
Name of Informant : TAN AH BAH.	Home Address of Parents : 508 Sims Avenue.
20 Address of Informant : 508 Sims Avenue.	
Race of Informant : Chinese Teochew.	

Vide Preliminary  
Report Form.Signature of  
Deputy Registrar  
and Date.Checked by  
Register and Date.Signature of Informant  
and Date.

8th October 1938.



## G—CERTIFICATE OF BIRTH of — Phang.

*Plaintiff's  
Exhibit.*

Register  
Number  
22353.

COLONY OF SINGAPORE.

22765.

Phang,  
12th  
September  
1938.

CERTIFICATE OF EXTRACT FROM  
REGISTER OF BIRTHS.

Registration Area : Singapore.

Registration Sub-Area : Singapore Municipal Registration Centre.

Full Name of Child :

Sex : Female.

(In Roman Block Characters, including Surname, Seh, or Father's Name.) 10

Name : ABBEY PHANG.

Maiden Name : TAN SOO ENG.

Occupation : Ship's Clerk.

Age : 28 years.

Race : Chinese Hokien.

Race : Chinese Teochew.

Country of Birth : Singapore.

Country of Birth : Singapore.

Nationality : British Subject.

Nationality : British Subject.

Date of Birth : 12th September 1938.

Place of Birth : Singapore.

Hour of Birth :

Street and Town : 508 Sims  
Avenue.

Name of Informant : TAN AH BAH.

Home Address of Parents :  
508 Sims Avenue.

20

Address of Informant : 508 Sims  
Avenue.

Race of Informant : Chinese Teochew.

Certified to be a true extract from the Register of Births.

Registrar's Office.  
24th June 1947.

(Registrar of Births and  
and Deaths, Singapore.)

(Sgd.) H. WOODFORD.

M—BILL of Tan Dispensary.

Singapore September 20 1938.

Mr. A. PENHAS

Re Madam Tan Soo Eng

To THE TAN DISPENSARY

81 Upper Cross Street

Accounts to be settled monthly

Telephone No. 6336

*Plaintiff's Exhibit.*

M.  
Bill of Tan Dispensary,  
20th  
September  
1938.

*Dr.*

STATEMENT OF ACCOUNT

10	September 12th	To attendance, injections, conduction of labour, removal of placenta, 2 mixtures and tablets	}	\$200.00
	14th	To attendance, 2 Mixtures, tablets linament and draught		
	16th	To attendance and powders		
	19th	To attendance, oil and powders		
	16th	To Gripe Water & Dalby's Carminative		
			\$200.90	

(Sgd.) TAN CHONG YAN.

E. & O.E.

20 No receipt is genuine except in printed form signed by the Manager. Cheque should be made payable to Dr. Tan Chong Yan and not to Tan Dispensary, and crossed.

N—RECEIPT of Tan Dispensary.

Singapore October 1st 1938.

RECEIVED from Mr. A. Penhas

the sum of Dollars Forty only (Balance dollars one hundred and sixty and cents ninety)

in part payment of September A/c No.....

\$40/-

30 (Balance \$160.90)

For The Tan Dispensary

(Sgd.) TAN CHONG YAN,

Manager.

N.  
Receipt  
of Tan  
Dispensary,  
1st October  
1938.

Stamp 5¢. Thanks

1.10.38. (Sgd.) T. C. YAN.

*Plaintiff's  
Exhibit.*

O.  
Envelope  
to Mr. A.  
Penhas.

O—ENVELOPE to Mr. A. Penhas.

<p>Stamp 5 cents Malaya Straits Settlements Post Mark Singapore.</p> <p>Prob : 119/46 Exhibit O.</p> <p>(Sgd.) Illegible Registrar 31/5/49.</p>
<p>Mr. A. Penhas,  508, Sims Avenue,  Singapore.</p>

10

K.  
Vaccination 4948  
Notice of

Phang, 8th  
October  
1938.

K—VACCINATION NOTICE of ——— Phang.

SINGAPORE MUNICIPALITY

VACCINATION NOTICE

QUARANTINE AND PREVENTION OF DISEASE ORDINANCE  
(SECTION 44)

20

I, the undersigned hereby give you notice to have the child (insert name, if any) PHANG (Female) (address) 508 Sims Avenue whose birth is now registered, vaccinated within six months from the date of its birth, pursuant to the provisions and directions of the Quarantine and Prevention of Disease Ordinance (Chapter 186) and that in default of your doing so, you will be liable to a penalty of ten dollars.

Dated the 8th day of October 1938.

(Registration of Births  
and Deaths Office  
Municipal, Singapore)

(Sgd.) P. S. HUNTER,  
Registrar of Births & Deaths  
for the District of Singapore  
Municipality in the Settlement  
of Singapore.

30

D.5—PASSPORT of Abraham Penhas.

*Defendant's Exhibit.*

COVER.

- 18529 -

D.5.  
Passport of  
Abraham  
Penhas,  
16th  
August  
1939.

16 AUG 1939

BRITISH PASSPORT

COLONY OF THE

STRAITS SETTLEMENTS

Mr. A. PENHAS

10 I, Sir Thomas Shenton Whitelegge Thomas, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Officer of the Most Excellent Order of the British Empire, Governor and Commander-in-Chief of the Straits Settlements,

Request and require in the Name of His Majesty all those whom it may concern to allow the bearer Mr. Abraham Penhas to pass freely without let or hindrance, and to afford him every assistance and protection of which he may stand in need.

Given at Government House, Singapore, in the Colony of the Straits Settlements, the 16 day of August 1939.

20

Stamp \$6/-  
Passport Office  
16 Aug. 1939.  
Singapore.

BRITISH

PASSPORT

PASSEPORT

COLONY OF THE STRAITS SETTLEMENTS

COLONIE DES STRAITS SETTLEMENTS

No. of PASSPORT } 18529  
No. du PASSEPORT } .....

30 Name of Bearer } Mr. Abraham PENHAS  
Nom Du Titulaire } .....

Accompanied by His Wife }  
(Maiden name) } .....

Accompagne De Sa Femme }  
(Née) } .....

(and by children)  
(et de enfants)

NATIONAL STATUS

NATIONALITY

British Subject by Naturalization Imperial

40

Certificate No. 27 issued at Singapore on 14 Sept. 1928).

*Defendant's Exhibit.*

D.5.  
Passport of  
Abraham  
Penhas,  
16th  
August  
1939,  
*continued.*

DESCRIPTION  
SIGNALEMENT

Wife—Femme

Profession }  
Profession } Merchant

Place and date of birth }  
Lieu et date de naissance { Baghdad  
9 June 1897

Residence }  
Residence } Singapore

10

Height }  
Taille } .....ft.....in.....ft.....in.....

Colour of eyes }  
Couleur desyeuk } Brown

Colour of hair }  
Couleur des cheveux } Dk. Brown

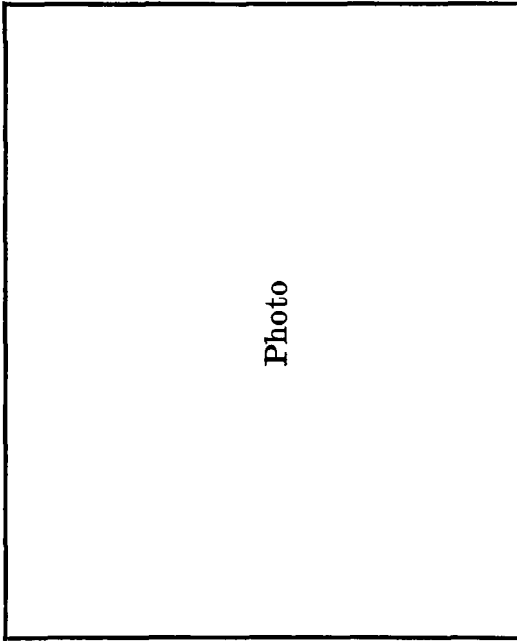
Special peculiarities }  
Signes particuliers } .....

CHILDREN—ENFANTS

20

Name Nom	Date of birth Date de naissance	Sex Sexe
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

PHOTOGRAPH OF BEARER



Photo

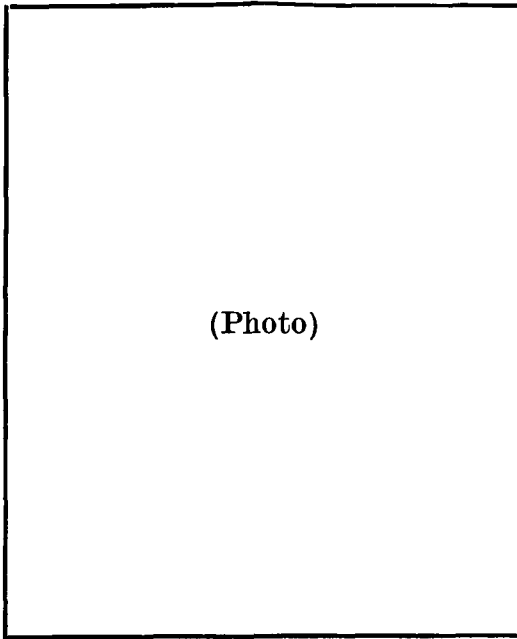
(Sgd.) Abraham Penhas  
A. Penhas

*Defendant's Exhibit.*

D.5.  
Passport of  
Abraham  
Penhas,  
16th  
August  
1939,  
*continued.*

WIFE FEMME

Passport Office  
17 AUG 1939  
Singapore, S.S.



(Photo)

Signature of Wife.  
Et De Sa  
Femme.

*Defendant's Exhibit.*

D.5.  
Passport of  
Abraham  
Penhas,  
16th  
August  
1939,  
*continued.*

COUNTRIES FOR WHICH THIS PASSPORT IS VALID  
PAYS POUR LESQUELS CE PASSEPORT EST VALABLE

French Indo China Philippines  
Netherlands Indies—Intld.  
Colombo India

Passport Office  
Gratis  
11 FEB 1942  
Singapore, S.S.

The validity of this passport expires :

Ce passeport expire le :

10

16th August 1944.

unless renewed.

a moins de renouvellement.

Issued at } Passport Office  
delivre a } 16 AUG 1939  
Singapore, S.S.

date }  
date } .....

RENEWALS

RENOUVELLEMENTS

20

- 1. ....
- 2. ....
- 3. ....
- 4. ....

OBSERVATIONS

Bearer has previously travelled on Singapore passport No. 5413 which has been cancelled and returned.



## H—REGISTRATION of Birth of Honglet Phang.

*Plaintiff's  
Exhibit.*

No. 177855.

DUPLICATE (FOR INFORMANT)  
COLONY OF THE STRAITS SETTLEMENT  
REGISTRATION OF BIRTH

Registration Area : Singapore 2106  
Registration Sub-Area : Singapore Municipal Registration  
Centre

H.  
Registra-  
tion of  
Birth of  
Honglet  
Phang, 16th  
January  
1941.

Full Name of Child : HONGLET PHANG Sex : Male

10 (In Roman Characters including Surname, Seh or Father's  
Name)

Name : ABBEY PHANG	Maiden Name : TAN SOO ENG
Occupation : Trader	Age : 37 years
Race : Hokien	Race : Teochew
Country of Birth : Dutch East Indies	Country of Birth : Singapore
Nationality : Dutch Subject	Nationality : British Subject

Date of Birth : 16th January 1941	Place of Birth : Singapore
Hour of Birth : 5.30 a.m.	Street & Town : D'Cotta Clinic 26 Hill Street
Name of Informant : Tan Soo Eng	Home Address of Parents : 508 Sims Avenue
20 Address of Informant : 508 Sims Avenue	
Race of Informant : Teochew	

Vide Preliminary  
Report Form

(Sgd.) ? 13.2.41.

Signature of  
Deputy Registrar  
and Date.

Checked by  
Registrar and  
Date.

Signature of Informant  
and Date.



*Plaintiff's  
Exhibit.*

**J—Certificate of Birth of Honglet Phang.**

**J.**  
Certificate  
of Birth of  
Honglet  
Phang,  
16th  
January  
1941.

Register  
Number

**COLONY OF SINGAPORE**

22767

177855 CERTIFICATE OF EXTRACT FROM REGISTER OF BIRTHS

Registration Area : Singapore

Registration Sub-Area : Singapore Municipal Registration Centre

Full Name of Child : HONGLET PHANG

Sex : Male

(In Roman Characters including Surname, Seh or Father's  
Name)

Name : ABBEY PHANG

Maiden Name : TAN SOO ENG

10

Occupation : Trader

Age : 37 years

Race : Hokien

Race : Teochew

Country of Birth : Dutch East Indies

Country of Birth : Singapore

Nationality : Dutch Subject

Nationality : British Subject

Date of Birth : 16th January 1941

Place of Birth : Singapore

Hour of Birth : 5.30 a.m.

Street & Town : D'Cotta Clinic  
26 Hill Street

Name of Informant : Tan Soo Eng

Address of Informant :  
508 Sims Avenue

Home Address of Parents :  
508 Sims Avenue

Race of Informant : Teochew

20

Certified to be a true extract from the Register of Births

Registrar's Office

24th June 1947

(Registrar of Births and  
Deaths, Singapore.)

(Sgd.) H. WOODFORD.

P—RECEIPT of Dr. A. M. D'Cotta.

*Plaintiff's  
Exhibit.*

DR. A. M. D'COTTA

## OFFICIAL RECEIPT

Singapore

18-1-1941.

P.  
Receipt of  
Dr. A. M.  
D'Cotta,  
18th  
January  
1941.

RECEIVED FROM

Mrs. A. B. Pang

the sum of Dollars Fifty only  
in payment of fees for Professional service rendered during the month  
10 of Maternity

With Thanks

\$50/-.

Stamp  
6¢.

(Intld.) A.D'C.

(Sgd.) A. M. D'COTTA.

## L—VACCINATION NOTICE.

2/106

3814/??

## SINGAPORE MUNICIPALITY

L.  
Vaccination  
Notice,  
13th  
February  
1941.

## VACCINATION NOTICE

20 QUARANTINE AND PREVENTION OF DISEASE ORDINANCE 1939  
(Section 48).

I, the undersigned hereby give you notice to have the child (insert  
name, if any) (male)

(address) D'Cotta Clinic, Hill Street  
(508 Sims Avenue)

whose birth is now registered, vaccinated within six months from the date  
of its birth, pursuant to the provisions and directions of the Quarantine  
and Prevention of Disease Ordinance (1939) and that in default of your  
doing so, you will be liable to a penalty of ten Dollars.

30 Dated the 13th day of February 1941.

(Sgd.) N. A. CANTON,

(Registration of Births  
and Deaths Office,  
Municipal Singapore)

Supervising Deputy Registrar of Births and  
Deaths for the District of Singapore Muni-  
cipality in the Settlement of Singapore.

*Plaintiff's Exhibit.*

U.  
Certificate of Baptism of Honglet, 14th December 1941.

No. 142 Prinsep Street, Singapore

**U—CERTIFICATE OF BAPTISM.**  
**CHINESE CHRISTIAN CHURCH**  
SAY MIA TNG  
Singapore.  
(In Chinese Characters)  
**CERTIFICATE OF BAPTISM**

Dec. 17, 1948.

*In Chinese Characters*

Name : Honglet  
Sex : (Chinese Characters) (m) 10  
Parent's Name : (Abraham Penhas) (m)  
(Tan Sek Geok (Chinese Characters))  
Nationality : Father (Jew)  
Mother (Chinese)  
Place of birth : Singapore  
Church where Baptised : Say Mia Tng  
Name of Minister : Cheng Shen Chu  
Date Baptised : 14-12-1941 20  
Address : 508 Sims Avenue, Lorong 35, Geylang  
Remarks : Tan Sek Geok (alias Tan Soo Eng)  
Remark : THIS IS A TRUE COPY FROM MY RECORD BOOK  
(Sgd.) CHENG SHEN CHU  
Minister of above Church.

Plaintiff's Rent Receipts included in bundle marked P, September 1939 to January 1941.

**Plaintiff's Rent Receipts.**

**S. OMAR BIN MOHAMED JAMAL**  
25A Chulia Street

Singapore.....1939. 30

RECEIVED from Mr. Teng Nio  
the sum of Dollars Twenty eight only  
for the House Rent situated at No. 508 Sims Avenue  
for the month of 1st September 1939

COLLECTOR OWNER RECEIVED PAYMENT  
(Sgd.) ? (Stamp) (Sgd.) ?  
4c.

S. OMAR BIN MOHAMED JAMAL

25A Chulia Street

Singapore.....1939.

*Plaintiff's Exhibit.*

RECEIVED from Mr. Teng Nio  
the sum of Dollars Twenty-eight only  
for the House Rent situated at No. 508 Sims Avenue  
for the month of 1st October 1939.

Plaintiff's  
Rent  
Receipts  
included  
in bundle  
marked P,  
September  
1939 to  
January  
1941,  
*continued.*

	COLLECTOR	OWNER RECEIVED PAYMENT
	Stamp	(Sgd.) ?
10	4¢.	
\$28/-	1939	

S. OMAR BIN MOHAMED JAMAL

25A Chulia Street.

Singapore.....1939.

RECEIVED from Teng Nio  
the sum of Dollars Twenty-eight only  
for the House Rent situated at No. 508 Sims Avenue  
for the month of 1st November 1939.

	COLLECTOR	OWNER RECEIVED PAYMENT
	Stamp	(Sgd.) ?
20	4¢ - 1939	
\$28/-		

S. OMAR BIN MOHAMED JAMAL

25A Chulia Street.

Singapore.....193 .

RECEIVED from Teng Nio  
the sum of Dollars Twenty-eight only  
for the House Rent situated at No. 508 Sims Avenue  
for the month of 1st December 1939.

	COLLECTOR	OWNER RECEIVED PAYMENT
	Stamp	(Sgd.) ?
30	4¢ 28.1.40	

S. OMAR BIN MOHAMED JAMAL

25A Chulia Street.

Singapore.....1940.

RECEIVED from Teng Nio  
the sum of Dollars Twenty-eight only  
for the House Rent situated at No. 508 Sims Avenue  
for the month of 1st February 1940.

	COLLECTOR	OWNER RECEIVED PAYMENT
	Stamp	(Sgd.) ?
40	4¢. 30.3.40	
\$28/-		

*Plaintiff's  
Exhibit.*

Plaintiff's  
Rent  
Receipts  
included  
in bundle  
marked P,  
September  
1939 to  
January  
1941,  
*continued.*

S. OMAR BIN MOHAMED JAMAL

25A Chulia Street

Singapore.....1940.

RECEIVED from Teng Nio  
the sum of Dollars Twenty-eight only  
for the House Rent situated at No. 508 Sims Avenue  
for the month of 1st March 1940.

\$28/-	COLLECTOR Stamps 2¢ - 4¢	OWNER RECEIVED PAYMENT (Sgd.) ?	10
	29.4.40		

S. OMAR BIN MOHAMED JAMAL

25A Chulia Street

Singapore 31/5/1940.

RECEIVED from Teng Nio  
the sum of Dollars Twenty-eight only  
for the House Rent situated at No. 508 Sims Avenue  
for the month of 1st April 1940.

\$28/-	COLLECTOR Stamps 2¢ 4¢ (Sgd.) ?	OWNER RECEIVED PAYMENT (Sgd.) ?	20
--------	---------------------------------------	------------------------------------	----

No. 508.

S. OMAR BIN MOHAMED JAMAL

25A Chulia Street

Singapore.....1940.

RECEIVED from Teng Nio  
the sum of Dollars Twenty-eight only  
for the House Rent situated at No. 508 Sims Avenue  
for the month of 1st May 1940.

\$28/-	COLLECTOR Stamp 6¢	OWNER RECEIVED PAYMENT (Sgd.) ?	30
--------	-----------------------	------------------------------------	----

No. 508.

S. SEDIG BIN OMAR JAMAL

25A Chulia Street

Singapore 29/11/40.

RECEIVED from Teng Nio  
the sum of Dollars Twenty-eight only  
for the House Rent situated at No. 508 Sims Avenue  
for the month of 1st October 1940.

\$28/-	COLLECTOR (Sgd.) ? Stamp 6¢.	OWNER RECEIVED PAYMENT Sgd. ?	40
	29.11.40.		

S. SEDIG BIN OMAR JAMAL  
25A Chulia Street

Singapore 31/1/41.

*Plaintiff's Exhibit.*

Plaintiff's Rent Receipts included in bundle marked P, September 1939 to January 1941, *continued.*

RECEIVED from Teng Nio  
the sum of Dollars Twenty-eight only  
for the House Rent situated at No. 508 Sims Avenue  
for the month of 1st December 1940.

COLLECTOR OWNER RECEIVED PAYMENT

Stamp 6¢ (Sgd.) ? (Sgd.) ?

10 \$28/-

31/1/41.

S. SEDIG BIN OMAR JAMAL  
25A Chulia Street

Singapore 28/2/1941.

RECEIVED from Teng Nio  
the sum of Dollars Twenty-eight only  
for the House Rent situated at No. 508 Sims Avenue  
for the month of 1st January 1941.

COLLECTOR OWNER RECEIVED PAYMENT

(Sgd.) ? Stamp 6¢ (Sgd.) ?

20 \$28/-

28-2-41.

D.8—FOUR Blank Cheques and Letters to Banks.

*Defendant's Exhibit.*

G 359327

Singapore,  
Stamp Duty Paid.

19

The Hongkong and Shanghai Banking Corporation  
(Incorporated in Hongkong)

D.8.  
Four Blank Cheques.

SINGAPORE

Pay..... or Bearer

Dollars .....

(Sgd.) A. PENHAS

\$.....

30

A/c. No. 2.

*Defendant's Exhibit.*

D.8.  
Four Blank Cheques,  
*continued.*

G. 359328.

Singapore, 19  
Stamp Duty Paid.

The Hongkong and Shanghai Banking Corporation  
(Incorporated in Hongkong)

SINGAPORE

Pay..... or Bearer  
Dollars .....  
.....  
.....  
\$..... (Sgd.) A. PENHAS. 10  
A/c. No. 2.

---

G 359329

Singapore, 19  
Stamp Duty Paid.

The Hongkong and Shanghai Banking Corporation  
(Incorporated in Hongkong)

SINGAPORE

Pay..... or Bearer  
Dollars .....  
.....  
.....  
\$..... (Sgd.) A. PENHAS. 20  
A/c. No. 2.

---

G 359330.

Singapore, 19  
Stamp Duty Paid.

The Hongkong and Shanghai Banking Corporation  
(Incorporated in Hongkong)

SINGAPORE

Pay..... or Bearer  
Dollars ..... 30  
.....  
.....  
\$..... (Sgd.) A. PENHAS.  
A/c. No. 2.

## MEMORANDUM

Ref. No. 178/41/THS/SCL.

From Rahamin Penhas,  
117/125, Cecil Street,  
Singapore, 11th February, 1942.

To The Manager,  
Chartered Bank of India  
Australia & China,  
Singapore.

*Defendant's  
Exhibit.*D.8.  
Letter,  
Rahamin  
Penhas to  
Chartered  
Bank of  
India  
Australia  
& China,  
11th  
February  
1942.

Dear Sir,

This is to notify you that I have authorised Messrs. Tan Hock San and Quah Cheow Kay to act as my joint managers, and they will operate my account and that of my firm Rahamin Penhas (of which I am the sole proprietor), either jointly or in the event of the death of any of either of them, individually. Their specimens of signatures are appended below.

I am also giving them a general letter stating that they are now duly appointed my attorneys with similar powers and which is for registration with your bank.

Yours faithfully,

(Sgd.) RAHAMIN PENHAS.

Specimen signature of  
20 Mr. Tan Hock San

Specimen signature of  
Mr. Quah Cheow Kay

Exhibit D-8,  
Prob : 119/46,  
Supreme Court,  
Singapore.

11/8/49.

## MEMORANDUM

Ref. No. 178/41/THS/SCL.

30 From Rahamin Penhas,  
117/125, Cecil Street,  
Singapore, 11th February, 1942.

To The Manager,  
Hongkong & Shanghai  
Banking Corpn.  
Singapore.

Letter,  
Rahamin  
Penhas to  
Hongkong  
& Shanghai  
Banking  
Corpora-  
tion, 11th  
February  
1942.

Dear Sir,

This is to notify you that I have authorised Messrs. Tan Hock San and Quah Cheow Kay to act as my joint managers, and they will operate my account and that of my firm Rahamin Penhas (of which I am the sole proprietor), either jointly or in the event of the death of any of either of them, individually. Their specimens of signatures are appended below.



*Defendant's Exhibit.*

D.8.

Letter,  
Rahamin  
Penhas to  
Hongkong  
& Shanghai  
Banking  
Corpora-  
tion, 11th  
February,  
1942,  
*continued.*

I am also giving them a general letter stating that they are now duly appointed my attorneys with similar powers and which is for registration with your bank.

Yours faithfully,

(Sgd.) RAHAMIN PENHAS.

Specimen signature of  
Mr. Tan Hock San

Specimen signature of  
Mr. Quah Cheow Kay.

Letter,  
Rahamin  
Penhas to  
The  
Netherlands  
Trading  
Society,  
11th  
February  
1942.

MEMORANDUM

10

Ref. No. 178/41/THS/SCL.

From  
Rahamin Penhas,  
117/125, Cecil Street,  
Singapore, 11th February, 1942.

To  
The Manager,  
The Netherlands Trading  
Society,  
Singapore.

Dear Sir,

This is to notify you that I have authorised Messrs. Tan Hock San and Quah Cheow Kay to act as my joint managers, and they will operate my account and that of my firm Rahamin Penhas (of which I am the sole proprietor), either jointly or in the event of the death of any of either of them, individually. Their specimens of signatures are appended below. 20

I am also giving them a general letter stating that they are now duly appointed my attorneys with similar powers and which is for registration with your bank.

Yours faithfully,

(Sgd.) RAHAMIN PENHAS.

Specimen signature of  
Mr. Tan Hock San.

Specimen signature of  
Mr. Quah Cheow Kay.

30

## MEMORANDUM

Ref. No. 178/41/THS/SCL.

From  
 Rahamin Penhas,  
 117/125, Cecil Street,  
 Singapore, 11th February, 1942.

To  
 The Manager,  
 Nederlandsch Indische  
 Handelsbank,  
 Singapore.

*Defendant's  
Exhibit.*

D.S.  
 Letter,  
 Rahamin  
 Penhas to  
 Neder-  
 landsch  
 Indische  
 Handels-  
 bank, 11th  
 February  
 1942.

Dear Sir,

10 This is to notify you that I have authorised Messrs. Tan Hock San and Quah Cheow Kay to act as my joint managers, and they will operate my account and that of my firm Rahamin Penhas (of which I am the sole proprietor), either jointly or in the event of the death of any of either of them, individually. Their specimens of signatures are appended below.

I am also giving them a general letter stating that they are now duly appointed my attorneys with similar powers and which is for registration with your bank.

Yours faithfully,

(Sgd.) RAHAMIN PENHAS.

20 Specimen signature of  
 Mr. Tan Hock San.

Specimen signature of  
 Mr. Quah Cheow Kay.

## MEMORANDUM

Ref. No. 178/41/THS/SCL

From  
 Rahamin Penhas,  
 117/125, Cecil Street,  
 Singapore, 11th February, 1942.

To  
 The Manager,  
 The Eastern Bank Limited,  
 Singapore.

Letter,  
 Rahamin  
 Penhas to  
 The  
 Eastern  
 Bank Ltd.,  
 11th  
 February  
 1942.

Dear Sir,

30 This is to notify you that I have authorised Messrs. Tan Hock San and Quah Cheow Kay to act as my joint managers, and they will operate

*Defendant's Exhibit.* my account and that of my firm Rahamin Penhas (of which I am the sole proprietor), either jointly or in the event of the death of any of either of them, individually. Their specimens of signatures are appended below.

D.S.  
Letter,  
Rahamin  
Penhas to  
The  
Eastern  
Bank Ltd.,  
11th  
February  
1942,  
*continued.*

I am also giving them a general letter stating that they are now duly appointed my attorneys with similar powers and which is for registration with your bank.

Yours faithfully,

(Sgd.) RAHAMIN PENHAS.

Specimen signature of  
Mr. Tan Hock San.

10

Specimen signature of  
Mr. Quah Cheow Kay.

---

MEMORANDUM

Ref. No. 178/41/THS/SCL

Letter,  
Rahamin  
Penhas to  
Oversea-  
Chinese  
Banking  
Corpn. Ltd.,  
11th  
February  
1942.

From  
Rahamin Penhas,  
117/125, Cecil Street,  
Singapore, 11th February, 1942.

To  
The Manager,  
Oversea-Chinese Banking  
Corpn. Ltd.,  
Singapore.

---

Dear Sir,

20

This is to notify you that I have authorised Messrs. Tan Hock San and Quah Cheow Kay to act as my joint managers, and they will operate my account and that of my firm Rahamin Penhas (of which I am the sole proprietor), either jointly or in the event of death of any of either of them, individually. Their specimens of signatures are appended below.

I am also giving them a general letter stating that they are now duly appointed my attorneys with similar powers and which is for registration with your bank.

Yours faithfully,

(Sgd.) RAHAMIN PENHAS. 30

Specimen signature of  
Mr. Tan Hock San.

Specimen signature of  
Mr. Quah Cheow Kay.

179/41/THS/SCL.

11th February, 42.

*Defendant's Exhibit.*

Know all men that by these presents I have duly appointed Messrs. Tan Hock San and Quah Cheow Kay as my attorneys to act jointly or in the event of the death of any of them, individually. This constitutes full authority for them to act in my stead and that of my business "Rahamin Penhas" 117/125 Cecil Street and elsewhere (of which I am the sole proprietor).

D.8.  
Letter of authority from Abraham Penhas, 11th February 1942.

Due to the short time I have at my disposal to prepare a complete power of attorney it is distinctly understood that this instrument is complete in itself.

(Sgd.) ABRAHAM PENHAS.

ABRAHAM PENHAS.

Witness

.....

**D.9—FILE CEP No. 725 of 2602 of Japanese Custodian of Enemy Property.**

**CUSTODIAN OF ENEMY PROPERTY FOR THE MUNICIPALITY OF SYONAN**

**(MOVABLE PROPERTY & BUSINESS BRANCH)**

OFFICE No. C.E.P. No. 725 of 2602.

D.9.  
File CEP. No. 725 of 2602 of Japanese Custodian of Enemy Property.

20

725

From :

2602

Place :

Date :

12-7-2602

SUBJECT  
Re Abraham Penhas

OEP437/02

Rahamin Penhas

<i>Defendant's Exhibit.</i>	Minute Paper No. C.E.P. 725/02.	Sheet No.	
D.9. File of Japanese Custodian of Enemy Property. Minutes.	1. Letter from Tan Soo Eng	15.6.02.	
	2. Statement of Tan Soo Eng	15.6.02.	
	3. Memo. by Mr. Tan	29.6.02.	
	4. Instructions by Custodian	3.7.02.	
	5. Memo. to Mr. Cheah Heng Sin	8.7.02.	
	6. Memo. to Madam Tan Soo Eng	8.7.02.	
	7. Memorandum	29.6.02.	
	8. Memo. to Mr. Seah Nghee Kay	13.7.	
	9. Memorandum	12.7.02.	10
	Mr. Wada, Pl. see and return.	(Sgd.) TAN THOON LIP, 18.7.	
	Seen. Thanks. (Chop). K.I.V. 1 mth.	19/7. Ind. T.L.T., 20.7.	
	10. Letter to Madam Tan Soo Eng.	25.7.02.	
	K.I.V.		
	(Intd.) T.L.T., 25.8.31/12/25/8.		
11. Memo. from Mr. Cheah Heng Sin	31.8.		
12. Memo. to Mr. Cheah	3.9.02.		
	K.I.V. 3 months. (Intd.) A.V.W., 25.3.	20	
	(Intd.) File, 25.6.		
	K.I.V. 3 months (Chop), 25.6.03.		
Mr. Poniah, Decr. from 101. (Sgd.) 29/9.			
Mr. D. Catta, This paper should be dealt with by the I.P.D., I think. (Sgd.) 30.9.03.			
No need for us to make a Deceseon from as M.P.B. has not taken over any property.		30	
File away, (Chop), 2nd October 2603.			
13. Letter from Tan Soo Eng	25.8.04.		
Mr. Ibrahim, Have we any such corres. with Menon (see 13) in any other pp ? (Intd.) A.V.W., 27.10.04.			

Mr. Ibrahim,

Herewith correspondence (2 letters dd. 31.8.02 and 4.9.02) between K. P. K. Menon and Jewish Estates Branch, pl.

(Intd.) J.R.C., 30.10.04.

Mr. Winslow,

Apparently with Jewish branch see (14) herein.

(Intd.) 30.10.04.

Mr. Ibrahim,

10 Ask Mr. P. Y. Tan if he has any objection to granting the request contained in 13 please—as it is for copies of letters so far kept by his Dept.

(Intd.) A.V.W., 1.11.04.

Mr. P. Y. Tan,

Please see minute of 1.11.04. Any objection please ?

(Intd.) 1.11.04.

Mr. I.,

If writer of 13 applies again please inform her to see Mr. P. Y. Tan.

(Intd.) A.V.W., 13.12.04.

20

Tan Soo Eng,  
508 Sims Avenue,  
15th June 2602.

D.II.

Letter,  
Tan Soo  
Eng to  
Custodian,  
15th June  
2602.

Sir,

I, the undersigned, most humbly beg to submit the following lines for your kind and favourable consideration, for which act of Kindness I shall always pray for your long life and prosperity.

I am a local borne Chinese woman, 35 years old, and belong to the Thawchew community.

30 About ten years ago I had been engaged as a mistress by Mr. Abraham, a local Jew. Even though we were not married legally, we had been very much faithful to each other as wife and husband and I got two children through him—a girl and a boy, aged 5 and 3 years respectively.

My husband was a very good business-man ; he was a dealer of tyres, bicycles, nails, etc., and also he had been a big exporter of local hides. His Head Office was in Cecil Street, Syonan.

40 My husband had been very much anxious to get me married legally, but his father, who was an orthodox and conservative, was very particular that his son (my husband) should get married from his own community and therefore kept this liaison in close secrecy. He also told my husband that if he ran counter to his advice (that is, if my husband married from a

*Defendant's  
Exhibit.*

D.9.

File of  
Japanese  
Custodian  
of Enemy  
Property.

Letter,  
Tan Soo  
Eng to  
Custodian,  
15th June  
2602,  
*continued.*

nationality other than his own), he would not consider him (my husband) as his son and that he would not be entitled to have even a cent of his property.

My husband had been awfully frightened by this threatening and therefore all through my husband kept me in the dark from his father.

As far as my husband was concerned, he had been very sincere and honest and God fearing and he kept his vow as husband to the highest mode of honesty.

My husband kept me in a house with our two children without the knowledge of his father. We loved each other so tenderly as we never had any misunderstanding or difference of opinion throughout our domestic life for the last ten years. 10

I regret very much my Honoured Sir, as I lost sight of my husband ever since the 12th of February of this year. About ten in the morning on that day (12th February 2602) he paid me \$250/- as our usual expenses for a month and he left me after about two hours promising to meet me in the night as usual.

Alas ! I do not know what has happened to him. I made enquiries after enquiries about him, but so sorry that I could not get any definite and reliable information from any one. 20

Sir, I regret very much to inform you that there is no one to do us any help (to my children and myself) other than my husband. I have no relatives except my mother, who is very old and poor and I had been supporting her throughout. My father left this world many years ago.

I was very happy with my children when my husband was with us. I am now placed in endless misery and penury with my poor children. My humble children and myself kneel down at your feet for keeping us away from starvation. Besides this begging help, we would be very much obliged if you would be kind enough to let me know the fate of my poor husband. 30

My poor children and myself hope that our humble request will be kindly granted and for which act of kindness, I shall always pray.

I beg to remain, Sir,

Your most obedient servant.

(Sgd.) TAN SOO ENG,

X R Thumb.

To : The Custodian of Enemy Property,  
Syonan.

TAN SOO ENG of 508, Sims Avenue, Syonan States :—

The letter of 15th June, 2602 to the Custodian of Enemy Property is written on my instructions. Further to that I state as follows :—

My husband's name is Abraham Penhas. He is the eldest son of Rahamin Penhas. He had no business of his own but was managing his father's business. His father traded as Rahamin Penhas in Cecil Street. He was a leading merchant and had large business interests. I do not know anything about this business. I understand Rahamin Penhas and his family left for India before the surrender of Singapore. Rahamin

10 Penhas has three Children.

Abraham Penhas

Miss F. Penhas

Isaac Penhas

My husband Abraham Penhas did not go with them. He remained behind and was seen by me on the last occasion on 12.2.2602. I have made enquiries and I understand that he was taken by Japanese officers and interned. He was arrested in his office in Cecil Street. I have no further information about him.

20 I do not know anything about his business affairs. He used to give me \$250/- per mensem for household expenses regularly. The last occasion on which he paid me this sum was on 12.2.2602. Since then I have received nothing from him or from his friends. I am in great difficulties now. I have the following dependents :—

2 children (by Abraham)

my age mother

my first husband's son

a servant

30 The rent of my house is \$28/- per mensem. I require at least \$72/- for food and other expenses of my dependent, thus making altogether \$100/- per mensem.

In addition to the business, I understand my husband and his father, own several houses in Syonan. I do not know the particulars.

I beg the Custodian will be sympathetic and grant me an allowance.

The ages of the two children by Abraham are :—

Daughter—3 years 9 months

Son —1 year 4 months

R.T.I. X of  
TAN SOO ENG.

40 Statement taken by me.  
(Sgd.) CHOOR SINGH.  
15.6.2602.

NOTE.—I have inspected the birth certificates of the two children. The father's name is given as "Abbey Phang"—mother's name as Tan Soo Eng. The children are unnamed.

(Sgd.) C.S.  
15/6/2602.

Defendant's  
Exhibit.

D.9.

File of  
Japanese  
Custodian  
of Enemy  
Property.

Statement  
of Tan Soo  
Eng, 15th  
June 2602.



*Defendant's* To  
*Exhibit.*

Custodian

D.9.  
File of  
Japanese  
Custodian  
of Enemy  
Property.

The lady's man is Abraham Penhas, a partner with his father of Rahamin Penhas, 117/125 Cecil Street. The office is badly damaged and I have instructed Ching Keng Lee & Co. Ltd. to catalogue and price goods. (Estimated at \$45,000.)

Memo,  
Tan Thoon  
Lip to  
Custodian,  
29th June  
2602.

2. Abraham Penhas appears to have landed property in his own name, from which rents per month total about \$1,500/-.

(Sgd.) TAN THOON LIP.

29th June 2602.

MEMORANDUM

10

Memo,  
Seah Nghee  
Khay to  
Tan Thoon  
Lip, 29th  
June 2602.

SNK/WTF

Ref. C.E.P. (I.P.D.) 250/2602.

Syonan, 29th June, 2602.

From

Senior Syunin  
Office of the Custodian of Enemy  
Property  
(Immoveable Property Division)

To

Mr. Tan Thoon Lip  
Assistant to Custodian  
Supreme Court Building  
Syonan-To.

Re : Abraham Penhas.

With reference to your Memo of 17th June 2602, I forward herewith a list of properties belonging to Mr. Abraham Penhas.

May I enquire if your Department deems this man to be of Enemy character ?

(Sgd.) SEAH NGHEE KHAY.

Enc : List of Properties.

(3) in C.E.P. (I.P.D) 250/2602.

COPY

LIST OF PROPERTIES BELONGING TO MR. A. PENHAS.

79/A/B	Jellicoe Road	
81/A	" "	
83/A	" "	30
85/A	" "	
87/A	" "	
89/A	" "	
91/A	" "	
93/A	" "	
95/A	" "	
97/A	" "	
99/A	" "	
101/A	" "	
103/A	" "	40
105/A	" "	
107/A	" "	
109/A/B	" "	

	119/A/B	Lavender Street	<i>Defendant's Exhibit.</i>
	121/A/B	"          "	
	123/A/B	"          "	
	11	Chapel Road	D.9.
	304	North Bridge Road	File of
	1	Penhas Road	Japanese
	3	"          "	Custodian
	9	"          "	of Enemy
	11	"          "	Property.
10	17	"          "	
	19	"          "	Memo,
	117/A	Cecil Street	Seah Nghee
	119/125 (odd)	"          "	Khay to
	26	Pierce Road	Tan Thoon
			Lip, 29th
			June 2602,
			<i>continued.</i>
	T.S. XVII 11-531 Horne Road		
	,, ,, Lots 11-523 & 11-533 Penhas		
	Mk. II 119-3 & 122-54 Pierce Road.		

1. Mr. Hizikata will contact the Military Police and find out whether Abraham Penhas, a Jew, is interned by the Military Authorities, and whether his property is to be treated as enemy property.
2. If Abraham Penhas is to be regarded as enemy, Mr. Cheah will take charge of the houses collecting rents.
3. Mr. Tan Thoon Lip will see the Chinese woman, the mother of three children, and advise me as to whether the woman is to be regarded as the mother of the children by Abraham Penhas.

(Chop)

I. ASAHI

3rd July 2602.

30 TLT/HSC

Supreme Court,  
Syonan, 8th July 2602.

Mr. Cheah Heng Sin

Memo, Tan  
Thoon Lip  
to Cheah  
Heng Sin,  
8th July  
2602.

Abraham Penhas is regarded as an enemy person, and the Custodian of Enemy Property directs me to inform you that his properties should be taken over by you. I enclose a list.

Ind. T.L.T.

TAN THOON LIP

Assistant to Custodian.

*Defendant's* TLT/HSC  
*Exhibit.*

D.9.  
File of  
Japanese  
Custodian  
of Enemy  
Property.

Memo, Tan  
Thoon Lip  
to Tan Soo  
Eng, 8th  
July 2602.

Supreme Court,  
Syonan, 8th July 2602

Madam Tan Soo Eng,  
508 Sims Avenue,  
Syonan.

Please attend at this office to see me.

Intd. T.L.T.

TAN THOON LIP

Assistant to Custodian.

Memo, Tan TLT/HSC  
Thoon Lip  
to Seah  
Nghee  
Khay, 13th  
July 2602.

13th July 2602.

Mr. Seah Nghee Khay

10

Re Abraham Penhas

Thank you for your memo of 29th June forwarding a list of Mr. Abraham Penhas' property. He is being treated as an enemy person, and his rents will be collected by Mr. Cheah's department.

Intd. T.L.T.

(TAN THOON LIP)

Report of  
Tan Thoon  
Lip, 12th  
July 2602.

I have seen Madam Tan Soo Eng and her elder child—a girl called Nancy.

2. Madam Tan Soo Eng was never legally married to Abraham Penhas, but has lived with him for some ten years. She claims that she had three children by him two are living :

- (A) Nancy—born 12.9.38  
(B) Conrad—,, 16.1.41

3. She knows little about Penhas ; she does not even know his real name and has never met his family. When Nancy was born the birth was reported by the mother's younger brother, and the particulars of the father are as follows :—

Name : Abbey Phang  
Occupation : Trader  
Race : Chinese Hokien (*sic* !)  
Born : Singapore  
Nationality : British subject  
Informant : Tan Ah Bah

30

The mother was then reported as 28 years old. On the birth of Conrad the informant was the mother, and the particulars of the father are as follows :— *Defendant's Exhibit.*

Name :	Abbey Phang	D.9.
Occupation :	Trader	File of
Race :	Hokien ( <i>sic</i> !)	Japanese
Born :	Dutch East Indies	Custodian
Nationality :	Dutch subject.	of Enemy
		Property.

The age of the mother was given as 37.

4. I have seen the daughter ; she looks as if she has Jewish blood, but it is impossible for me to say whether she is the child of Abraham Penhas. It is a wise child that knows its own father ; It would be a superman to say who the father of some other person is ? As far as I can gather, there is no documentary proof of fatherhood. *Report of Tan Thoon Lip, 12th July 2602, continued.*

(Sgd) TAN THOON LIP.

12th July 2602.

---

No allowance to be paid to Tan Soo Eng or her children.  
Property to be taken charge of by the Jewish Estate Branch.  
Show this paper to Mr. Wada.

*Instructions of Custodian, 18th July 2602.*

(Chop)

18/7

20

Supreme Court,  
Syonan, 25th July, 2602.

Madam Tan Soo Eng,  
508 Sims Avenue,  
Syonan.

*Letter, Tan Thoon Lip to Tan Soo Eng, 25th July 2602.*

Re : Abraham Penhas.

With further reference to your letter of the 15th June, I regret to say that the Custodian of Enemy Property has decided not to grant you any allowance.

Intd. T. L. T.

TAN THOON LIP,

Assistant to Custodian.

30

MEMORANDUM

Defendant's Exhibit.

D.9.  
File of Japanese Custodian of Enemy Property.

Memo, Cheah Heng Sin to T. L. Tan, 31st August 2602.

Letter, K. P. Kashava Menon to the Custodian, 31st August 2602.

From Mr. Cheah, Syonan, 31st August, 2602. To Mr. T. L. Tan.

Re : Abraham Penhas.

Attached hereto is letter from Madam Tan Soo Eng asking for maintenance for herself and children.

I believe the above matter was referred to the Custodian some time ago. Please let me know what is the position herein.

(Sgd.) CHEAH HENG SIN. 10

DIII

K. P. KASHAVA MENON

10 Bonham Building, Syonan, 31st August, 2602.

Sir,

I am instructed by Madam Tan Soo Eng of No. 508 Sims Avenue to write to you as follows :—

My client is a local Born Chinese woman aged 35 and belongs to Teochew Community. About 10 years ago she made acquaintance of one Mr. Abraham Penhas local Jew. Subsequently she became attached to him and began to live with him as his mistress. The said Abraham Penhas being a Jew his parents objected to any legal marriage with my client and she had unfortunately to content herself with the position of a mistress. My client has by the said Abraham Penhas two children one girl aged 5 and the other boy aged 2. About the 22nd February 2602 he was arrested and taken away and ever since, my client has not been able to get any information about him. Before his arrest the said Abraham Penhas is the owner of 28 houses described below.

Under the circumstance I am instructed to request you to give her monthly allowance for maintaining herself and her children out of the income of the said Abraham Penhas.

30

Property—List of houses.

Jellico Road	..	..	..	..	16 houses
Penhas Road	..	..	..	..	3 houses
Lavendar Street	..	..	..	..	3 houses
Pierce Road	..	..	..	..	1 house
Cecil Street	..	..	..	..	5 houses
					—
				Total	.. .. 28
					—

I have the honour to be,

Sir,

Your obedient servant,

40

(Sgd.) K. P. KASHAVA MENON.

The Custodian,  
Jewish Estates Branch,  
Meyer Chambers.

Supreme Court, Syonan.  
3rd September, 2602.

Mr. Cheah,  
Syonan.

*Defendant's  
Exhibit.*

Re Abraham Penhas

With reference to your memo of 31st August, this matter was dealt with by the former Custodian and on the 18th July he minuted that no allowance was to be paid to Madam Tan Soo Eng or her children. I forward for your information a copy of certain notes I made.

2. I return Mr. K. P. K. Menon's letter of the 31st August, to you.

(Sgd.) TAN THOON LIP,

Assistant to Custodian.

10 Encl :

D.9.  
File of  
Japanese  
Custodian  
of Enemy  
Property.

Memo, Tan  
Thoon Lip  
to Cheah,  
3rd  
September  
2602.

The Custodian of Enemy Property,  
Jewish Estates Branch,  
4-A D'Almeida Street,

Syonan, 4th September, 2602.

Sir,

Re : Madam Tan Soo Eng.

20 With reference to your letter of the 31st August 2602, written on behalf of Madam Tan Soo Eng, I would inform you that in a similar application to the Custodian made by your client some time ago, it was then decided that no allowance could be granted to your client and/or children.

I have the honour to be,

Sir,

Your obedient servant,

(Sgd.)

Letter,  
K. P.  
Kashava  
Menon  
to the  
Custodian,  
4th  
September  
2602.

*Defendant's Exhibit.* Madam Tan Soo Eng,  
T. No. 8 Lorong Limau,  
Syonan, 25/8/2604.

D.9.  
File of  
Japanese  
Custodian  
of Enemy  
Property.

To the Custodian of Enemy Property,  
(Movable Property & Business Branch)  
for the Municipality of Syonan.

Dear Sirs,

Re : Abraham Penhas.

Letter, Tan  
Soo Eng  
to the  
Custodian,  
25th  
August  
2604.

I shall be much obliged if you will be kind enough to let me have all the correspondence written to you about June 2602 by my then solicitor K. P. Menon of No. 10 Bonham Building with regards to my application asking for relief. 10

The reasons for asking these copies were that I had made an interview with Mr. M. Shinozaki (Kosei Ka Cho) Tokubetu Si requesting for reliefs. His instructions were that I have to produce all the copies of correspondence written to you for his inspection.

On application for these papers Messrs. Menon & Co. says that his file is missing.

I therefore pray that you will be kind enough to let me have all the copies of correspondence you have. 20

Trusting to hear from you in due course and oblige.

I beg to remain, Sirs,

Your obedient servant,

X R. Thumb mark of

TAN SOO ENG.

D.2.  
Letter, Tan  
Soo Eng to  
The  
Custodian  
of Enemy  
Property  
Syonan,  
15th June  
2602.

D.2—LETTER Tan Soo Eng to The Custodian of Enemy Property Syonan.

Tan Soo Eng,  
508 Sims Avenue.  
15th June, 2602.

Sir,

I, the undersigned, most humbly beg to submit the following lines for your kind and favourable consideration, for which act of kindness I shall always pray for your long life and prosperity. 30

I am a local born Chinese woman, 35 years old, and belong to the Thawchew community.

About ten years ago I had been engaged as a mistress by Mr. Abraham, a local Jew. Even though we were not married legally, we had been very much faithful to each other as wife and husband and I got two children through him a girl and a boy, age 5 and 3 years respectively.

My husband was a very good business-man ; he was a dealer of tyres, bicycles, nails, etc. and also he had been a big exporter of local hides. His Head-office was in Cecil Street, Syonan. 40

My husband had been very much anxious to get me married legally but his father, who was an orthodox and conservative, was very particular that his son (my husband) should get married from his own community and therefore kept this liaison in close secrecy. He also told my husband that if he ran counter to his advice (that is, if my husband married from a nationality other than his own), he would not consider him (my husband) as his son and that he would not be entitled to have even a cent of his property.

10 My husband had been awfully frightened by this threatening and therefore all through my husband kept me in the dark from his father.

As far as my husband was concerned, he had been very sincere and honest and God-fearing and kept his vow as husband to the highest mode of honesty.

My husband kept me in a house with our two children without the knowledge of his father. We loved each other so tenderly as we never had any misunderstanding or difference of opinion throughout our domestic life for the last ten years.

20 I regret very much my Honoured Sir, as I lost sight of my husband ever since the 12th of February of this year. About ten in the morning on that day (12th February 2602) he paid me \$250/- as our usual expenses for a month and he left me after about two hours promising to meet me in the night as usual.

Alas! I do not know what has happened to him. I made enquiries after enquiries about him, but so sorry that I could not get any definite and reliable information from any one.

Sir, I regret very much to inform you that there is no one to do us any help (to my children and myself) other than my husband. I have no relatives except my mother, who is very old and poor and I had been supporting her throughout. My father left this world many years ago.

30 I was very happy with my children when my husband was with us. I am now placed in endless misery and penury with my poor children. My humble children and myself kneel down at your feet for keeping us away from starvation. Besides this begging help, we would be very much obliged if you would be kind enough to let me know the fate of my poor husband.

My poor children and myself hope that our humble request will be kindly granted and for which act of kindness, I shall always pray.

I beg to remain,

Sir,

40

Your most obedient servant,

(Sgd.) TAN SOO ENG

X R. Thumb.

To,  
The Custodian of Enemy Property,  
Syonan.

*Defendant's Exhibit.*

D.2.  
Letter, Tan  
Soo Eng to  
The  
Custodian  
of Enemy  
Property  
Syonan,  
15th June  
2602,  
*continued.*



*Defendant's  
Exhibit.*

**D.1—STATEMENT of Tan Soo Eng.**

D.1.  
Statement  
of Tan  
Soo Eng to  
Choor  
Singh,  
15th June  
2602.

TAN SOO ENG of 508, Sims Avenue, Syonan States :—

The letter of 15th June, 2602 to the Custodian of Enemy Property is written on my instructions. Further to that I state as follows :—

My husband's name is Abraham Penhas. He is the eldest son of Rahamin Penhas. He had no business of his own but was managing his father's business. His father traded as Rahamin Penhas in Cecil Street. He was a leading merchant and had large business interests. I do not know anything about this business. I understand Rahamin Penhas and his family left for India before the surrender of Singapore. 10 Rahamin Penhas has three children.

Abraham Penhas  
Miss F. Penhas  
Isaac Penhas.

My husband Abraham Penhas did not go with them. He remained behind and was seen by me on the last occasion on 12.2.2602. I have made enquiries and I understand that he was taken by Japanese officers and interned. He was arrested in his office in Cecil Street. I have no further information about him.

I do not know anything about his business affairs. He used to 20 give \$250/- per mensem for household expenses regularly. The last occasion on which he paid me this sum was on 12.2.2602. Since then I have received nothing from him or from his friends. I am in great difficulties now. I have the following dependents :—

2 Children (by Abraham)  
my age mother  
my first husband's son  
a servant

The rent of my house is \$28/- per mensem. I require at least \$72/- for food and other expenses of my dependent, thus making altogether \$100/- 30 per mensem.

In addition to the business, I understand my husband and his father own several houses in Syonan. I do not know the particulars.

I beg the Custodian will be sympathetic and grant me an allowance.

The ages of the two children by Abraham are :—

Daughter—3 years 9 months  
Son—1 year 4 months.

R.T.I. X of

TAN SOO ENG.

Statement taken by me.  
(Sgd.) CHOOR SINGH.  
15.6.2602.

40

NOTE.—I have inspected the birth certificates of the two children. The father's name is given as "Abbey Phang"—& mother's name as Tan Soo Eng. The children are unnamed.

(Sgd.) C.S.  
15.6.2602.

**D.3—THUMB PRINT of Tan Soo Eng.**

(XXXXXX)  
(XXXXXX)

Thumb Print.

*Defendant's  
Exhibit.*

D.3.  
Thumb  
print of  
Tan Soo  
Eng.

**R—STATUTORY DECLARATION of Sim Peng Neo.**

*Plaintiff's  
Exhibit.*

I, SIM PENG NEO of No. 11 Lorong Limu, Singapore, Widow, do solemnly and sincerely declare as follows :—

R.  
Statutory  
Declaration  
of Sim  
Peng Neo,  
10th  
December  
1945.

1. I am now 67 years old.

10 2. Abraham Penhas my son-in-law, married my daughter Tan Soo Eng about 10 years ago at No. 508 Sims Avenue, Singapore. The marriage was conducted according to the Chinese Rites, and I was present. There was a feast and prayers said. After the marriage I stayed with my daughter at No. 508 Sims Avenue.

3. On or about the 20th February 1942 a few days after the Japanese occupation of Singapore a man living next door informed me that Abraham Penhas was arrested in his office at Cecil Street, Singapore.

4. About one week after Abraham Penhas was arrested, I went to the Detective Station, where I saw him there but I was not allowed to speak to him.

20 5. About one week later I visited the Detective Station again on the information given by the same person living next door that Abraham Penhas died. When I went there I saw the dead body of Abraham Penhas lying on the ground floor of the Detective Station about three yards away from the place where I was standing.

6. I am quite sure that the dead body I saw was the corpse of the said Abraham Penhas.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declaration Act 1835.

30 Declared at Singapore this 10th day of }  
December 1945.

Before me,

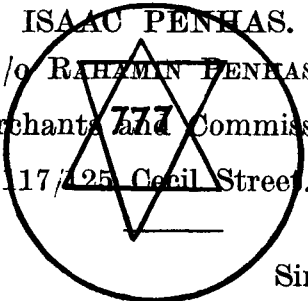
(Sgd.) HOFFMAN,  
P.O.

Defendant's  
Exhibit.

D.4—LETTER PAPER of Rahamin Penhas.

D.4.  
Letter  
paper of  
Rahamin  
Penhas,  
27th  
March  
1946.

ISAAC PENHAS.  
c/o RAHAMIN PENHAS,  
General Merchants and Commission Agents.  
117/125 Cecil Street.



Ref. No. 17/46

Singapore, 27th March, 1946.

Messrs. Chan, Laycock & Ong,  
Singapore.

Dear Sirs,

I enclose an anonymous letter received by post to day for your 10 information.

Yours faithfully,

(Sgd.) ISAAC PENHAS.

IP/SCL

Prob. No. 119/46

Exhibit—D.4.

Supreme Court.

---

CORRESPONDENCE.

Corre-  
spondence  
included in  
Bundles  
P. and D.

TEC/JL/TKG

4th December, 1945. 20

Dear Sirs,

We act for Mr. Isaac Penhas.

Letter,  
Chan  
Laycock  
& Ong to  
Braddell  
Bros., 4th  
December  
1945.

Our client instructs us that the Wills of his father, Mr. Rahamin Penhas, and of his brother, Mr. Abraham Penhas, are understood to have been kept in your office. He thinks that these Wills were made some time in 1936, probably by your office. Will you be so kind as to make a search and let us know if our client's instructions are correct. If so, kindly let us know who are the executor or executors of each Will.

It is believed that Mr. Abraham Penhas died in Singapore during the Jap Occupation. 30

Please let us have an early reply.

Yours faithfully,

(Sgd.) CHAN, LAYCOCK & ONG.

Messrs. Braddell Brothers.

---

BRADDELL BROS.

KTO/TLH.

2 Raffles Place,  
Singapore.

6th December, 1945.

Corre-  
spondence  
included in  
Bundles  
P. and D.

Dear Sirs,

With reference to your letter of the 4th instant we send herewith two envelopes purporting to contain the Wills or copies thereof Mr. Rahamin Penhas and Mr. Abraham Penhas. Please acknowledge receipt.

Yours faithfully,

(Sgd.) BRADDELL BROS.

10

Messrs. Chan, Laycock &amp; Ong.

Letter,  
Braddell  
Bros. to  
Chan  
Laycock  
& Ong, 6th  
December  
1945.

7th December, 1945.

Dear Sirs,

Re : Rahamin and Abraham Penhas.

We have received your letter dated 6th December 1945, together with two sealed envelopes marked " Copy of Will " for which we thank you.

The endorsements on these envelopes appear to be in the handwriting of the late Mr. V. D. Knowles. He also wrote thereon " The original document is with Messrs. Braddell Bros., Solicitors Singapore S.S." This implies that the original Wills were with you.

Will you therefore please make a further search for the original Wills of the above-named and let us know the result at your early convenience.

Yours faithfully,

(Sgd.) CHAN, LAYCOCK &amp; ONG.

Messrs. Braddell Brothers,  
Singapore.Letter,  
Chan  
Laycock  
& Ong to  
Braddell  
Bros., 7th  
December  
1945.

JL/CW

4th January, 1946.

Dear Sirs,

Re : Rahamin &amp; Abraham Penhas.

30

We beg to draw your attention to our letter to you of the 7th December 1945 and shall be glad to have a reply to that letter at your earliest convenience.

Yours faithfully,

(Sgd.) CHAN, LAYCOCK &amp; ONG.

Messrs. Braddell Brothers.

Letter,  
Chan  
Laycock  
& Ong to  
Braddell  
Bros., 4th  
January  
1946.

Corre-  
spondence  
included in  
Bundles  
P. and D.

BRADDELL BROS.

2 Raffles Place,  
Singapore.

KTO/TLH.

8th January, 1946.

Letter,  
Braddell  
Bros. to  
Chan  
Laycock  
& Ong, 8th  
January  
1946.

Dear Sirs,

Re : Rahamin & Abraham Penhas.

With reference to your letter of the 4th instant we send herewith two envelopes purporting to contain the Wills of Mr. Rahamin Penhas and Abraham Penhas. Please acknowledge receipt.

Yours faithfully,

10

(Sgd.) BRADDELL BROS.

Messrs. Chan, Laycock & Ong.

Letter,  
Chan  
Laycock  
& Ong to  
Braddell  
Bros., 8th  
January  
1946.

JL/AR

8th January, 1946.

Dear Sirs,

Re : Rahamin and Abraham Penhas.

We beg to acknowledge receipt of your letter of the 8th instant enclosing two envelopes believed to contain the original Wills of Mr. Rahamin Penhas and Mr. Abraham Penhas for which we thank you.

Yours faithfully,

20

(Sgd.) CHAN, LAYCOCK & ONG.

Messrs. Braddell Brothers,  
Singapore.

Letter,  
Da Silva  
Oehlers &  
Choa to  
Chan  
Laycock  
& Ong,  
16th  
January  
1946.

Messrs. Chan, Laycock & Ong,  
Singapore.

16th Jan. 1946.

Dear Sirs,

Re : Estate of Abraham Penhas (Decd.)

We understand that on the 4th instant you wrote to certain tenants on behalf of Mr. Isaac Penhas who claims to be the executor of a Will of the above-named deceased. You have not hitherto mentioned this Will to us.

Would you have any objection to supplying us with a copy of the Will or giving us an appointment to inspect same ?

Yours faithfully,

(Sgd.) DA SILVA, OEHLERS & CHOA.

17th January 1946.

Dear Sirs,

Abraham Penhas, deceased.

The Will of Mr. Abraham Penhas is in our possession but as your client has absolutely no claim whatever against the estate we decline to give you any inspection of the same.

We may, however, inform you that Mr. Isaac Penhas is appointed the sole executor.

Yours faithfully,

(Sgd.) CHAN, LAYCOCK &amp; ONG.

10 Messrs. Da Silva, Oehlers & Choa.

Corre-  
spondence  
included in  
Bundles  
P. and D.

Letter,  
Chan  
Laycock  
& Ong to  
Da Silva  
Oehlers &  
Choa, 17th  
January  
1946.

19th January 1946.

Dear Sirs,

Re : Abraham Penhas deceased.

We are informed that on the 9th December 1945 your client together with 7 other persons all Chinese went to No. 26 Pierce Road and went into occupation of the same.

We are informed that subsequently your client took away 5 lorryloads of furniture and moveable property.

20 We have been further informed that subsequently on the 9th January 1946 your client went to No. 26 Pierce Road in Taxi No. S 1596 and dismantled an electric ceiling fan and took it away from the house.

You are well aware that your client has absolutely no right whatever to do anything of this kind.

In the first place she is not the administratrix of the deceased and she has not even applied for a Grant of Letters of Administration.

In the second place the deceased did not die intestate so it is obvious that she could not possibly get a Grant of Letters of Administration.

30 In the third place your client is not the lawful widow of the late Mr. Abraham Penhas who was a Jew and the law of Jewish marriage is not at all the same as the law relating to Straits-born Chinese.

We must also draw your attention to the case of *Ingalls v. Moran* 1944 K.B. 160 in which the Court of Appeal has decided that the doctrine of "relation back" does not apply to a Grant of Letters of Administration.

We are to demand from your client forthwith an account of all the property removed by her from the house and that she ceases interfering with the house or anything still left therein.

Yours faithfully,

(Sgd.) CHAN, LAYCOCK &amp; ONG.

40 Messrs. Da Silva, Oehlers & Choa.

Letter,  
Chan  
Laycock  
& Ong to  
Da Silva  
Oehlers &  
Choa, 19th  
January  
1946.

22nd January, 1946.

Corre-  
spondence  
included in  
Bundles  
P. and D.

Messrs. Chan, Laycock & Ong,  
Singapore.

Letter,  
Da Silva  
Oehlers &  
Choa to  
Chan  
Laycock  
& Ong,  
22nd  
January  
1946.

Dear Sirs,

Re : Abraham Penhas (Deceased)

We have seen our client on your letter of the 19th inst.

Our client denies that she took away five lorry loads of furniture and moveable property as alleged.

Our client informs us that No. 26 Pierce Road was occupied by the Japanese as a Laboratory during the Japanese regime and after the surrender of Singapore by the Japanese it was occupied by the 8th I. M. F. T. U. 10

When our client went into occupation of the said premises there was no furniture or moveable property belonging to the above-named deceased.

There were some old tables and counters which were broken and piles of rubbish in the said premises and our client had to dispose of same by lorry and to clean the premises. Our client reports that at the time of the removal a gardener sent for two soldiers to threaten our client. This matter is being investigated by the Military Police. 20

The electric ceiling fan in question was out of order and has been taken away for repairs.

Our client disputes your client's right to question our client's actions. You have refused inspection of an alleged Will which you say is in your possession, and our client does not admit that any Will is in fact in existence.

As for Letters of Administration, you are well aware that no Courts with jurisdiction in Probate have as yet been established. Your statement that our client "has not even applied for a Grant" is therefore not understood. 30

Our client maintains that she is the lawful widow and in the circumstances she maintains that she has a perfect right to safeguard the deceased's property until such time as representation can be obtained by her, notwithstanding the doctrine of "relation back."

Yours faithfully,

(Sgd.) DA SILVA, OEHLERS & CHOA.

Dear Sirs,

Re : Abraham Penhas, deceased.

We have your letter of the 22nd January.

We have already informed you that the original Will of Mr. Abraham Penhas is in our possession. It was attested by Mr. Lee Choon Kwee and Mr. V. D. Knowles and we are well acquainted with their signatures. You may say that your client does not admit this fact : but we do not care that ; even though such a statement by a respectable firm is always accepted so far as we know. The Will was lodged with Messrs. Braddell Brothers (an independent firm) and we have only recently got it from Messrs. Braddell Brothers so you could get this confirmed by them. Anyway your client has express notice of the fact whether she admits it or not.

Yours faithfully,

(Sgd.) CHAN, LAYCOCK & ONG.

Messrs. Da Silva, Oehlers & Choa.

23rd January 1946.

Corre-  
spondence  
included in  
Bundles  
P. and D.

Letter,  
Chan  
Laycock  
& Ong to  
Da Silva  
Oehlers &  
Choa, 23rd  
January  
1946.

27th March 1946.

Messrs. Chan, Laycock & Ong,  
Singapore.

Dear Sirs,

Re : Abraham Penhas (deceased)

As your client has filed a Caveat herein will you advise us whether you propose to file your Petition for Probate and when.

It will be necessary to have a receiver appointed as soon as possible.

Yours faithfully,

(Sgd.) DA SILVA, OEHLERS & CHOA.

Letter,  
Da Silva  
& Choa to  
Chan  
Laycock  
& Ong,  
27th March  
1946.

March 28, 1946.

Messrs. Chan, Laycock & Ong,  
Singapore.

Dear Sirs,

Re : Abraham Penhas decd.

In reply to your letter of 27th inst. our client has the evidence which will be adduced at the hearing. We wrote you with the view to arrive at the trial of issue at an early date.

If your client puts up the alleged Will we will caveat against same. Proof of death is as necessary to your Petition and we should suppose your client also has evidence of death ?

Yours faithfully,

(Sgd.) DA SILVA, OEHLERS & CHOA.

Letter,  
Da Silva  
Oehlers &  
Choa to  
Chan  
Laycock  
& Ong,  
28th March  
1946.

40



28th March 1946.

Corre-  
spondence  
included in  
Bundles  
P. and D.

Dear Sirs,

Abraham Penhas.

Letter,  
Chan  
Laycock  
& Ong to  
Da Silva  
Oehlers &  
Choa, 28th  
March 1946.

We have received your letter dated 28th March 1946.

We note that your client has evidence of death. It appears to satisfy her and we consider that she ought to produce that evidence. Our client was in Bombay ever since February 1942 until last week, together with Abraham Penhas' father and sister. He has not had the same opportunities of collecting evidence as your client has had, she having been in Singapore and at large during that whole time.

10

In fact our client has some evidence that Mr. Abraham Penhas is *not* dead, and he does not at present believe that Mr. Abraham Penhas *is* dead, although your client seems so very sure the first issue the Court will have to decide.

Yours faithfully,

(Sgd.) CHAN, LAYCOCK &amp; ONG.

Messrs. Da Silva, Oehlers &amp; Choa.

12th December, 1946.

Letter,  
Chan  
Laycock  
& Ong to  
Da Silva  
Oehlers &  
Choa, 12th  
December  
1946.

TEC/JL/AW.

Dear Sirs,

Re : Abraham Penhas

Probate No. 119 of 1946.

20

We hereby give you notice that at the trial of the Issue herein we intend to read the affidavit of Evan Nuttal Taylor sworn to on the 11th of December 1946 and the exhibits therein referred to. We send you herewith a copy of the affidavit. The original thereof and of the exhibits referred to may be inspected in our office at any time during office hours.

Yours faithfully,

(Sgd.) CHAN, LAYCOCK &amp; ONG.

Enc :  
Messrs. Da Silva, Oehlers & Choa.

30

GENO/TKH/File No. 16/1946/0

DA SILVA, OEHLERS &amp; CHOA

Singapore, Dec. 13, 1946.

Messrs. Chan, Laycock & Ong,  
Singapore.

Dear Sirs,

Re : Abraham Penhas

Probate No. 119 of 1946.

Your letter dated the 12th instant was received this morning at  
10 10.45 a.m.

The issue at present before the Court is an issue as to whether or not Abraham Penhas is dead, and if so, when he died. Our client has no documents whatsoever relating to that issue.

We do not have a copy of the affidavit of Mr. E. N. Taylor. If you could give us some indication as to what is required or as to what documents are referred to, we shall be pleased to give you any information in our power.

Yours faithfully,

(Sgd.) DA SILVA, OEHLERS &amp; CHOA.

Corre-  
spondence  
included in  
Bundles  
P. and D.Letter,  
Da Silva  
Oehlers &  
Choa to  
Chan  
Laycock  
& Ong,  
13th  
December  
1946.

20 TEC/JL/LC

13th December, 1946.

Dear Sirs,

Re : Abraham Penhas

Probate No. 119 of 1946.

Dear Sirs,

We have received your letter dated December, 13th 1946.

A copy of Mr. E. N. Taylor's affidavit has been sent to you. This affidavit exhibits two letters, one written by your client personally and another written by your client's former solicitor Mr. K. P. K. Menon.  
30 These letters are relevant to the Issue at present before the Court.

Yours faithfully,

(Sgd.) CHAN, LAYCOCK &amp; ONG.

Messrs. Da Silva, Oehlers &amp; Choa.

Letter,  
Chan  
Laycock  
& Ong to  
Da Silva  
Oehlers &  
Choa, 13th  
December  
1946.

*Plaintiff's  
Exhibit.*

S.  
Photograph  
[*not  
printed*].

**S—PHOTOGRAPH.**

[*Not printed.*]

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T.  
Photo-  
postcard  
[*not  
printed*].

**T—PHOTO POST CARD.**

[*Not printed.*]

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# In the Privy Council.

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## ON APPEAL

FROM THE COURT OF APPEAL OF THE COLONY OF SINGAPORE,  
ISLAND OF SINGAPORE.

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Appeal No. 21 of 1949.

Probate No. 119 of 1946.

IN THE ESTATE of ABRAHAM PENHAS, deceased.

BETWEEN

ISAAC PENHAS (Defendant) - - - - *Appellant*

AND

TAN SOO ENG (Plaintiff) - - - - - *Respondent.*

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# RECORD OF PROCEEDINGS

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PEACOCK & GODDARD,  
Dacre House,  
5 Arundel Street,  
Strand, W.C.2,  
*Solicitors for the Appellant.*

SYDNEY REDFERN & CO.,  
1 Gray's Inn Square,  
Gray's Inn, W.C.1,  
*Solicitors for the Respondent.*