

In the Privy Council.

ON APPEAL

From the Court of Appeal, Malta.

BETWEEN

MARIA CASSAR AND ANOTHER  
*(Plaintiffs) Appellants*

AND

CARMELA CAMILLERI AND OTHERS  
*(Defendants) Respondents*

UNIVERSITY OF LONDON  
 19 FEB 1957  
 PROTECT ANCE  
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In the Privy Council.

**On Appeal from the Court of Appeal,  
 Malta.**

BETWEEN  
 MARIA CASSAR AND ANOTHER  
*(Plaintiffs) Appellants*  
 AND  
 CARMELA CAMILLERI AND OTHERS  
*(Defendants) Respondents*

RECORD OF PROCEEDINGS

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**DESCRIPTION**

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In

H.M. CIVIL COURT, FIRST HALL

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In the Privy Council.

**On Appeal from the Court of Appeal,  
Malta.**

BETWEEN

MARIA CASSAR AND ANOTHER

*(Plaintiffs) Appellants*

AND

CARMELA CAMILLERI AND OTHERS

*(Defendants) Respondents*

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RECORD OF PROCEEDINGS

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DOCUMENTS

Translation

No. 1

Writ-of-Summons.

No. 1.  
Writ-of-  
Summons.

Writ-of-Summons No. 547/1951.

Filed in H.M. Civil Court,  
First Hall, by G. Galdes  
L.P. on 22nd June, 1951.

(Sd.) J.N. CAMILLERI,  
D/Registrar.

**GEORGE VI**

By the Grace of God, King of Great Britain, Ireland, and the  
British Dominions beyond the Seas, Defender of the Faith.

BY OUR COMMAND, at the suit of Maria, the wife of  
Salvatore Cassar, acting with her husband's consent and con-  
currence, and, where necessary, the said Salvatore Cassar in  
his capacity as head of the community of acquests — **You Shall  
Summon** — Carmela Camilleri; and Carmela Borg, joined as  
a party to the suit by Decree dated 3rd October, 1951; and Giorgio  
Borg, the husband of the said Carmela Borg, joined as a party  
to the suit by Decree dated 24th October, 1951; — to appear

No. 1  
Writ of  
Summons  
—Continued

before this Our Court at the Sitting to be held on the 3rd October, 1951 at 9 a.m.

And there:— whereas Plaintiff Maria Cassar and Defendant held between them a ticket in the National Lottery to be drawn in Malta on 17th June, 1951; — and whereas the ticket so held between them won and secured the First Prize of £13,000 — and whereas Defendant Carmela Camilleri has refused to acknowledge and has denied that the winning ticket was that which she held jointly with Plaintiff Maria Cassar; — every necessary ruling being prefaced and any expedient direction being given; — said Defendant to shew cause why this Honourable Court should not rule that Plaintiff Maria Cassar is entitled to a one-half share of the aforesaid prize of £13,000. — Saving her rights in respect of the payment of the sum due, and without prejudice to any other action, Civil as well as Criminal. 10

With Costs, including those of the garnishee order of 19th June, 1951.

**You Shall Summon** said Defendant so that a reference to her oath may be made. 20

You shall further give Defendant notice that if she wants to contest the claim, she must, not later than two working days previous to the day fixed for the hearing of the cause, file a statement of defence according to law, and that, in default of such statement within the said period, and of her appearance on the day, at the hour and place aforesaid, the Court will proceed to deliver judgment according to justice on the action of Plaintiff on the said day, or on any subsequent day, as the Court may direct.

And after service by delivery of a copy hereof upon said Defendant, or her agent according to law, or upon your meeting with any obstacle in the said service, you shall forthwith report to this Court. 30

Given by Our aforesaid Civil Court, First Hall.

Witness Our faithful and well-beloved The Honourable Mr. Justice J. Caruana Colombo B.Litt., Doctor of Laws, Judge of Our said Court.

This Twenty-fifth June, 1951.

(Signed) J. CARUANA COLOMBO.

---

**No. 2**  
**Plaintiff Statement**

No. 2.  
Plaintiff  
Statement

In H.M. Civil Court, First Hall.

Maria Cassar and Another  
vs.  
Carmela Camilleri and Others.

Plaintiff Statement.

Respectfully sheweth:—

10 Plaintiff and Defendant held between them a Ticket in the National Lottery, drawn in Malta on 17th June 1951 which won and secured the First Prize of £13,000.

Defendant Carmela Camilleri, however, has refused to acknowledge and has denied that the winning ticket was that which she held jointly with Plaintiff Maria Cassar.

Further, Defendant Carmela Camilleri, asked to hand over the ticket which she held jointly with Plaintiff Maria Cassar — and which, according to her, was not the winning ticket — stated she had mislaid that ticket; and instead she gave Plaintiff Maria Cassar another ticket which did not in fact belong to  
20 Maria Cassar.

Witnesses:—

Plaintiffs — to confirm their statement on oath.

Carmelo and Giuseppa Saliba, Qormi — to state in evidence that the winning ticket was sold by them to the Defendant Carmela Camilleri.

The Director of Public Lotto, John Mifsud, or other official on his behalf — to produce the winning ticket and the receipt issued in respect of that ticket.

30 Antonio Falzon, who is Plaintiff's brother, to testify that after the draw Defendant had spoken to him and said she did not know what to do with his sister.

Carmela Bugeja, a daughter of Plaintiff, to testify that she went to Defendant to request delivery of the ticket held between litigants, but Defendant did not deliver it, alleging she had lost it.

No. 2.  
Plaintiff  
Statement  
—Continued

Lawrence Cassar and Alfred Cassar, both sons of Plaintiff, to testify that Defendant handed them a ticket, which was supposed to have been the one held between litigants, but which, actually, belonged to another. .

(Signed) TOM. FENECH,  
Advocate.

No. 3.  
Written Pleadings  
of Defendant

### No. 3

#### The Written Pleadings of Defendant

In H.M. Civil Court, First Hall.

Maria Cassar and Another 10  
vs.  
Carmela Camilleri and Others.

The written pleadings of Defendant.

Respectfully sheweth:—

Plaintiff's claims are groundless: The winning ticket, bearing the nom-de-plume of "Suor Concettina," was held between Defendant and Carmela Borg, and not between Defendant and Plaintiff Maria Cassar who, in fact, shared another ticket with Defendant, that bearing the nom-de-plume of "Ejja naghmlu hbieb."

20

(Signed) H. GANADO,  
Advocate.

„ JOSEPH D'AMATO,  
Legal Procurator.

This Thirteenth July, 1951 .

Filed by Joseph D'Amato L.P. without Exhibits.

(Signed) S. BUGEJA,  
Deputy Registrar.

**Defendant Statement**

In H.M. Civil Court, First Hall.

Maria Cassar and Another  
vs.  
Carmela Camilleri and Others.

**Defendant Statement.**

Respectfully sheweth:—

10 Defendant had agreed with one, Carmela Borg, to stake, as usual, a ticket in the forthcoming Draw of the National Lottery. In the two preceeding Draws they had held between them a ticket. They agreed to call this ticket for the forthcoming draw by the same name, "Suor Concettina", carried in the two preceeding draws. Carmela Borg's mother, too, bought a ticket and named it "Suor Concettina." This attachment on the part of Carmela Borg to the name of Suor Concettina, and her insistence that the tickets should be given that name as a nom-de-plume, is explained by the fact that a sister of hers, a nun, happens to be in the convent in Valetta where Suor Concettina  
20 had spent her life, and where, renowned for her saintly piety, she died on the 25th May, 1950. Carmela Borg's family are so very greatly devoted to the memory of the late nun that, on the Saturday previous to the Draw of the Lottery, they distributed commemorative pictures of her among their friends and acquaintances.

On the other hand, Plaintiff, Maria Cassar, has no connection or anything in common with the late Suor Concettina.

30 Further, when, as in previous years, Defendant Carmela Camilleri bought the "Suor Concettina" ticket in partnership with Carmela Borg, she gave Carmela Borg the receipt issued in respect of that ticket — as shall be established in evidence; and, at the same time, she told Plaintiff Maria Cassar that the ticket held between them — between Carmela Camilleri and Plaintiff Maria Cassar — had been given the nom-de-plume of "Ejja nagħmlu ħbieb." All that happened before the Draw of the Lottery.

40 Both tickets were bought by Defendant Carmela Camilleri. She gave Carmela Borg, nicknamed "Tas-Sikkina," the receipt for the ticket, and she also wanted to give the

Plaintiff the receipt for the other ticket, but Plaintiff refused to take it, stating that she thought she might lose it.

Signed) H. GANADO,  
Advocate.

„ JOSEPH D'AMATO,  
Legal Procurator.

Witnesses:—

The contending parties — to give evidence in substantiation.

Giuseppe Spiteri — to state that the ticket named “Suor Concettina” was taken in partnership with Carmela Borg “Tas-Sikkina.” 10

Giuseppa Saliba — to state that Defendant Carmela Camilleri had twice before bought a “Suor Concettina” ticket in partnership with Carmela Borg “Tas-Sikkina.”

George Magri — to state that Carmela Borg “Tas-Sikkina” had told Defendant Carmela Camilleri to name the ticket “Suor Concettina.”

Giorgia Gatt — to state that the “Suor Concettina” ticket was in possession of Carmela Borg “Tas-Sikkina” before the Draw of the Lottery. 20

Giovanna Mifsud, the mother of Carmela Borg — to state that she too had named her ticket “Suor Concettina.”

Sister Nicolina of Saint Catherine Convent in Valetta — to give evidence as to the ticket named “Suor Concettina.”

Lucia Mifsud — to state that it is within her knowledge that the winning ticket was in possession of Carmela Borg “Tas-Sikkina.”

Carmela Bugeja — to state that the ticket bearing the nom-de-plume of “Ejja naghmlu ħbieb” was shared with Plaintiff Maria Cassar and that the other ticket was shared with Carmela Borg “Tas-Sikkina.” 30

Sebastiana Cassar — to state that she was present when Plaintiff Maria Cassar and Defendant Carmela Camilleri had agreed to name the ticket “Ejja naghmlu ħbieb.”

Antonio Falzon, Teresa Grech and Carmelo Muscat — to state that it is within their knowledge that the winning ticket is that of Carmela Borg “Tas-Sikkina.”



Giovanni Dimech — who was present when witness Antonio Falzon called on Defendant Carmela Camilleri and tried to settle the matter.

No. 4  
Defendant  
Statement  
—Continued

(Signed) H. GANADO,  
Advocate.  
„ JOSEPH D'AMATO,  
Legal Procurator.

List of Exhibits.

10 **A.** Lottery Ticket bearing the nom-de-plume of “Suor Concettina,” held by Giovanna Mifsud, the mother of Carmela Borg.

**B.** “In Memoriam” of Suor Concettina, which Carmela Borg distributed at Qormi before the Draw.

(Signed) H. GANADO,  
Advocate.  
„ JOSEPH D'AMATO,  
Legal Procurator.

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**No. 5**

No. 5.  
Procés Verbal

**Procés Verbal**

20 In H.M. Civil Court, First Hall.

Maria Cassar and Another  
vs.  
Carmela Camilleri and Others.  
3rd. October, 1951.

**Omissis**

Defendant has made verbal application requesting that Carmela Borg — with whom, as she alleges, she shares the winning ticket — be joined as a party to the suit.

Plaintiff opposes the application.

30 A Decree has been delivered.

**Omissis**

(Signed) J. DEBONO,  
Deputy Registrar.

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No. 6.  
Decree on  
Plaintiff's  
Application

**No. 6****Decree on Plaintiff's Application**

H.M. CIVIL COURT, FIRST HALL.

Judge:

The Honourable Mr. Justice J. Caruana Colombo B.Litt., LL.D.

3rd. October, 1951.

Maria Cassar and Another

vs.

Carmela Camilleri and Others.

The Court,

On Defendant's Application for Carmela Borg to be joined 10  
as a party to the suit.

Whereas the application appears to rest on good and  
sufficient grounds.

Orders that Carmela Borg be joined as a party to the suit,  
provisionally at Defendant's expense.

Costs reserved.

(Signed) J. DEBONO,  
Deputy Registrar.

No. 7.  
Evidence —  
3rd Oct., 1951  
(1)—Sebastiana  
Cassar

**No. 7****Evidence — 3rd Oct., 1951.**

20

**(1) — Sebastiana Cassar**

In H.M. Civil Court, First Hall.

3rd. October, 1951.

Sebastiana Cassar, produced by Defendant, states on  
oath:—

I am awaiting embarkation for Australia.

I work at the "Malviz" paste factory at Qormi.

I know Carmela Camilleri wanted to give the ticket to  
Maria Cassar and that Maria Cassar refused to keep it. In fact,  
Maria Cassar said to Carmela Camilleri: "Keep it yourself. It's 30  
the same thing." As regards the ticket's nom-de-plume, she  
said it was "Ejja naghmlu hbieb." ("Let us be friends").

I am related to Maria Cassar. She is my aunt.

### Cross-Examination

No. 7.  
Evidence —  
3rd Oct., 1951  
(1)—Sebastiana  
Cassar  
—Continued

I have been employed with my aunt, Maria Cassar, for the past seven months. That conversation between her and Carmela Camilleri took place one day when we were drawing our wages. We used to draw our wages on Sunday in the morning.

**Question:** Had Maria Cassar and Carmela Camilleri fallen out with each other?

**Answer:** No, they had not fallen out with each other. I do not know Carmela Borg. I know of that conversation because I overheard it. It was before the Draw of the Lottery.

**Question:** Did she, previously, share a ticket with your aunt?

**Answer:** Afterwards, I think she had another ticket. In fact, she did have another ticket. The conversation I happened to overhear was on the subject of the first ticket, that named "Ejja naghmlu hbieb."

### Re-Examination

The other ticket was named "Suor Concettina." This ticket was between Carmena and Carmela Camilleri. It is only lately, however, that I got to know this. All I knew before was that she wanted to give a ticket to Maria Cassar and that Maria Cassar refused to keep that ticket. Then she told Maria Cassar: "Do you know the nom-de-plume? It is **"Ejja naghmlu hbieb."** That is all I knew before.

It is only now that I have got to know that they had another ticket between them. What I knew before is what I have already stated — that she wanted to give her the ticket to keep and that she told her that the name of that ticket was "Ejja naghmlu hbieb." The rest I got to know afterwards.

The Carmena I have mentioned is nick-named "Tas-Sikkina." It was after the Draw that I came to know that Carmena "Tas-Sikkina" had a ticket with the other Carmena. I got to know about the first ticket before the Draw because they talked about it in my hearing. I know she wanted to give her a ticket to keep and that Maria Cassar refused to keep it — telling her "Keep it yourself. It is the same thing." And then Carmela Camilleri told her: "Do you know the name of the ticket? It is **Ejja naghmlu hbieb,"** That much I knew before the Draw.

No. 7  
Evidence —  
3rd October, 1951  
(1)—Sebastiana  
Cassar  
—Continued

I know that a conversation took place on the occasion when we were drawing our wages, it is certain a conversation took place: Defendant was with her.

I am no longer employed with my aunt, Maria Cassar. I left her employment before Defendant did. I left my aunt about two months ago. Carmela Camilleri left afterwards. When I left, Carmela Camilleri was still there; and I left two months ago.

The conversation took place before I left, but I cannot say exactly how long before. It took place about a month or a month and a half before I left my aunt. That is to say, I left my aunt two months ago and the conversation took place one month or one month and a half before I left. 10

Camilleri was still there when I left my aunt.

#### Cross-Examination

**Question:** If I asked you whether the Draw took place in April or before — would you remember?

**Answer:** I cannot remember in which month the Lottery was drawn.

It is now that mention has been made of the ticket named "Suor Concettina." The ticket named "Suor Concettina" was never mentioned in my presence. 20

I came here this morning in a car with Defendant. Nothing was said between us two as regards the evidence to be given in the case. It was to "Tas-Sikkina" that she spoke — not to me.

**Question:** Are you aware that Carmela Camilleri quarrelled with her?

**Answer:** She had not quarrelled with anyone — she was working for her.

Sebastiana Cassar — Her Mark. 30

Read over to witness.

(Signed) J. DEBONO,  
Deputy Registrar.

---

**The Written Pleadings of Carmela Borg**

In H.M. Civil Court, First Hall.

Maria Cassar and Another  
vs.  
Carmela Camilleri and Others.

The Written Pleadings of Carmela Borg, joined as Co-defendant to the suit.

Respectfully sheweth:—

10      1. Preliminarily, Giorgio Borg, her husband, should in a lawsuit of this nature have been the person joined as a Party to the Suit; and, in any case, her aforesaid husband has not even been joined as a Party to the Suit to assist his wife, the aforementioned Co-defendant.)

2. On the merits, and without prejudice to the preliminary pleadings set up above, Plaintiff's claim is untenable, in that the winning ticket in the National Lottery draw of the 17th June, 1951 was held between her (Carmela Borg) and Defendant Carmela Camilleri.

20      Without prejudice to other pleas.

(Signed F. CREMONA,  
Advocate.

„      C. VASSALLO,  
Legal Procurator.

This Twenty-fourth October, 1951.

Filed at the Sitting by Professor F. Cremona LL.D.

(Signed) J. DEBONO,  
Deputy Registrar.

---

**Co-Defendant's Statement**

In H.M. Civil Court, First Hall.

Maria Cassar and Another  
vs.  
Carmela Camileri and Others.

Co-defendant's Statement.

Respectfully sheweth:—

1. Defendant and Co-defendant bought a ticket in equal shares between them for the Easter 1951 Draw of the National Lottery. The ticket was bought from Carmelo and Giuseppa Saliba. As on previous occasions, Carmela Camilleri and Carmela Borg named the ticket "Suor Concettina." 10

2. The counterfoil of that ticket was returned to the Public Lotto Department after the closing date, or, to be more exact, after 5 p.m. on the 10th March, 1951. Therefore, in terms of the Government Lotteries Act, that stake was forfeited and subsequently replaced by another ticket for the next succeeding Draw of the Lottery. It was this latter ticket that secured the First Prize. 20

3. The ticket issued by Government in lieu of the one which, as stated above, had been forfeited, was accompanied by a communication, dated 13th March, 1951, over the signature of the Director of Public Lotto and addressed to Defendant. As soon as she received it, Carmela Camilleri handed over the ticket to Carmela Borg, with whom she shared the respective stake.

4. Plaintiff laid no claim to the ticket in question until she learnt it had won the First Prize.

(Signed) F. CREMONA,  
Advocate. 30

„ C. VASSALLO,  
Legal Procurator.

Witnesses:—

Litigants — to confirm on oath contents of the foregoing Statement.

2. Giorgia Gatt — to state that it is within her knowledge that the receipt for the winning ticket was at the time of the Draw held by Carmela Borg.

No. 9.  
Defendant's  
Statement  
—Continued

3. Giuseppa Saliba — to state that she sold the ticket to Defendant Carmela Camilleri.

10 4. Giuseppe Spiteri — to state that he was present when the ticket was bought and that he himself filled in the particulars in the respective counterfoil. — The witness is also aware that it was usual for Defendant and Carmela Borg to take a ticket in partnership under the nom-de-plume of "Suor Concettina."

5. Giorgio Magri — to state that he was present when Defendant asked Carmela Borg what name should be given to the ticket.

6. Henry Frendo, Public Lotto Office — to give evidence as to the conversation that took place in his presence, after Draw, between Plaintiff and her husband and Carmelo Saliba.

7. Carmelo Muscat, Lucia and Giovanna Mifsud and Teresa Grech — to state that the ticket in question was in the possession of Carmela Borg.

20

(Signed) F. CREMONA,  
Advocate.

„ C. VASSALLO,  
Legal Procurator.

---

No. 10.  
A Minute filed by  
Plaintiff

**No. 10.**

**A Minute filed by Plaintiff**

In H.M. Civil Court, First Hall.

Maria Cassar and Another  
vs.  
Carmela Camilleri and Others.

Plaintiff's Minute.

Plaintiff hereby produces the annexed Ticket, marked Exhibit "A".

(Signed) TOM. FENECH, 10  
Advocate.  
„ J.M. GANADO,  
Advocate.

This Twenty-fourth October, 1951.

Filed at the Sitting by Dr. Tom. Fenech with one Exhibit.

(Signed) J. DEBONO,  
Deputy Registrar.

No. 11.  
Procés Verbal

**No. 11.**

**Procés Verbal**

In H.M. Civil Court, First Hall.

Maria Cassar and Another  
vs.  
Carmela Camilleri and Others.

20

24th October, 1951.

Defendant Carmela Camilleri agrees that Giorgio Borg, husband of Carmela Borg, should be joined as a party to the suit.

A Decree has been delivered.

**Omissis**

(Signed) J. DEBONO, 30  
Deputy Registrar.



**No. 12.**

**Decree re Giorgio Borg**

H.M. CIVIL COURT, FIRST HALL.

Judge:

The Honourable Mr. Justice J. Caruana Colombo B.Litt., LL.D.

Maria Cassar and Another

vs.

Carmela Camilleri and Others.

24th October, 1951.

10 The Court,

Orders that Giorgio Borg be joined as a party to the suit, provisionally at Defendant's expense.

Costs reserved.

(Signed) J. DEBONO,  
Deputy Registrar.

No. 12.  
Decree re  
Giorgio Borg

**No. 13.**

**The Written Pleadings of Giorgio Borg**

Maria Cassar and Another

vs.

Carmela Camilleri and Others.

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The Written Pleadings of Giorgio Borg, joined as a party to the suit.

Respectfully sheweth:—

Plaintiff claim should be dismissed on the grounds set out in the Written Pleadings of Co-defendant filed this day.

(Signed) F. CREMONA,  
Advocate.

„ C. VASSALLO,  
Legal Procurator.

This Twenty-fourth October, 1951

30

Filed at the Sitting by Professor F. Cremona LL.D.

(Signed) J. DEBONO,  
Deputy Registrar.

No. 13.  
The Written  
Pleadings of  
Giorgio Borg

No. 14.  
Co-defendant's  
statement

**No. 14.**

**The Statement of Giorgio Borg**

In H.M. Civil Court, First Hall.

Maria Cassar and Another  
vs.  
Carmela Camilleri and Others.

Co-defendant's Statement.

Respectfully sheweth:—

That he makes reference to the facts as set out in the Statement filed this day by Carmela Borg — which facts will be substantiated by evidence of witnesses named therein. 10

(Signed) F. CREMONA,  
Advocate.  
" C. VASSALLO,  
Legal Procurator.

No. 15  
Evidence — 24th  
October, 1951  
(2)—Plaintiff,  
Maria Cassar

**No. 15.**

**Evidence — 24th October, 1951.**

**(2). — Plaintiff, Maria Cassar.**

In H.M. Civil Court, First Hall.

24th October, 1951. 20

Plaintiff, Maria Cassar, states on oath:—

Defendant, Carmela Camilleri, was in my employment. She was in my employment up to the 14th May, 1951 — five weeks before the Draw of the National Lottery. Defendant left my employment because she quarrelled with my son. At the time she was working for me, Defendant and I used to take a ticket together, usually during the last week before the Draw. We bought a Ten Shillings ticket for the Easter Draw, but the ticket was left out of the Draw.

We had taken another ticket together for the Draw of the National Lottery which took place before the Easter Draw. That ticket did not win a prize. It was named either "Kunčezjoni" or after one of the saints. It was Carmela Camilleri who named 30

the ticket and she told me she would name it after some saint or other. She kept the ticket herself — we always trusted each other. That ticket did not win a prize.

No. 15  
Evidence — 24th  
October, 1951  
(2)—Plaintiff,  
Maria Cassar  
—Continued

10 Some time later, Defendant mentioned to me that many favours were being obtained through the intercession of Suor Concettina — she said to me “this nun lived in the cloister where **is-Sirà** now is.” I remarked to her: “If not Suor Concettina, who could obtain favours?” And so Defendant went on to say that next time we should name the ticket “Suor Concettina.” A few days later, we agreed to buy a ticket for the Easter Draw. It was just a few days before Easter and we bought the ticket.

She went to buy the ticket herself. As usual, I gave her my share of the money for it when I paid her her wages. Her wages came to £1. 15s. 0d. per week and I gave her £2.

She did not afterwards tell me the name of the ticket. That was because, before going to buy the ticket, she had asked me: “What name shall we give it?” And I had replied: “Name it as you wish, to your heart’s content.”

20 We had been late in getting the ticket and, a few days afterwards, she came and told me that the receipt for it had not arrived. So I said to her: “Well, let us see whether it will be valid for the next Draw.” I also asked the man she had bought it from whether the ticket would in fact be valid for the next Draw.

A few days later, Defendant told me she had received a notice to the effect that the ticket had reached the Lottery Office after the closing date, but that it would be valid for the next succeeding Draw. I said to her: “Let it be.”

30 Then, when the receipts for the Lottery tickets were being sent out through the Post, Defendant called and told me: “The receipt has come — shall I bring it to you?” To which I replied: “Keep it yourself. It’s the same thing.” “Very well, then,” she said. “I will keep it myself.” And we left it at that.

40 Previously, Defendant had told me: “Would you like to have your 5/- back, once the ticket is not being drawn for?” That is to say, she first received the notice, and then, in the interval between the receipt of the notice and the delivery of the receipt for the ticket, she told me: “Do you want your 5/- back?” And I replied: “Let it stand — five shillings won’t make any difference to me one way or the other.” We left it at that and never referred to the matter again. The 5/- share I am speaking

No. 15  
Evidence — 24th  
October, 1951  
(2)—Plaintiff,  
Maria Cassar  
—Continued

about was in respect of the ticket for the Lottery to be drawn in June. She was still in my employment at the time and we never mentioned anything more about the ticket. She never told me what name she had given the ticket. She never mentioned the subject again.

Then, five weeks before the Draw, she quarrelled with my son. She had been trying to make mischief with the other employees and was overheard telling one of them that she should spare her hands and feet. My son said something offensive to her — using bad language — and she then rushed up to him with a knife. "I shall drive this into your eyes," she cried, "and bring it out at the other end." She never came back to the factory. 10

We said nothing to each other on the day of the Draw. I knew nothing that evening about the winning tickets. In the morning, when I was on my way to hear Mass, someone told me that she who had been in my employment had become rich. I replied "Thank God! She is an orphan and I know what she has been through." And we left it at that.

I then sent for Giuseppa, from whom Defendant had bought the ticket. I told her I wanted to know whether Carmela Camilleri — not in this, but in the previous Lottery — had taken a ticket in partnership with me. Giuseppa replied: "Yes, she shared one ticket with you." She added: "In fact she bought two tickets, one in partnership with you, named either "Id-f-id" or "Ejja naghmlu hbieb," and the other, named "Suor Concettina," in partnership with Carmela "tas-Sikkina." That is what Giuseppa Saliba told me. I then asked her: "Is my name written down on the ticket which Carmela Camilleri bought between us." And she replied: "Certainly, it is written down." She added: "We ticket-sellers who sell tickets in shares between different stakers have to write down the names, for we run the risk of a long term of imprisonment if we don't." I said to her: "That is what I wanted to tell you." And she told me: "Take my word for it, the tickets are made out thus — yours is named either 'Id-f-id' or 'Ejja naghmlu hbieb' and the other is named 'Suor Concettina.' " 20 30

At mid-day, my husband came back from Valetta. He asked me whether I had sent to enquire about the ticket's nom-de-plume. So I asked my son, who is 16, to go and find out. But he felt shy about it and sent his younger brother instead. My younger son — he is 11 — called on Defendant and said to her: "My mother wants you to give her either the ticket or the receipt for the ticket which you shared with her." Defendant 40

told him: "I am going to give you this receipt." And she added: "Had I won with your mother, I would have come and told her the next morning." The boy came back with the receipt she gave him. When I got it from him, I found that it bore the name of Carmela Borg and the address of Carmela Camilleri and had the nom-de-plume of "Ejja naghmlu hbieb." This receipt is in my possession.

No. 15  
Evidence — 24th  
October, 1951  
Maria Cassar  
(2)—Plaintiff,  
—Continued

10 I then again sent my son Lawrence to tell Carmela Camilleri that that receipt was neither hers nor mine, for it was not made out to my name and surname and bore the name and surname of Carmela Borg and the nom-de-plume of "Ejja naghmlu hbieb" — whilst the address on it was that of Carmela Camilleri." And Carmela Camilleri said to Gina (a girl she adopted): "Is that the one you sent her — that of Carmela Borg?"

I told the boy to tell her that the receipt she had sent me was not the receipt for the ticket which we shared between us — that in fact it was Carmela Borg's. And the boy came back and said: "She sent you that of Carmela Borg."

20 Then, at one o'clock, the Defendant came to see me. She said: "Give me back the receipt I sent you." I asked her: "Have you brought the ticket we share between us?" She again said: "Give me back the receipt." And I then told her: "I will give it back to you when you bring me that receipt or the ticket we have between us." She said: "I have not got it with me. I will bring it to you presently." I told her: "Go and fetch it. If you don't, you will not get back this receipt. You have not been straight with me." And I added: "Many people have still to see that receipt."

30 She then promised she would bring it along and she told me at the same time: "Give it back to me — it is neither yours nor mine. It is sure to belong to my sister's daughter. I asked her: "What address has your niece?" She told me: "Then it must be Gina's." "Gina," I observed, "is not Carmela." Actually, she did not bring anything to me — that is to say, she did not bring me the ticket we shared together. On the contrary, when my daughter called on her for the ticket and the receipt, Defendant told her that she had mislaid the ticket. Whereupon Carmela Borg remarked: "I have that ticket and that receipt and you will not get either from me," adding: "I have only to do with Carmela Camilleri."

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Afterwards, I called at the Lottery Office in Valetta, I asked one of the clerks there to show me the ticket which had won the

No. 15  
Evidence — 24th  
October, 1951  
(2)—Plaintiff,  
Maria Cassar  
—Continued

first prize. He replied he could not do that. I then told him I would apply for a garnishee order on the prize money, pointing out that it was I who shared the winning ticket with the Defendant and not the person with whom she appeared in the photograph. I then consulted Dr. Fenech and took the necessary steps to have a garnishee order issued on one half the prize money.

**Question:** Do you know Sebastiana Cassar?

**Answer:** Yes, I know her.

**Question:** According to Sebastiana Cassar, Defendant told you what name had been given to the ticket. She, Carmela Camilleri, wanted to give you the ticket to keep and you told her she could keep it herself. Whereupon she said to you: Do you know the name of the ticket? It is **Ejja naghmlu hbieb.**"

**Answer:** It is not true. I have never had anything to do with her as regards the ticket with the nom-de-plume "Ejja naghmlu hbieb."

(Signed) MARIA CASSAR.,

Read over to witness.

(Signed) J.N. CAMILLERI,  
Deputy Registrar.  
27-10-51.

**(3). — Henry Frendo.**

No. 15  
Evidence —  
24th Oct., 1951  
(3) —  
Henry Frendo

In H.M. Civil Court, First Hall.

24th October, 1951.

Henry Frendo, produced by Plaintiff, states on oath:—

I am appearing for the Director of National Lottery.

Two Lottery tickets were bought. The seller was one Carmelo Saliba. Where the counterfoils of the tickets sold fail to be returned to the Office by the closing date fixed in respect of a particular Draw, sellers pay in the stake money just the same; but the tickets are not allowed to take part in that particular Draw. On the occasion referred to, the counterfoils of the two tickets were sent in after the closing date fixed for the Easter Draw of the Lottery; and they did not therefore take part in that Draw. We send each staker a Registered letter enclosing a new ticket for the next Draw and explaining that the new ticket is in lieu of the differently numbered ticket taken for the previous Draw.

This booklet of twelve counterfoils, corresponding to as many tickets bought for the Easter Draw, included two coun-

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terfoils bearing consecutive numbers. The counterfoil of ticket No. 115086 was made out to Carmela Camilleri, 49, St. Catherine Street, Qormi, and bore the nom-de-plume of "Suor Kongettina." The next counterfoil, No. 115087, was made out to Carmela Borg, No. 49, St. Catherine Street, Qormi, and bore the nom-de-plume "Hbieb." These particulars were copied out on the counterfoils of the new tickets for the June Draw, Nos. 108222 and 108223, and the tickets themselves were sent to the stakers under Registered cover at the address I have mentioned.

No. 15  
Evidence —  
24th Oct., 1951  
(3) —  
Henry Frendo  
—Continued

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### Cross-Examination.

We send them out **tale quale** — made out exactly in the same way as those for the previous Draw. A blank space is left in the counterfoil for the nom-de-plume.

As regards the one word "Hbieb" written as a nom-de-plume, there is a slight difficulty. In the case of the winning ticket, the respective counterfoil is in our possession; but the counterfoils of all the other tickets that failed to win a prize are all mixed up together.

20 I got my information from the original counterfoil of the ticket for the Easter Draw.

The receipts for the tickets are made out by the clerks who are specially employed for the purpose. The receipt is supposed to be a faithful copy, but we attach no importance to it. The receipt is merely for the information of the staker, so that he may know the ticket is taking part in the Draw.

30 As regards the nom-de-plume, very often they put in the first word and follow it up with "etc. etc." The reason is that sometimes the names chosen are exaggerated, or political or indecent and then they are left out altogether in making out the receipt.

**Question:** Do you know what happened in this case of the ticket "Ejja naghmlu hbieb."?

**Answer:** In case any doubt thereon has an important bearing on the merits of the case, I am in a position to produce the original counterfoil.

As for the receipt which is filed in the Record, and which is being shown to me by the Court, I can say without the slightest doubt that it was issued by the Lottery Office. I could produce the original counterfoil which Saliba himself wrote out. In

No. 15  
Evidence —  
24th Oct., 1951  
(3) —  
Henry Frendo  
—Continued

fact, it is possible to produce the whole booklet containing the twelve counterfoils.

The counterfoil of the ticket which is being shown to me by the Court is in our possession. This ticket was presented by Carmela Camilleri on 20th June — the Draw having taken place on 17th June and the official notice sent to them on 18th June. Camilleri presented the ticket to the clerk. We have however the receipt made out in her name. There would be no difficulty in finding the ticket.

The number of the winning ticket is 108222. Nothing has been noted down on the ticket. 10

After the receipt for the deposit of the ticket had been issued, two other persons came to speak to me. Plaintiff Maria Cassar and her husband called at the office and told me the whole story. I told them it had nothing to do with us and that we simply notified the stakers whose particulars appeared on the counterfoil. I added that the only thing she could do was to apply for a garnishee order and it seems she did so.

Plaintiff and her husband first asked me to see the ticket. I replied there was nothing to be seen on the ticket except a picture and a number and that I could not give them any information as to prize-winners. Plaintiff showed me a scrap of paper on which there appeared to be a statement to the effect that the ticket was not Defendant's; and I told her that, so far as we were concerned, the thing was absurd. They asked many questions, but I gave them none of the information they were after. I told them to take the matter to Court. They kept on talking and talking, but it all seemed to me pointless — that the ticket was theirs and so on. There were no threats. They were, however, excited. 20 30

Carmelo Saliba, from whom the ticket was bought, came with them on the first occasion. I do not remember exactly what was said at the time, but the impression they gave me was that they had spoken to Saliba outside, and that, at the office, they thought they were standing before some tribunal and that I was not answering properly.

They had a scrap of paper, or, I should say, a statement on a scrap of paper — I do not know whether written by the seller, Saliba, or by his wife — purporting to show what had been agreed upon at the moment. It was a small piece of paper written out in pencil. The words **Il mara tieghek behhitulna** ("Your wife sold it to us") were scribbled on it. Saliba sought to quieten and persuade them — he wanted to be rid of the whole 40



matter so that he might cash the award of £200 which he was entitled to receive from us. The paper had some names on it — Camilleri, Borg and Cassar and something similar. They also had the receipt for the ticket bearing the next consecutive number of the winning ticket, and they told me that, to deceive them, Defendant had sent them the receipt for the ticket sold out of the same booklet immediately after the winning ticket — which had nothing to do.

No. 15  
Evidence —  
24th Oct., 1951  
(3) —  
Henry Frendo  
—Continued

(Signed) H. FRENDO.

10 Read over to witness.

(Signed) J.N. CAMILLERI,  
Deputy Registrar.  
27-10-51.

**No. 16**

**Evidence — 9th Nov. 1951**

**(4) — Henry Frendo.**

No. 16  
Evidence —  
9th Nov. 1951  
(4) —  
Henry Frendo

In H.M. Civil Court, First Hall.

9th November, 1951.

Henry Frendo, produced by Plaintiff, states on oath:—

20 As promised in my previous evidence, I produce the counterfoils of the booklet of twelve tickets sold for the Easter Draw of the National Lottery, in which counterfoils Nos. 115086 and 115087 are included.

30 I stated in my evidence on the previous occasion that the counterfoil of the ticket made out in the name of Carmela Borg bore the nom-de-plume of "Hbieb:" this was because only the word "Hbieb" appeared in the space reserved for the nom-de-plume. In actual fact, however, the person who filled in the counterfoil — the seller — wrote out the words "Ejja halli naghmlu" before the word "Hbieb" in the space immediately below the space reserved for the address of the staker. We are used to look for the nom-de-plume in the space reserved for it; and that is why I stated in my evidence that the nom-de-plume was "Hbieb."

40 The tickets I have mentioned were replaced by other tickets for the June Draw of the Lottery. The respective counterfoils were made out with exactly the same particulars appearing on the counterfoils I have produced today. The ticket bearing the name of "Carmela Camilleri" and the nom-de-plume of "Suor Kungetina" was the ticket that secured the first prize.

No. 16  
Evidence —  
9th Nov., 1951  
(4) —  
Henry Frendo  
—Continued

### Cross-Examination

I remember that Plaintiff, and, I think, her husband, came to see me. They brought with them Carmelo Saliba. They were rather excited and wanted to know who had won the first prize. I told them we were not allowed to disclose the names of prize-winners. They stated they had called because, according to the papers, the prize had been won by somebody else. The husband told me: "One half of that prize has been won by my wife."

I cannot say they were abrupt with me. In answer to the question put to me by Counsel for Defendant, I do not recollect stating "They wanted me to sign a false statement." They asked me whether I could give them anything under my signature to enable them to establish some right or other. I replied that, on the contrary, officially, they had no standing with me — that I recognised only the person whose name and address appeared on the counterfoil. 10

(Signed) H. FRENDU.

Read over to witness.

(Signed) J. DEBONO,  
Deputy Registrar. 20

No. 16  
Evidence —  
9th Nov., 1951  
(5)—Plaintiff,  
Maria Cassar

### (5). — Plaintiff, Maria Cassar

In H.M. Civil Court, First Hall.

9th November, 1951.

Plaintiff, Maria Cassar, in cross-examination, states on oath:—

I have often bought tickets for the National Lottery. We had shared tickets together before we bought that ticket for the Easter Draw. I have never bought tickets on my own — I always shared the tickets with her. We also used to share tickets in Lotto draws. 30

She (Defendant) had mentioned Suor Concettina to me. I never mentioned the name myself. She had said to me: "Many favours are being obtained through Suor Concettina."

When I heard that Carmela Camilleri and Carmela Borg had won the Lottery, I congratulated them — not personally, but through another woman.

Doubts arose in my mind because of what happened that morning. After I had been told by that woman that Carmela Camilleri had won the first prize together with Carmela Borg,

my husband left home at about 7 a.m. and, meeting my brother, Antonio Falzon, stopped him. Toni said to my husband: "Is it a fact that Carmela Camilleri and Carmela Borg have won the Lottery?" My husband replied: "Yes." Then Toni told my husband: "I want you to know that when I congratulated her, Carmela Camilleri said to me — 'Toni, I hardly know what to do with your sister. We hold a ticket in shares between us and we failed — by one number — to win.'" So I then sent for Giuseppa Saliba and put to her the questions I mentioned in  
10 my evidence.

**Question:** Did you understand you had won from the words "We failed to win by one number"?

**Answer:** That is what I understood, because at the time when she was still working for me, and before we bought the ticket, Carmela Camilleri had mentioned to me the name of Suor Concettina and that she might buy a ticket and name it after her. I was not aware she held a ticket with someone else, and I therefore understood I had won — once she had mentioned Suor Concettina to me before the Draw.

20 I heard the ticket had won — I did not know it was the "Suor Concettina" ticket that had been drawn. I was told afterwards.

Giuseppa Saliba told me Defendant had named the ticket held between us either "Id-f'id" or "Ejja naghmlu ħbieb"; and that the ticket between her and Carmela Borg had been named "Suor Concettina." She said: "You can take my word for it." I asked her: "You have my name down?" And she replied: "Certainly."

30 The first time I heard of the nom-de-plume "Ejja naghmlu ħbieb" was when I sent for the receipt." I had never heard it before. How could I have heard it, once I was never connected with it? I know the person whom Counsel has mentioned to me. She too was in my employment — I do not know, however, there had been any conversation, and we never said anything about the ticket. No conversation took place in her presence. The girl was never present.

40 I did not keep the receipt of the last ticket we bought together. I do not know whether the receipts for the previous tickets were kept by her or by me. We never minded very much who kept them. We always agreed on everything and we always trusted each other. We were of one mind.

We named the previous ticket after some saint or other, I

No. 16  
Evidence —  
9th Nov., 1951  
(5) —Plaintiff  
Maria Cassar  
—Continued

do not know whether I kept it myself. I do not remember. I told her: "Keep it yourself, it's the same thing. I have no reason to mistrust you."

I know that a sister of Carmela Borg is a nun. I do not know that Suor Concettina had been in the same convent. All I know about her is what Carmela Camilleri told me. I know nothing about her life.

**Question:** Do you know that Carmela Borg had a ticket with the same nom-de-plume of "Suor Concettina?"

**Answer:** No. I heard it at the time of the Draw and when the present dispute arose. 10

(Signed) M. CASSAR.

Read over to witness.

(Signed) J. DEBONO,  
Deputy Registrar.

**(6). — Alfred Cassar**

No. 16  
Evidence —  
9th Nov., 1951  
(6)—Alfred Cassar

In H.M. Civil Court, First Hall.

9th November, 1951.

Alfred Cassar, produced by Plaintiff, states on oath:—

I am between ten and eleven years of age. I have received my First Communion. I am Plaintiff's son. My brother and I called on Carmela Camilleri to ask her to give us the receipt or the ticket. My mother sent us and I spoke to her myself. I said to her: "Give me the ticket or the receipt." She replied: "I will give you the receipt." And she said also: "If the ticket had won, I would have come on the morrow." She then folded up the receipt and gave it to me. On the way back, I met my brother — for my brother had gone somewhere else — and I gave him the receipt. We then went home together. When, at home, they unfolded the receipt, they said: "Then this is the one that got the prize." I do not know why they said so. 20 30

(Signed) ALFRED CASSAR.

Read over to witness.

(Signed) J. DEBONO,  
Deputy Registrar.

**(7). — Lawrence Cassar.**

In H.M. Civil Court, First Hall.

9th November, 1951.

Lawrence Cassar, produced by Plaintiff, states on oath:—

Maria Cassar is my mother. My mother sent us to Carmela 40

Camilleri, but I sent my brother instead, for I was shy to go myself. We were to ask her for the ticket or the receipt and Carmela gave him the receipt. I did not go in — I stayed outside. My brother came out with a paper in his hand and gave it to me. We then went back to mother — we went back home together. When my mother read out the particulars, she found that the name was that of Carmela Borg and the address that of Carmela Camilleri. I handed over the receipt to my mother.

No. 16  
Evidence —  
9th Nov., 1951  
(7) —  
Lawrence Cassar  
—Continued

10 I myself saw the ticket. It is that which is being shown to me by the Court, filed at fol. 27 of the Record. We understood that she shared that ticket with my mother, once that ticket had the name of Carmela Borg.

I never heard my mother mentioning the name of the ticket. I did hear her say that they had named the ticket after a saint. I heard my mother say so before the Draw. I did not know the name of the ticket before the Draw.

20 No discussion about the matter took place before the Draw. She used to say that she had taken a ticket with someone or other. She had taken a ticket on this occasion, but she did not say she knew the name of the ticket. I had never heard of Suor Concettina before I heard her mentioned at home.

(Signed) CASSAR LAWRENCE.

Read over to witness.

(Signed) J. DEBONO,  
Deputy Registrar.

**(8) — Antonio Falzon**

In H.M. Civil Court, First Hall.

9th November, 1951.

No. 16  
Evidence —  
9th Nov., 1951  
(8) —  
Antonio Falzon

Antonio Falzon, produced by Plaintiff states on oath:—

30 In the evening of the day of the Draw I was out in my touring car, and, when on the point of garaging the car, I saw a crowd of people gathered in the distance but paid no notice and went inside. At that moment one of my children came running and said: 'Get the car out, the daughter of Carmela Borg 'Ta Sikkina', is hurt'. I walked towards the crowd and asked what was the matter, and some one requested me to take the child to hospital. I said 'Certainly', whereupon this child, accompanied by Carmela Borg and Carmela Camilleri got into the car, and I drove the three to hospital. When we reached it,  
40 Carmela Borg led her daughter inside, and Carmela Camilleri and I waited outside. I kept near the front door to smoke, and

No. 16  
Evidence —  
9th Nov., 1951  
(8)—  
Antonio Falzon,  
—Continued

Carmela Camilleri approached me and said: 'I am confused', she began, 'because I do not know what to do with your sister'. I replied: 'Leave my sister alone', adding 'aren't you working with Malviz?' She answered she was going to work for a sack manufacturer and added: 'You know what your sister does, she repays you with a handful of paste.' We then went indoors to see whether Carmela Borg was coming, and, as soon as we returned outside, she said: 'Toni, you first did not understand me', adding, 'I spoke like that because I hold a ticket in shares with your sister which would have won but for one number.' She then said: 'Your sister, however, knows what its nom-de-plume was,' repeating 'I do not know what to do.'

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I told her she should go to my sister and try and set matters right — or to send somebody in her stead if she and my sister were still not on speaking terms. We then went in again to look for Carmela Borg. We found Carmela Borg coming out alone. The three of us were walking down to the gate when one of the men on gate duty came up to them and said: "You have won the Lottery!" And they replied: "Yes, if it's true."

I drove back to Qormi. There I met a daughter of Carmela Borg's sister and she was shouting "Iż-Żeblekin" — referring to Carmela Camilleri. I said to her: "Forget the Lottery!" And I continued on my way home.

20

The following morning, I was on my way to Raħal Ġdid to get the dynamo of the car repaired when I met my sister's husband. He told me: "Is it a fact that "Taż-Żeblek" (Carmela Camilleri) has won the Lottery under the nom-de-plume of "Suor Concettina?" He said: "Your sister is in partnership with her, you know." I replied: "Carmela Camilleri told me something about it." He said: "Come and see me later — I want to talk to you."

30

On my way to Raħal Ġdid, I saw my sister in a car with the Police and I asked her what had happened. My nephew, Lawrence Cassar, was there too. I told him to go back home. He then said: "Yesterday I brought the ticket home, but they did not give me the 'Suor Concettina' ticket."

I called on my sister on Tuesday morning and asked her what had happened and why she had been to the Police. She replied: "It's about the Lottery — see the ticket she sent me." The ticket was made out to Carmela Borg, 49 St. Catherine Street, Qormi. In other words, the ticket had the address of Carmela Camilleri and the name and surname of Carmela Borg,

40

Then, in the evening, I met a brother of Carmela Camilleri, Indri by name. I told him I wished to speak to his sister and he said his sister was out. Later that evening, I looked up Indri for the second time and he again said his sister had not come in yet. However, she arrived a few moments later and we all went together into the house. The first thing she said to me was: "Your sister has held up the money for us." I told her I had been to my sister, who naturally needed advice on the matter, and I added I wished to speak to them. She made me welcome.

10 I then asked her: "How many tickets did you buy in partnership with other people?" "Two," she replied. "One in partnership with Carmela Borg and the other in partnership with your sister." I asked her: "Have you some mistake in the one or the other ticket?" She said "No." I went on to say that my idea was that the matter should be kept out of Court and that they should settle the matter by dividing the money between the three of them. She replied: "I am in partnership with Carmela Borg." A nephew of hers, who was present, told her: "Hold on — if you lose the case, we will lodge an appeal in England." They twice

20 offered me refreshment and I then left them and have not since then spoken to them about the matter, one way or the other.

I stated Carmela Camilleri and my sister were not on speaking terms. They had in fact quarrelled about something having to do with the work at the factory. I do not know when that happened. I heard they had quarrelled. I do not remember when I heard it — nor can I mention an approximate date.

I heard it from Carmela Camilleri on that day we were together outside the hospital. It is only occasionally that I go to my sister.

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### Cross-Examination

I told Carmela Camilleri that the matter should be settled privately, pointing out that, if she were in error, it would not do to make the thing public property. That is how I felt. For I thought the mistake might go against my sister or, again, that it might go against Carmela Borg. I treated all three of them as a brother would.

(Signed) ANTONIO FALZON.

Read over to witness.

40

(Signed) J. DEBONO,  
 Deputy Registrar.

No. 16  
Evidence —  
9th Nov., 1951  
(9) —  
Carmela Bugeja

## (9) — Carmela Bugeja.

In H.M. Civil Court, First Hall.

9th November, 1951.

Carmela Bugeja, produced by Plaintiff, states on oath:—

I am a daughter of Plaintiff Maria Cassar. I am married. I do not know when my mother bought the ticket, but on one occasion, before the Draw took place — they were tying up the paste in bundles at the time — I heard Carmela Camilleri tell my mother: "Would you care to have your 5/- back, if you think the ticket is out of the Lottery?" To which my mother replied: "Let it stand." And she kept her share of the ticket taken between her and Carmela Camilleri.

10

At the time the Lottery was drawn, my mother still did not know the name that had been given to the ticket. On Monday morning she heard that Carmela Camilleri had won the first prize together with Carmela Borg. I then told her: "Once you don't know either the name or the number of the ticket, why don't you send for Giuseppa Saliba, so that she might tell us the name of the ticket." And we sent for Giuseppa Saliba.

When Giuseppa Saliba called, we told her that my mother knew neither the name nor the number of the ticket, and asked her whether she could tell us the name of the ticket which they had taken together in the previous Lottery. Giuseppa Saliba replied: "The ticket which you share with Carmela Camilleri is named either 'Id-f'id' or 'Ejja naghmlu hbieb'; that of Carmela Borg is named 'Suor Concettina'."

20

We had no more to say to Saliba. Then my father asked us whether we had sent for the receipt. So my mother sent the boy to Carmela Camilleri to ask her to let us have either the receipt or the ticket which she and my mother had bought in shares between them. The boy came back with a receipt bearing the name of Carmela Borg and the address of Carmela Camilleri. I saw it myself, for I can read. The ticket which is being shown to me by the Court is the ticket I am speaking of. When we saw how the receipt was made out, we said to mother. "Then this is the one that has got the prize." She replied it was not the first time she had tried her luck together with Carmela Camilleri.

30

In the evening, we went to Valetta that we might see the winning ticket for ourselves, but the clerk there said he could not show it to us.

40

I should mention we sent the boy to Carmela Camilleri a second time expressly to tell her that she had sent us the receipt



made out to the name of Carmela Borg and not the receipt for the ticket which she and my mother had taken together. The boy, when he came back, said that Carmela Camilleri had called the girl Gina and told her: "Why, is this the one you gave her — that for the ticket of Carmela Borg?" That is all that happened. I repeat, the boy Lawrence Cassar said that Carmela Camilleri had called Gina and told her: "Why, is this the one you gave her — that of Tas-Sikkina?" And she gave him another receipt, which had nothing to do with the receipt she had sent us or with the other ticket. This happened when the boy called on her for the second time.

No. 16  
Evidence —  
9th Nov., 1951  
(9) —  
Carmela Bugeja  
—Continued

Carmela Camilleri came home then. She was shouting all the time. She told my mother to give her back the receipt. My mother replied: "You will not get this receipt before you bring me back the receipt for the ticket we hold together." Carmela Camilleri then said: "The receipt I sent you must be my niece's." "Does your niece live at that address?" My mother asked her. So Carmela Camilleri exclaimed: "Then it must be Gina's." "Gina," observed my mother, "is not Carmela Borg." "Let me bring you back the receipt for the ticket we have together," said Carmela Camilleri. But she did not come back.

After waiting some little time, and seeing that she was not coming back, I went to her myself. Inside, Carmela Camilleri had Carmela Borg with her. When Carmela Camilleri opened the door, I asked her whether she proposed handing over the receipt. She replied: "No, because I cannot find it." Then Carmela Borg said: "The ticket bearing the winning number is in my possession." We told her we had nothing to do with her. To Carmela Camilleri I said: "Then give me the ticket of which you have sent us the receipt." And she replied: "I have not been able to find it." Carmela Borg then remarked: "We have even the paper we received about the first ticket." I told her to give it to me, if the other receipt had been lost; and she replied: "I don't know where it is." And, just as I was leaving, Carmela Borg again told me that the winning ticket was in her possession. I said to her: "Keep it if you have it." And I left.

I told Carmela Camilleri that she had done this to my mother because my mother had left everything in her hands.

We went to Valetta to have a look at the winning ticket, but found the Lottery Office closed. We went again the next morning, but the clerk said he could not show it to us. We then had a garnishee order issued on the money.

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Evidence —  
9th Nov., 1951  
(9) —  
Carmela Bugeja  
—Continued

### Cross-Examination

My mother and I live in the same house. I was not living with her. My mother has Rediffusion installed in the house. I know they listened in to the Draw; I was there at the time. We heard the prizes announced. The first prize went to the ticket named "Suor Concettina."

The following morning I met Carmela Borg's sister and I congratulated her. It was about 11 a.m. By that time, we had already sent for Giuseppa Saliba.

My mother was not there. The ticket's nom-de-plume was not known to my mother. I do not know who told me that Carmela Camilleri is illiterate. At the time I have mentioned, I was not living in the same house with my mother. 10

(Signed) CARMELA BUGEJA.

Read over to witness.

(Signed) J. DEBONO,  
Deputy Registrar.

No. 16  
Evidence —  
9th Nov., 1951  
(10) —  
Lawrence Cassar

### (10) — Lawrence Cassar

In H.M. Civil Court, First Hall.

9th November, 1951. 20

Lawrence Cassar, recalled by Plaintiff, states on oath:—  
I was with my brother when I went to Carmela Camilleri for the first time. Then my mother sent me back to her. This second time, I went by myself. I was to get the receipt for the ticket which my mother shared with Carmela Camilleri. There I found Carmela Camilleri's sister, Pawla. Pawla called Carmela and Carmela gave me a ticket which was not the one my mother wanted. So I told her that that receipt was not the receipt for the ticket which she and my mother had taken together. Then Carmela Camilleri said to Gina: "Is that the one you gave him, you devil?" I then went home and told them. 30

### Cross-Examination

We have a Rediffusion set at home. I was not in the house on the day of the Draw. Nothing was said about the Lottery that evening. Nothing was said in my presence. I went home at about 7.30 p.m. and went to bed about half-an-hour later.

(Signed) CASSAR LAWRENCE.

Read over to witness.

(Signed) J. DEBONO,  
Deputy Registrar. 40

In H.M. Civil Court, First Hall

23rd November, 1951.

Sebastiana Cassar, produced by Plaintiff, states on oath:—

I had to leave the island, but have not been able to so far. No one has said anything to me about my being a witness in this case. No one spoke to me before I was served with the sub-poena.

Carmela Camilleri and I used to work in the same place.

**Question:** Did you one day, when you were with Emmanuela Cassar, meet Carmela Camilleri? And did Carmela Camilleri, on that occasion, tell you she was going to call you as a witness?

**Answer.** Yes.

**Question:** And you said “No” and she took you apart and told you: “If we win, we will give you something.”

**Answer:** There is no truth in this.

Carmela Camilleri never came to our house; nor had I seen her before the day I met her.

On that day, Carmela Camilleri told me: “You know your aunt would not take the ticket when I wanted to give it to her and that she told me — ‘Keep it yourself. It’s the same thing.’ That is all I knew. That is what Carmela Camilleri told me that day. Nothing else was said.

(Emmanuela Cassar before the Court is confronted with witness.)

**Emmanuela Cassar**, produced by Plaintiff, states on oath:—

Sebastiana Cassar is my cousin. I was with Sebastiana one day when we were stopped in the street by Carmela Camilleri. She said to Sebastiana: “Listen.” We kept on walking and she again said to her: “Listen, let me speak to you about the ticket.” Then Sebastiana told her: “No. If my mother gets to know of it, she will not want me to appear.” Carmela continued: “I will remind you myself. Then I will go down to your mother, and if we win we will give you something.” And last Sunday Sebastiana told me: “Come with me to see Carmela Camilleri” — we

No. 17  
Evidence —  
23rd Nov., 1951  
Emmanuela Cassar  
—Continued

were just outside Sebastiana's door — “for Carmela has told my mother that she does not dare say anything in your presence.” (in my presence).

I repeated. Sebastiana and I were walking down the street when Carmela Camilleri called out to Sebastiana — this was before the case came on — and told her: “Listen, let me speak to you about the ticket.” Then Sebastiana said: “No, because my mother would not want me to.” Whereupon Carmela Camilleri told her: “I will then go down to your mother; if we win, we will give you something.” And last Sunday Sebastiana said to me: “Come with me to Carmela Camilleri, for she has told my mother that she does not dare say anything in your presence” — that is to say, when I, Emmanuela Cassar, am present. 10

**Question:** (To Sebastiana Cassar) Is this true?

**Answer:** (Sebastiana Cassar) It is true, but not because she does not want to show her anything.

#### Cross-Examination

Sebastiana Cassar: When this conversation took place, there was no one else with Carmela Camilleri. I did not speak — I mean, about the ticket — in anyone's presence. 20

**Question:** How then did Carmela Camilleri find out about that conversation — so that she made you come here to give your evidence about the conversation you overheard between them?

**Answer:** When the conversation took place, Carmela Camilleri, Emmanuela Cassar and I were present.

Read over to witness, Emmanuela Cassar, who states to be illiterate.

(Signed) U. BRUNO,  
Deputy Registrar. 30

Read over to witness, Sebastiana Cassar, who states to be illiterate.

(Signed) U. BRUNO,  
Deputy Registrar.

#### (12) — Carmelo Saliba

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Evidence —  
23rd Nov., 1951  
(12) —  
Carmelo Saliba

In H.M. Civil Court, First Hall.

23rd November, 1951.

Carmelo Saliba, produced by Plaintiff, states on oath:—  
We sell National Lottery tickets. I was not in Malta when that ticket was sold. Salvu Cassar, Plaintiff's husband, came 40

to ask me to give him the name and surname; and my wife told him that tickets under that nom-de-plume had been taken by them on three other occasions. I was abroad at that time. My wife said to me: "Tell him that tickets under the name of 'Suor Concettina' were taken by them — Tas-Sikkina and Carmela Camilleri — on three other occasions."

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23rd Nov., 1951  
Carmelo Saliba  
—Continued

10 In that Lottery, we sold two tickets which were given the name of Suor Concettina. I know nothing as to other tickets sold in previous Lotteries. When I did not sell the tickets myself, my wife did. Roughly, I was away for about 9 months. I came back to Malta on the 17th April, 1951 and I had been away for over 9 months.

### Cross-Examination

After the Draw, Plaintiff asked me to go with them to the Lotto Office and I went with them. They wanted to see the counterfoil of the ticket held by Defendant and Plaintiff.

20 Plaintiff's husband, Salvatore Cassar, did not want me to mention in the statement that Tas-Sikkina and the other had taken tickets under the name of Suor Concettina on three other occasions.

(Signed) CARMELO SALIBA.

Read over to witness.

(Signed) U. BRUNO,  
Deputy Registrar.

### (13) — Giuseppa Saliba.

In H.M. Civil Court, First Hall.

No. 17  
Evidence —  
23rd Nov., 1951  
(13) — Giuseppa  
Saliba

23rd November, 1951.

Giuseppa Saliba, produced by Plaintiff, states on oath:—

30 I sell Lottery tickets. Carmela Camilleri bought a ticket for the Easter Draw of the Lottery. She has bought tickets on three occasions. For the Lottery in which she won first prize, she bought two tickets: "Suor Concettina" and "Ejja naghmlu hbieb." She bought these two tickets for the Easter Draw, but the counterfoils reached the office after the closing date and the tickets were replaced by other tickets bearing the same particulars. Then, in the next Draw, one of the tickets won first prize.

Carmela Camilleri bought those two tickets on the same day and at the same time.

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 Evidence —  
 23rd Nov., 1951  
 (13) — Giuseppa  
 Saliba  
 —Continued

We never keep notes or any record of the tickets sold by us. I sell quite a number of tickets — sometimes as many as four booklets each containing 12 tickets.

Three times Carmela Camilleri named her ticket Suor Concettina. There was another staker who also named her ticket Suor Concettina.

Among the tickets we sold for the Easter Draw, there were two tickets bearing the name of Suor Concettina — that of Carmela Camilleri herself and that of Carmela Camilleri's mother; for she had heard that many favours were being obtained through the intercession of Suor Concettina. I mean, in the Lottery in which Carmela Camilleri shared a ticket with Tas-Sikkina, there was another ticket that was also named Suor Concettina, belonging to Carmela Camilleri's mother. One of them was Carmela Camilleri's. I am not the only seller of Lottery tickets at Qormi. I have not heard of anyone else naming the ticket Suor Concettina. I can only speak about the tickets I sell myself.

It was always Carmela Camilleri who came to buy the tickets. I did not fill in the particulars of the tickets bought by Carmela Camilleri. There was someone else who was writing them out — a man named Francis Agius, who lives at St. Catherine Street, Qormi. I do not know his nick-name, nor his street-door number. I am illiterate. But I was present when she bought the tickets. Carmela Camilleri told me she wanted two tickets, which, as usual, she always asked for together, and always in successive numbers. Previously, too, she had taken more than one ticket. She said to Francis Agius: "I want one to be named 'Suor Concettina' and the other 'Ejja naghmlu hbieb'" — that is to say, the ticket between Carmela Camilleri and Carmela Borg, "Suor Concettina," and that between Carmela Camilleri and Maria Cassar, "Ejja naghmlu hbieb." I am quite certain she told him: "That one with Carmela Borg and the other with Maria Cassar."

### Cross-Examination

Maria Cassar never came to buy tickets from me — I never saw her at all. Maria Cassar sent for me on the morrow first prize was won by the ticket "Suor Concettina." I said to her: "She and Carmela Borg bought tickets and gave them the name of Suor Concettina on about three occasions." That is what I told Maria Cassar when she sent for me on Monday morning. I said to her: "'Suor Concettina' has always been taken by her and Tas-Sikkina in partnership between them,"

When she came to buy the tickets, Carmela Camilleri stated she wanted to share one ticket with Carmela Borg and the other with Maria Cassar. On other occasions, too, Carmela Camilleri bought tickets in partnership with Plaintiff. No ticket under the nom-de-plume of "Ejja naghmlu ħbieb" had been bought before. Once they gave a ticket the name of "Ix-Xahar tal Erwieħ." They, Maria Cassar and Carmela Camilleri, never gave their tickets the same nom-de-plume. Camilleri and Borg always gave theirs the same nom-de-plume.

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Evidence —  
23rd Nov., 1951  
(13) — Giuseppa  
Saliba  
—Continued

10 After the Draw, Maria Cassar did not ask me to go with her to the Lottery Office.

Carmela Borg never came to me at that time. I did not know whether Camilleri had agreed to go shares with Borg or with Camilleri. I did not know what name they had agreed to give the ticket. It was always Carmela Camilleri who called for the tickets. She would say she wanted to take such-and-such a ticket with so-and-so.

Carmela Borg has never spoken to me. It was Tas-Sikkina who used to tell her what name to give the ticket.

20 **Question:** How do you know?

**Answer:** I do not know they so spoke to each other. Carmela Borg has never spoken to me.

**Question:** When Carmela Camilleri came for the tickets, did she say: "The ticket Suor Concettina with Tas-Sikkina, and the other, Ejja naghmlu ħbieb, with Maria Cassar." Did she say so?

30 **Answer:** I know her as Tas-Sikkina. I do not know her surname. So far as the other is concerned, I have at times heard them mentioning "Camilleri" when they were filling in the particulars.

Read over to witness, who states she is illiterate.

(Signed) U, BRUNO,  
Deputy Registrar.

(14) — Defendant, Carmela Camilleri.

In H.M. Civil Court, First Hall.

23rd November, 1951.

Defendant, Carmela Camilleri, at her own request, states on oath:—

I used to go and buy the tickets by myself. I bought one

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(14)—Defendant  
Carmela  
Camilleri

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(14) — Defendant  
Carmela  
Camilleri  
—Continued

ticket to share with Tas-Sikkina and another to share with Maria Cassar, with whom I was employed. The ticket between Tas-Sikkina and myself I used to name "Suor Concettina." The reason for this was that I and Tas-Sikkina had won some money together on the Public Lotto held on Saturdays by staking the numbers corresponding to the date and the time of Suor Concettina's death, and her age at the time of her death. On that occasion, Carmela Borg, otherwise Tas-Sikkina, said to me: "We will now have the Lottery tickets named after her — perhaps we will win." And I replied: "Yes."

10

Carmela Borg knew all about Suor Concettina, for her own sister is a nun in the same Convent. She told me: "We will now give the ticket that name, for my sister is in the same Convent and Suor Concettina died there." We always used to give that name to the tickets, for it was said she had died a saintly death and had helped others through her intercession. Holy pictures of her were brought out and these were distributed by the mother of Carmela Borg before the Draw of the Lottery, as well as immediately after her death; and at the third attempt Suor Concettina won.

20

Three tickets in succession I named "Suor Concettina" and I held each one of them in partnership with Tas-Sikkina. Three other tickets in succession I had also held in partnership with Maria Cassar. I used to ask her what name to give to the tickets and she always replied: "Any name you like." Once we named the ticket San Giuseppe and once Ix-Xahar ta' l-Erwieħ; then I told her I would name the ticket "Ejja naghmlu ħbieb" and she said "Yes." When we bought it, I told her we had so named the ticket.

At that time she and I were working together and we were just like two sisters. I was four years with her and I was attached to her. She said to me: "Name it what you will — I can't read." I told her: "What name shall we give it," and she replied: "Any name you like." "Ejja naghmlu ħbieb," I suggested. She said: "Yes."

30

So in the evening I went and bought the tickets, naming one "Suor Concettina" and the other "Ejja naghmlu ħbieb;" and I told Maria Cassar I had done so. "Shall I bring it to you?" I said. "No," she replied. "I have that of my husband and those of the children and I am sure to lose it. Keep it yourself as you have done before. It will be safe in your keeping." No receipt came in those three months.

40

When I called at the shop to buy the tickets, there were



many men there. Carmelo Saliba's wife was in the shop and the particulars were filled in by another man. I said to that man: "One ticket 'Suor Concettina' in partnership with Tas-Sikkina as usual, and the other in partnership with Maria Cassar." There were other occasions when the man I have mentioned was in that shop. When I took other tickets on previous occasions there was somebody else.

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23rd Nov., 1951  
(14) — Defendant  
Carmela  
Camilleri  
—Continued

**Question:** Then why did you tell him "Suor Concettina" in partnership with Tas-Sikkina as usual?

10 **Answer:** Anyway, that is what I told him. And when he had made one out, I asked him to make out the other one.

Later on, I asked Saliba for the receipt and Saliba told me we were not in time for it. I then told Carmela Borg it was doubtful whether the ticket would be drawn for, to which Carmela Borg replied: "Let it stand for another Draw." Next morning, I told Maria Cassar that the ticket had not gone off in time and Maria Cassar said to me: "You had better collect the money, for you can take it for granted it has been lost." That evening, Saliba informed me that I was not the only one who  
20 had failed to get a receipt and that the same thing had happened to several others. So I then told Maria Cassar there were many others in the same position. She replied: "Get the money back. The chances are it has been lost." I suggested she should take back her 5/- stake, so that there might be no grumbling about the ticket getting lost; and she then decided to hold on to the ticket.

Then came the next three months and the receipts started coming in.

30 I had told Maria Cassar the name that had been given to the ticket. One receipt reached me and Saliba said it was the receipt for the ticket named "Suor Concettina." I told her: "Put down my name." About two days later, I got the other receipt. I went to give it to Maria Cassar, but Maria Cassar stated she had several others in her keeping and it would get lost if it were left with her. "You keep it," she said. And I put it by in the wardrobe.

40 Sebastiana was present during that conversation and Maria Cassar said to her: "What a party I would get up for you, Bastiana, if it wins!" To which Sebastiana replied: "If only I could win the money myself!"

Shortly afterwards, we quarrelled with Maria's son and I came away and worked for her no more.

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 (14) — Defendant  
 Carmela  
 Camilleri  
 —Continued

That day of the Draw of the Lottery, that evening, on my way back from Church, I called at the house of Tas-Sikkina's mother, and no sooner had I heard them mention the name of Suor Concettina that I told her: "It must be ours!" We gave way to our joy and a crowd of people and priests gathered around, and I went to tell my sister and collected quite a crowd. I told her: "Suor Concettina has remembered us!" And everybody came out to congratulate me.

Just then, a sister of Carmela "Tas-Sikkina" happened to swallow some Diesel oil and we went to her assistance. Carmela called out to Plaintiff's brother, Toni, and we took her to hospital. After Carmela had gone into the hospital with her, Toni said to me: "Karm, is it true you've won?" I replied: "So said Carmela and she says the numbers tally." And I added: "I had another ticket with your sister. But for one single number I failed to win with her too." 10

Carmela came out of the hospital and we went back into the car. By this time, everybody was congratulating us. Toni told her that I shared another ticket with his sister, that bearing the next consecutive number; and she replied that the prize had been won by the ticket named "Suor Concettina" and that the numbers tallied. 20

I had first made out the ticket named "Suor Concettina," and then the other ticket. In the morning, we went to town together. We told the clerk we had won the first prize and he congratulated us. The clerk asked me to hand over the ticket to him. He said: "Call again when you receive the notice for the withdrawal of the money." The notice came the following day.

When we went again on the Wednesday, the clerk who gave me the paper told me: "There is a slight mistake," adding "I can only deal with this matter with her." I said to her: "I know I share the ticket with you." 30

When we got back home at two in the afternoon, Maria Cassar's son called and wanted the ticket to show to his mother. I did not find the ticket and instead I gave him a receipt and sent him back with it to his mother. A little later, Maria Cassar again sent the boy for the ticket. I rummaged for it everywhere — I had left it on the table, but it had gone — and then I found one in a drawer; I showed it to the boy so that he might see whether it was the one he wanted and sent it to her with the boy. Later, I myself called on Maria Cassar and asked her why she had sent for the ticket. She replied it was be- 40

cause the person who had filled in the ticket had made a mistake. I told her: "You know that the ticket we shared between us was named "Ejja naghmlu ħbieb." She said: "Yes, I know."

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Carmela  
Camilleri  
—Continued

Her husband observed I should have gone and told them I had won the money and I said to him that I had not done so because "I did not share the ticket with them."

10 Plaintiff's husband also said that when I bought the tickets, I should have given one to his wife and the other to Carmela Borg. I replied that that was just what I had wanted to do, but that his wife had refused to keep the ticket.

The next day or the day after I received a document in which — as I gathered — Maria Cassar was claiming half the money, I then went to see a lawyer. Toni, Maria Cassar's brother, called in the evening and said he wanted to speak to me. A nephew of mine, Ganni Dimech, was there at the time, and he suggested staying with me so that he might be a witness to anything Toni might say to me. After some talking, Toni made a proposal to the effect that we should settle the matter by dividing the money between the three of us, thus avoiding legal costs. I replied there was nothing for me to settle with anybody, because I was still entitled to my own share of the money whether the other share was taken by his sister or by Carmela Borg. My own half of the money was there in any case.

30 Some days later, I had occasion to go to the Lotto Office together with Carmela Borg's mother, who wanted to speak to someone in that office about some mistake or other in the nom-de-plume of a ticket. The clerk asked me why I had not gone there any more, to which I replied there had been no reason at all why I should go there. He said however that Maria Cassar and her husband had been to the office.

### Cross-Examination.

40 The first time I won some money together with Carmela Borg was when we shared a ticket on the Public Lotto drawn on Saturdays, the successful numbers being 25 and 10. If I remember rightly, we had three numbers on the ticket — 43, 25 and 10 — which corresponded to the day and time of the death of Suor Concettina and her age on that day; and, if I remember rightly, two out of the three numbers, 25 and 10, were drawn. This happened a couple of months before we bought the first National Lottery ticket and, if I remember rightly, we were successful with the two numbers 10 and 25.

No. 17  
 Evidence —  
 23rd Nov. 1951  
 (14) — Defendant  
 Carmela  
 Camilleri  
 —Continued

The receipts for the National Lottery tickets in question did not reach me on the same day. We first received that named "Suor Concettina" and I went and gave it to Carmela Borg; and the other reached me about two days later. As soon as I received the first ticket, I took it to Carmela Borg and asked her: "What is this one named?" She said it was named Suor Concettina and therefore ours. I said to her: "Keep it." There were no other names on the ticket, except the nom-de-plume, that is, the name we gave it, and the name of Carmela Camilleri and the address of my house. No other names were on the ticket. When I received the other ticket, I did not give it to anyone to read out for me: I knew I had bought only those two tickets.

10

When I received the other ticket, I called on Maria Cassar and told her the receipt had come. I did not however show it to her, because I had thrust it into the pocket of my apron. I put away this ticket in the wardrobe at my house.

The receipt I sent to Maria Cassar — when her son called — had been kept in my wardrobe. The ticket was in a drawer. My sister's daughter had taken the ticket and put it away in a drawer.

20

It is not true I asked Maria Cassar to give me back the receipt I had sent to her — on the occasion when I called on her after her son had been to our house. It is not true I asked her to give it back to me.

I did not tell the man who wrote out the tickets to put the name of Carmela Borg on the ticket I had taken with Carmela Borg and the name of Maria Cassar on the other ticket. I told him: "One, with Tas-Sikkina, and one with Maria Cassar." That man acted of his own accord. I did not tell him to write out the name of Carmela Borg either on the one or the other ticket. Actually, at that time, I did not even know Tas-Sikkina's surname.

30

There was nobody with me when I went to get the tickets. I cannot say whether the man I have mentioned knew the surname of Tas-Sikkina.

I did not see the ticket held by my sister's daughter, who lives with me in the same house.

I have on occasion shared Lottery tickets with other persons. On those occasions, the tickets were made out by the other person sharing the ticket.

40

I did not tell Toni there had been a mistake. Had that been

the case, I would have told Maria Cassar. I did not know there was any such mistake. I have already stated what I did tell Toni. I did not tell him there was a mistake. Toni spoke to me twice; on the second occasion, I knew there was a mistake. I got to know there was a mistake when I gave her the receipt — I then got to know there was a mistake as regards the surname. I know about the mistake because, when I sent her the receipt, Maria Cassar told me: "There is a mistake in this one — it has the surname Borg on it."

No. 18  
Evidence —  
10th Dec., 1951  
(14) — Defendant  
Carmela  
Camilleri  
—Continued

10 **Question:** How did Maria Cassar tell you about the mistake?

**Answer:** She said: "You have a mistake in the receipt. It has the name Borg on it." I replied: "I know nothing about it." She said: "I know mine is named "Ejja nagħmlu ħbieb."

**Question:** Toni spoke to you twice — once when you went to hospital together and once when he called and suggested your dividing the money?

20 **Answer:** When Toni spoke to me the second time, I had already given the receipt to Maria Cassar, and Maria Cassar had already told me there had been a mistake. I knew there had been a mistake at the time when Toni suggested our dividing the money. I first spoke to Toni on the occasion when we took the girl to hospital.

Read over to witness who states she is illiterate.

(Signed) U. BRUNO,  
Deputy Registrar.

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**No. 18**

**Evidence — 10th Dec. 1951.**

**(15) — Co-Defendant Carmela Borg.**

No. 18  
Evidence —  
10th Dec., 1951  
(15) —  
Co-defendant  
Carmela Borg

30 In H.M. Civil Court, First Hall.

10th December, 1951.

Carmela Borg, joined in the suit states on oath:—

My sister is a nun inside the cloister of St. Catherine in Valetta. Once, when I went to see her, my sister told me that a saintly nun had died at the convent that week. She suggested I should stake on the Lotto the numbers corresponding to her age and the date and time of her death and that I should henceforth spread her devotions. "Perhaps she will help you to win," she said.

No. 18  
Evidence —  
10th Dec., 1951  
(15) —  
Co-defendant  
Carmela Borg  
—Continued

Afterwards, I went to see Carmela Camilleri and told her we should stake the numbers the following day. She agreed. We took out the numbers twice and we won.

I then suggested to her we should try our luck on the Government Lottery — perhaps the nun would help us again.

This was soon after the death of the nun.

We bought tickets twice, and then, at the third time, the nun helped us to win.

When we bought the tickets for the Easter Draw of the Lottery, the receipts failed to reach Carmela. So I said to her: "Never mind. Let it stand for the next Draw." Some time later, Carmela called and asked me: "See if this is the receipt." I replied: "Carmela Camilleri and Suor Concettina — it is ours." 10

On the day of the Draw, I told her: "Now, let us see who is going to be the lucky one — St. Philip's or St. George's!" On the way, we met another sister of mine. She said: "Hurry up, the Draw has started." I told her I would go and get the tickets. Then someone mentioned the name "Suor Concettina" and Carmela told me: "Hurry, it must be ours!" I said we should make quite sure, but then they announced the number of the winning ticket — No. 108222 — and I exclaimed: "Yes, it's ours!" And she started jumping about for joy and even managed somehow to cut open my lip and a crowd gathered around. 20

Then, at that very moment, a girl swallowed some disinfectant and we rushed her to hospital.

When we came out of hospital, the door-keeper told me to get an admission card the next time I wanted to visit the girl and he congratulated us on our win. 30

Toni Falzon, Maria Cassar's brother, asked her: "Tell me again — how you and Carmela succeeded in winning." She replied: "I told you already — through Suor Concettina."

The following morning, Carmela and I went to Valetta to present the ticket at the Lottery office. They asked us who of us answered to the name of Carmena and I pointed her and he told me it was with her he had to deal and I said it was the same thing so far as I was concerned; and he told us also he would send us a notice when we were to call again. Then, later, he informed us that a garnishee order had been issued against the money, I was astonished and asked Carmela Camilleri what 40

had happened. As soon as we got home, we found Maria Cassar's daughter waiting for us.

We had been to the Lottery Office to see about another ticket which we had named "Santa Maria ta Caraffa" and which we had taken from a Lotto Office, and we told the man there we were in a bit of a muddle about the ticket in question. He said: "You women always manage to get things muddled up." We assured him we had everything in proper order and Carmela Camilleri said to him: "I should like to know what Maria Cassar has been telling you." He answered: "They came here together with a tall man and they insisted he should sign a statement to the effect that the ticket named Suor Concettina was theirs. The man told them that that was not the case, adding that, though he had been abroad at the time, he knew that Carmela Borg and Carmela Camilleri had always shared tickets between them."

Three times Carmela Camilleri and I bought tickets and gave them the name of Suor Concettina and I still have the receipt. There were occasions when other members of the family gave the same name to their own tickets.

My mother's name is Giovanna Mifsud.

It is always with Carmela Camilleri that I shared tickets and never with anyone else.

On each occasion, the ticket was made out to the name of Carmela Camilleri. The particulars would be filled in thus: "Carmela Camilleri, 49, St. Catherine Street — Suor Concettina." The receipt has been in my possession ever since the day I got it. I hold the receipt of the winning ticket. The receipts were always kept by me.

30

### Cross-Examination

When she told me the receipt had reached her Carmela Camilleri brought to me only one receipt. I did not know then she shared any tickets with anyone else.

The Lotto numbers we staked together on the first occasion were 10, 25 and 38. Two of the three numbers, 10 and 25, were drawn. We staked the numbers each week for three weeks in succession.

I had been to see my sister at the cloister. She told me that Suor Concettina, who had led a saintly life, had just died. That same week I took out a Lotto ticket with the numbers given me by my sister.

No. 18  
Evidence  
(15) —  
Co-defendant  
Carmela Borg  
—Continued

No. 18  
Evidence —  
10th Dec., 1951  
(15) —  
Co-defendant  
Carmela Borg  
—Continued

Suor Concettina died on Maundy Thursday nearly two years ago. I staked the numbers the same week in which Suor Concettina died.

### Answering Questions by the Court.

The National Lottery was launched for the first time long before we bought the ticket and I think there had been two previous Draws. I had not however bought any tickets before then.

Carmela Camilleri and I called at the office of the National Lottery in Valetta and there they told us a garnishee order had been issued. Shortly after we got back home, the girl they are bringing up came to us and said: "Come along, my aunt wants to see you and bring the receipt with you." I replied it was my receipt and that there was no reason why I should take it to her. I then called on Maria Cassar and her daughter asked me to show her the receipt. I told her it was my receipt and that I would not show it to her. Thereupon she flung open the door and left. 10

Subsequently, Carmela Camilleri offered to show me where the ticket had been taken, and I said there was no need. 20

Carmela Camilleri and I do not live next to each other. We have been friends for about five years. We were not intimate friends, for she goes out to work in the morning and returns home late in the evening. We used to go to Church together in the evening once a week and every now and then we would join a pilgrimage. I know her by her nick-name — Ta' Żeblek. I did not know her surname and I never told her my own surname and she knew me by the nick-name Tas-Sikkina. We used to call for each other and we never had any differences and [we never quarrelled about anything, I am not employed because I am a married woman. 30

The number of my house is No. 201; that of her own house No. 49. She lives on one side of the street and I on the other. The distance between the two houses is roughly that between the buildings of these Courts in Merchants Street and the corner next to St. John's Church.

My mother named her tickets Suor Concettina on two other occasions.

I do not know who wrote out the tickets for us. When we came back home that morning after we had been to the Lottery office in Valetta, we called at the shop where the tickets had 40



been bought from, but found that the man who had filled in the tickets had gone abroad.

Giuseppa Saliba's husband was abroad and the man who wrote out the tickets had also gone abroad.

I did not know who had written out the tickets or where she used to get the tickets from and I never asked her.

10 Carmela Camilleri said to the shop-keeper: "Gius, I want you to state how I had the tickets made out." Giuseppa Saliba replied: "Always 'Suor Concettina' and always stating you wanted it together with Tas-Sikkina."

I never told her my surname.

### Answering Questions by Dr. Ganado.

20 Once Carmela Camilleri and I were out for a walk. On the way, we met Sebastiana Cassar and Emmanuela Cassar. Carmela Camilleri said to Sebastiana: "Do you remember once I wanted to give the receipt to your aunt Maria?" And Sebastiana replied: "Yes, I remember. She did not want to keep it because she had several others to keep." Carmela Camilleri then told her that, if necessary, she would call her to give evidence. Thereupon Sebastiana Cassar replied that her aunt would not let her. At this point, Emmanuela Cassar joined in by saying: "Do go and give your evidence Bastiana — perhaps Uncle Salv will wring her neck or throw her down the well. If I had to give evidence, she would face very badly indeed — bearing in mind her fondness for me!"

30 That conversation took place outside the shop known as Ta' Belik, some distance away from Maria Camilleri's house. We were out for a walk together on the road which we call "ta' Haż-Żebbuġ." One Giorgia Micallef, standing at the door of the shop, overheard the conversation. We were some distance away from the house of Carmela Camilleri and in a different road — about one hundred yards distant.

(Signed) CARMELA BORG.

Read over to witness.

(Signed) U. BRUNO,  
Deputy Registrar.

### (16) — Giuseppa Saliba

In H.M. Civil Court, First Hall.

10th December, 1951.

40 Giuseppa Saliba, produced by Plaintiff, states on oath:—

No. 18  
Evidence —  
10th Dec., 1951  
(15) —  
Co-defendant  
Carmela Borg  
—Continued

No. 18  
Evidence —  
10th Dec. 1951  
(16) — Giuseppa  
Saliba

No. 18  
Evidence —  
10th. Dec. 1951  
(16) — Giuseppa  
Saliba  
—Continued

It was not always the same man who wrote out the tickets for me.

Francis Agius lives at a place known as "Sqaq il-Voti". In actual fact, however, it is not an alley, but a street. Francis Agius is in the Navy and is often away.

The man who last wrote out tickets for me is Francis Agius. Only once did Francis Agius write out tickets for me. Besides Francis Agius, a man named Giuseppe Spiteri wrote them out for me twice.

GIUSEPPA SALIBA — Her Mark 10

Read over to witness.

(Signed) J. DEBONO,  
Deputy Registrar.

**(17) — Giuseppe Spiteri**

No. 18  
Evidence —  
10th Dec., 1951  
(17) —  
Giuseppe Spiteri

In H.M. Civil Court, First Hall.

10th December, 1951.

Giuseppe Spiteri, produced by Defendants, states on oath:—

I have on occasion written out tickets for Giuseppa Saliba when I happened to be in her shop in the evening.

I know Carmela Camilleri buys tickets under the name of "Suor Concettina" in partnership with Tas-Sikkina (Carmela Borg). 20

I do on occasion write out tickets.

Before the Draw of the Lottery in which the winning ticket is now in dispute, I wrote out a ticket for Carmela Camilleri under the nom-de-plume of "Suor Concettina." Carmela Camilleri called for the ticket and she told me she wanted to take the ticket in partnership with Tas-Sikkina under the nom-de-plume of "Suor Concettina." But she gave me only her own name to write down. 30

Carmela Borg is known amongst us by the nickname of Tas-Sikkina. Only once did I write out Lottery tickets for her — in the Lottery held before that in which the ticket secured first prize.

**Cross-Examination.**

I do recognise my own handwriting. I do not know Plaintiff Maria Cassar; nor do I know Carmela Borg Tas-Sikkina.

When Carmela Camilleri came and said she wanted a ticket

with the nom-de-plume 'Suor Concettina', I had made out only one ticket for her.

No. 18  
Evidence —  
10th Dec., 1951  
(17) —  
Giuseppe Spiteri  
—Continued

### Answering Questions by the Court

10 Carmela Camilleri called at the shop of Giuseppa Saliba and there was no one there to write out the ticket for her. So I wrote out the ticket for her myself. I wrote out the ticket named "Suor Concettina" and she said that that ticket was in partnership with Tas-Sikkina. I do not know, however, whether she shared other tickets with anyone else because I wrote out only one ticket. This, however, was not for the draw in which their ticket won.

### Cross-Examination

The counterfoils which are being shown to me by Dr. Tommaso Fenech are not in my handwriting. The ticket which I wrote out must have been the first of the three tickets which they shared together in three successive Lotteries. I happen to know they shared the ticket together on three successive occasions because I am often at the shop of Giuseppa Saliba.

20 I always heard her say this because she had come on three occasions for a ticket with this nom-de-plume, and I was also present when she came on the last occasion, though on this last occasion it was not I who wrote out the ticket, and I cannot say who did. I do not remember who it was who wrote that ticket.

I do not know Francesca Agius. On the three occasions that Carmela Camilleri named Suor Concettina I was always present inside Giuseppa Saliba's shop.

### Answer Questions by the Court

30 I always go to the shop run by Giuseppa Saliba. I wrote out Carmela Camilleri's ticket once and on the two other occasions it was written out for her by someone else when I myself happened to be present.

I wrote out the first ticket. There were two other occasions when the tickets were written out for her by someone else whilst I myself was present at the shop; and on those two occasions Carmela Camilleri had two tickets made out, one under the nome-de-plume of "San Giuseppe," and the other under the nom-de-plume of "Ta' l-Erwieh." I saw both being written out.

40 I heard Carmela Camilleri tell the person who wrote out the other two tickets for her when I was present at the shop:

No. 18  
Evidence —  
(17) — Giuseppe  
Spiteri  
—Continued

"The ticket named Suor Concettina in partnership with Tas-Sikkina, five shillings each, and the ticket named "Iz-zewght Ihbieb" in partnership with Maria ta l'Ghagin." She told him these exact words: "Write out the ticket 'Iz-zewght Ihbieb' together with 'Ta l'Ghagin' and 'Suor Concettina' always with 'Tas-Sikkina'."

I want to rectify my statement.

I was present and I did not hear her tell him how he should write out the ticket; but I heard this because it was common talk.

10

### Cross-Examination

It was not suggested by me that they should call me as witness. I wrote it out for them once and they could not but have known that I did. They never said anything to me before I was served with the sub-poena, but I had made out the ticket for them on one occasion and they know therefore what was within my knowledge.

I was present on the three occasions because I always go there between seven and half-past seven in the evening.

It was always in the evening, after half-past seven, that Carmela Camilleri called to buy the tickets; sometimes however she called before.

20

I always go there after I come back from my work. I have no family of my own and it is there that I spend my evenings.

It is not within my knowledge that, when she called to have the tickets made out — not on the occasion when I myself filled in the particulars, but on the other two occasions — Carmela Camilleri stated that she wanted to have two tickets.

### Answering Questions by Dr. Ganado.

It is usual for me to go to the shop run by Giuseppa Saliba, the ticket-seller, and the conversation turned on the subject of the case in question. Giuseppa Saliba did on occasion mention "Ta l'Erwieh" and "Ta San Giusepp" — the names of other tickets bought.

30

(Signed) GIUSEPPA SPITERI.

Read over to witness.

(Signed) U. BRUNO,  
Deputy Registrar.

**(18) — George Magri**

In H.M. Civil Court, First Hall.

10th December, 1951.

No. 18  
Evidence —  
10th Dec., 1951  
(18) —  
George Magri

George Magri, produced by Co-defendant Carmela Borg, states on oath:—

10 I was present one day when Carmela Camilleri and Carmela Borg were talking about buying a Lottery ticket together and the name they should give the ticket. I was at my sister-in-law's when I heard Carmela Camilleri tell Carmela Borg: "Are we going to take the ticket?" To which Carmela Borg replied: "Yes." I asked them what name they proposed giving the ticket and she replied: "Suor Concettina."

I do not know whether they shared other tickets in the same way on other occasions.

**Cross-Examination**

I live next door to Carmela Borg.

I know they are always speaking about Suor Concettina, but I do not know whether they had on other occasions bought tickets under that name.

20 I do not know how long ago it is, or how long before the Draw of the Lottery, that I heard the conversation I have mentioned in my evidence. It was only on that one occasion that Carmela Camilleri asked Carmela Borg in my presence whether they were going to get the ticket — whereupon Carmela Borg replied in the affirmative and I asked them what name they proposed giving the ticket and they told me "Suor Concettina." Besides myself, there was present on that occasion Carmela Borg, my sister-in-law, and Carmela Camilleri. We live next to each other.

30 Read over to witness who states he is illiterate.

(Signed) U. BRUNO,  
Deputy Registrar.

**(19) — Giorgia Gatt**

In H.M. Civil Court, First Hall.

10th December, 1951.

No. 18  
Evidence —  
10th Dec., 1951  
(19) —  
Giorgia Gatt

Giorgia Gatt, produced by Defendant, states on oath:—

I know Carmela Tas-Sikkina (Borg). We live next to each other.

No. 18  
 Evidence —  
 10th Dec., 1951  
 (19) —  
 Giorgia Gatt  
 —Continued

I was there with them on the day of the Draw. They have Rediffusion installed in the house and I went there to listen in to the Draw. We were in the hall and Carmena Camilleri and I listened in to the preliminary announcements. Then Carmela Tas-Sikkina (Borg) got up and went inside. Immediately she went in, she called out to us, saying that the actual Draw was about to begin. When we joined her, she was by the bed-commode with the tickets spread out before her and all set to write down the numbers.

Carmena Camilleri and I took a seat close to the Rediffusion loud-speaker. As soon as it was announced that the winning ticket was that named "Suor Concettina," Carmena Camilleri jumped up and exclaimed: "It's ours, Carm, it's ours!" Carmena Borg told her to wait a little. As soon as it was confirmed that the winning ticket was theirs, she fell on her neck for joy and cut open her lip — and they were all shouting then and people gathered round. 10

It was Carmena Tas-Sikkina who held the ticket named "Suor Concettina."

The ticket, before the Draw of the Lottery, was in possession of Carmena Tas-Sikkina. We were by the inner door and when they called out to us and when we went in she was holding the tickets in her hands, ready to check them. 20

I am not related to litigants. I know that a sister of Tas-Sikkina is a nun in the same cloister where Suor Concettina had spent her life.

I have sometimes heard people at Qormi mentioning the name of Suor Concettina. They also gave us numbers relating to Suor Concettina to stake on the Lotto. There were occasions when holy pictures and photographs of her were distributed. Before the Draw of the Lottery, Tas-Sikkina gave me a holy picture of Suor Concettina. 30

As soon as she heard the announcement "Suor Concettina," Carmela Camilleri broke out with "It's ours, it's ours!" And they did make a noise.

### Cross-Examination

I know Tas-Sikkina had a copy-book in which to write down the numbers as announced, so as to be able to compare those numbers with the numbers on the actual tickets. She had a copy-book and a pencil in her hand. She certainly had two tickets, but I do not know how they were numbered — I was 40

not sitting next to the bed-commode, but by the loud-speaker. The copy-book was in the hands of Carmena Tas-Sikkina because she can read and write.

No. 18  
Evidence —  
10th Dec. 1951  
(19) — Giorgia  
Gatt  
—Continued

I am certain Carmena Tas-Sikkina had two tickets. She did not at that moment tell us the numbers of the tickets. But when Carmela Camilleri started shouting "It's ours, it's ours," she replied: "Wait, let us check the numbers." And then she confirmed that the winning ticket was theirs.

10 I do not know that one of the two tickets in her possession was named "Ejja naghmlu hbieb."

(Signed) GIORGIA GATT.

**(20) — Teresa Grech**

In H.M. Civil Court, First Hall.

10th December, 1951.

No. 18  
Evidence —  
10th Dec. 1951  
(20) —  
Teresa Grech

Teresa Grech, produced by Defendant, states on oath:—

20 Carmela Camilleri "Ta Zeblek" is known to me. Before the Draw of the Lottery, I did on occasion hear her mention something about some tickets. Once she came to the door of my house and asked me: "Has yours arrived?" I replied that it had not and she then asked me: "Did you take a ticket?" I replied "Yes" and asked her whether she had taken one and what name she had given it. She replied: "I and Tas-Sikkina named it "Soru Concettina" and I took the other one together with my employer and it's named "Ejja naghmlu hbieb" — for I had two tickets." I told her my daughter had named hers "San Gorg."

This was about a month or so before the Draw of the Lottery.

30 I am not related to Carmena "Ta Zeblek". We speak to each other when we meet.

**Cross-Examination**

I live at St. Catherine Street. She did not say anything to me lately except that I had been summoned to give evidence. I asked her why she had summoned me as witness and she replied it was in connection with the case she had with Plaintiff. She said: "You know I am in litigation." I said to her: "Please yourself."

Read over to witness who declares is illiterate.

40

(Signed) U. BRUNO,  
Deputy Registrar.

**(21) — Giovanni Dimech**

No. 18  
Evidence —  
10th Dec. 1951  
(21) —  
Giovanni Dimech

In H.M. Civil Court, First Hall.

10th December, 1951.

Giovanni Dimech, produced by Defendant, states on oath:—

I was present in Court when the small girl gave evidence.

Carmela Camilleri is my aunt and I went to her in the evening because I heard that Maria Cassar's brother had to call and speak to her about the winning ticket. I do not remember the exact date, but it must have been a day or two after the Draw. He said to her: "Why don't you three women agree to divide the money between you — rather than spend it in litigation." I said to him: "Let her win who has right on her side."

10

(Signed) G. DIMECH,

Read over to witness.

(Signed) U. BRUNO,  
Deputy Registrar.

No. 19  
The Minute of  
Carmela Borg

**No. 19****The Minute of Carmela Borg**

In H.M. Civil Court, First Hall

20

Maria Cassar and Another  
vs.  
Carmela Camilleri and Others.

The Minute of Co-defendant, Carmela Borg.

Whereby she produces, animo ritirandi, the annexed two documents, marked Exhibits "A" and "B".

(Signed) F. CREMONA,  
Advocate.

This Tenth December, 1951.

Filed at the Sitting by Professor Cremona with two Exhibits, 30

(Signed) U. BRUNO,  
Deputy Registrar.



## (22) — Francis Agius

In H.M. Civil Court, First Hall.

18th January, 1952.

Francis Agius, produced by Plaintiff, states on oath:—

10 I have seen the counterfoils produced and the only two counterfoils which I filled in — and which are in fact filled in in my own handwriting — are those bearing Numbers 115086 and 115087.

20 I happened to be in the shop conducted by Giuseppa Saliba. A woman came in and asked me to write out two tickets for her. I did not know her. I learned who she was when my wife pointed her out to me one day after my return from abroad. My wife said: "She is the one who won first prize." So saying, she pointed her out to me. I do not remember however who was the woman for whom I had filled in the tickets at that time. She herself asked me to fill in the tickets. It was usual for me to go to that shop of an evening for a glass of wine and sometimes I wrote out quite a number of tickets. I did not invent or put down any pseudonyms of my own accord.

**Question:** You put in what they tell you to?

**Answer:** I do not remember whether I put in what they tell me to.

**Question:** Then it happened sometimes that you wrote out the names yourself?

**Answer:** No.

30 **Question:** If somebody asks you to write out "Suor Concettina" — you write it out, don't you? You don't write something else instead — something out of your own imagination?

**Answer:** I do not remember. I have forgotten since then.

**Question:** Has it ever happened that somebody asked you to fill in the counterfoil and you filled it in according to your own whims?

**Answer:** No.

**Question:** Did you know the address of the woman for whom you filled in the counterfoils?

No. 20  
Evidence —  
(22) —  
Francis Agius  
—Continued

**Answer:** I know nobody. I do not belong to Qormi.

**Question:** The address and the names were given to you by the woman for whom you filled in the counterfoils?

**Answer:** I do not remember whether she gave me the address and the names.

**Question:** If you wrote out that particular address, it must have been the staker herself who gave it to you?

**Answer:** Yes.

**Question:** Had she said "Tac-Campolin," would you have put it down? 10

**Answer:** Certainly.

**Question:** Then, once they told you "Carmela Borg", they could not have told you "Tac-Campolin"?

**Answer:** Of course.

Defendants have not spoken to me since my wife pointed her out to me as the person who had carried off the prize — no one has spoken to me.

I do not remember any conversation taking place at the time when she called to buy the ticket.

**Question:** Once you filled in the counterfoils in the way you did, putting down, on the one, "Carmela Camilleri, 49, St. Catherine Street," and, on the other, "Carmela Borg, 49, St. Catherine Street" — someone must have told you to fill it in that way? 20

**Answer:** I do not know that woman.

**Question:** Had she not told you so, there was no reason why you should have put in "Carmela Borg" in one ticket and "Carmela Camilleri" in the other?

**Answer:** No.

**Question:** Did you at that time know of anybody by the name of Carmela Borg? 30

**Answer:** I have many friends whose surname is Borg — but none of them is named Carmela Borg.

#### Cross-Examination

**Question:** Could it be that the person who asked you to make out the ticket gave you some nick-name instead of a surname — and that Giuseppa Saliba then gave you the surname?

**Answer:** I know I was sitting down at a table and the person buying the tickets was at the counter a little away from me. Giuseppa Saliba was serving customers quite a distance away from me. Giuseppa Saliba said nothing to me. The person who ordered the tickets was standing at the corner of the counter and she told me — one, “Suor Concettina,” and the other, some other nom-de-plume, I do not now remember. She did not mention she was buying the tickets in partnership with someone else. I do not remember whether I ever wrote out  
 10 any other tickets for the same person — I had just come back from abroad that day.

I have no one related to me by the name of Borg; none of them is named Carmela. Carmela happens to be my wife's name, but her surname is not Borg.

**Question:** When you wrote out the same address on the two tickets, did it not occur to you there was a difference — two different names and one and the same address?

**Answer:** It did not strike me.

**Question:** Where exactly do you pay most attention?

20 **Answer:** I pay attention to everything — everything is important, I think, so far as I know.

(Signed) F. AGIUS

Read over to witness.

„ EDW. CAUCHI,  
Deputy Registrar.

**(23) — Defendant — Carmela Camilleri**

In H.M. Civil Court, First Hall.

18th January, 1952.

30 Defendant, Carmela Camilleri, produced by Plaintiff, states on oath:—

The receipts for the tickets were not delivered to me at one and the same time. I first received that for the ticket named “Suor Concettina” and then the other receipt. I could not say how long after the first one I got the second receipt — I was busy on my work at the time. I know they did not come on the same day, but I do not remember what interval of time elapsed between the delivery of the one and the other receipt.

On getting the receipt for the ticket “Suor Concettina,” which came first, I gave it to Carmela. I do not remember

No. 20  
Evidence —  
18th Jan., 1952  
(22) —  
Francis Agius  
—Continued

No. 20  
Evidence —  
18th Jan., 1952  
(23) —  
Defendant —  
Carmela Camilleri

No. 20  
Evidence —  
18th Jan., 1952  
(23) — Defendant  
Carmela Camilleri  
—Continued

when I got the other. When I did, I went to give it to her, but she would not keep it.

I have already stated I am illiterate, I came to know that the receipt was for the "Suor Concettina" ticket when I took it to Carmela, who said: "This is ours." And she kept it.

CARMELA CAMILLERI — Her Mark.

Read over to witness, who affixed her mark hereto in my presence.

(Signed) EDW. CAUCHI,  
Deputy Registrar.

10

No. 21  
Evidence —  
6th Feb., 1952  
(24) —  
Henry Frendo

### No. 21

Evidence — 6th Feb., 1952.

(24.) — Henry Frendo

In H.M. Civil Court, First Hall.

6th February, 1952.

Henry Frendo, produced by Plaintiff, states on oath:—

Tickets which are sent in after the closing date fixed in respect of a given Lottery are replaced by other tickets for the next succeeding Lottery. The new tickets are forwarded under Registered cover and a copy of the covering letter is kept at the office.

20

In the case referred to in my previous evidence, the tickets, accompanied by letter dated 17th March, 1951, were posted on 20th March, 1951 — the address and particulars, of course, being those given in the counterfoils.

One of those two letters enclosing the new ticket was undelivered and returned to us through the Post, bearing the postman's endorsement "Not known at the address."

Following the usual procedure in these cases, we sent for the ticket-seller, Mr. C. Saliba, to ask him to give us the correct address of the staker — Carmela Borg.

30

This was on 17th April, one month after we sent the letter enclosing the new ticket. The ticket-seller failed to put in an appearance at the office — he did not come to the office — and the Draw was held. We had other cases like that.

The ticket remained in our possession and, by leave of the Court, I am producing it today. The ticket is Ticket No. 108223 for the Lottery held in June.

I am producing also the letter accompanying this ticket and the respective envelope bearing the Registration Number and the postman's note I have referred to.

No. 21  
Evidence —  
6th Feb., 1952  
(24) —  
Henry Frendo  
—Continued

**Answering Questions by the Court.**

That goes as far as the ticket only: is the receipt not sent with the ticket?

The receipt is sent by ordinary post.

10 The two receipts for the two tickets in question were sent at one and the same time on 27th April. Thousands of other receipts were also sent out on that day. The receipt, having been sent other than by Registered post, was not returned to us.

20 I should mention it is customary for postmen in Malta, in those cases where they know that the letter contains a Lottery receipt — the envelope containing the receipt is stamped on the outside with the number of the receipt itself — to ask the person they go to whether he or she is the holder of the respective ticket, and to deliver the letter, as they very often do, even though the address does not correspond with the name of that person or the name of that person does not correspond with the address.

30 However, it happens sometimes that a receipt is returned to us. In that case, having no other records, we go back to the original booklet containing the counterfoils of the tickets sold, find out the name of the seller of the ticket and post the receipt to him. Any stakers who, just before the Draw is held, advise the office that a receipt has not been delivered to them, are given a certificate, and we keep a note in our records of the statements they make to us. In this particular case, according to our records, no one claimed the receipt. The records give an indication of the fact — no entry is made that they have not a receipt.

(Signed) H. FRENDO.

Read over to witness.

(Signed) U. BRUNO,  
Deputy Registrar.

**(25) — Defendant Carmela Camilleri.**

In H.M. Civil Court, First Hall.

6th February, 1952.

No. 21  
Evidence —  
6th Feb., 1952  
(25) —  
Defendant  
Carmela Camilleri

Carmela Camilleri, recalled by the Court, states on oath:—

40 At the time of the ticket in question, a member of the family was in Australia and I used to receive letters fairly often.

No. 21  
 Evidence —  
 6th Feb., 1952  
 (25) —  
 Defendant  
 Carmela Camilleri  
 —Continued

I was at work when the postman brought this ticket and he did not deliver it to me but to someone who was inside the house at the time. I mean to say I did not receive any letter. I have an aged sister who is always at home and it is usual for one or two of the neighbours' children to stay in with her and look after her — she sends my food with them to the place where I work. My sister is also illiterate.

#### **Answering Questions by Dr. Fenech.**

After work, in the afternoon, I used to go back home sometimes at half-past five and sometimes at six o'clock. I used to have my mid-day meal at the place where I worked. 10

#### **Answering Questions by the Court.**

When I went back home in the evening on that occasion, my sister never mentioned anything to me about the letter. She is old and likes to go and lie down.

We cannot read and the girl who is living with us cannot read either and sometimes we ask neighbours to read out to us the letters we receive.

When the receipt arrived, I took it to Carmena and told her: "This receipt has come — see whose it is." She replied: "Suor Concettina — it's ours." She said she would keep it. I then remarked: "There is another one still to come." 20

I cannot say how long after the first receipt the second receipt came. According to what I have been told, they did not come at one and the same time.

The receipts did not come together. I kept one receipt and enquired about the other at the shop where I had bought the ticket from and the shop-keeper told me I would get it later.

Later, when the receipts arrived. I gave one to Carmena. There was an interval of about eight days between the delivery of one receipt and the other. 30

When I received the first receipt, I took it to Carmena and asked her to see whose it was, and Carmena told me it was ours.

I had the ticket, for I keep the ticket myself, and I gave the receipt to her. I kept the ticket after I bought it and the receipt was kept by her.

I said to Giuseppa Saliba: "I have not got the other receipt." She replied: "Will you get the ticket so that we may compare the numbers?" I agreed, but she forgot about it, and I too for-

got about it, and then the receipt arrived and I forgot about the ticket.

No. 21  
Evidence —  
6th Feb., 1952  
(25) —  
Defendant  
Carmela Camilleri  
—Continued

I then remembered about the ticket and I told her: "I have an idea that I gave you the ticket so that you might get me the receipt." She said that that was not the case and suggested I should go and look for it. I looked for it, but failed to find it, and when I told her I had not found it, she said to me: "Once you have the receipt, it's enough — you could claim on that."

10 Two things I received by post — not three. I mean I received two receipts.

CARMELA CAMILLERI — Her Mark.

Read over to witness.

(Signed) U. BRUNO,  
Deputy Registrar.

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No. 22.

Evidence — 4th March, 1952

(26) — Rosario Zammit

No. 22  
Evidence —  
4th March, 1952  
(26) —  
Rosario Zammit

In H.M. Civil Court, First Hall.

4th March, 1952.

20 Rosario Zammit, produced by Plaintiff states on oath:—

I have been the postman at Qormi for the past two years and seven months. Deliveries at Qormi are made in the morning and in the afternoon, normally at 10 a.m. and at 2 p.m.. In the period of heavy deliveries during the Lottery, these are made at about 11.15 a.m. or at 11.30 a.m. — that is to say, we leave Valetta at 11.15 a.m. and reach Qormi at about 11.30 a.m.

30 We effect deliveries sometimes twice and sometimes once a day. The morning delivery, however, is never missed. Sometimes, owing to pressure of work, there are no deliveries in the afternoon.

**Question:** What do you do when you have a letter that bears the name of Carmela Borg, but not the address of Carmela Borg?

**Answer:** I make enquiries, and when I am informed that the addressee does not live at that address, I write on the back of the envelope "Not known at the address." We have always done so. Those are the regulations.

**Question:** If I read out to you the evidence of Henry Frendo

No. 22  
Evidence —  
4th March, 1952  
(26) —  
Rosario Zammit  
—Continued

— who said he did not get back the receipt — would you still say that you have always done so?

**Answer:** Yes.

**Question:** Have you ever had two letters with the address of Carmela Borg?

**Answer:** I do not remember.

**Question:** Do you remember that, when you learned you had been sub-poenaed, you called on Carmela Borg or Carmela Camilleri, that is to say after having been served with the sub-poena, did you call on Carmela Camilleri or Carmela Borg? 10

**Answer:** I was sub-poenaed last January. Since then, I have been to her to deliver letters. We did not speak about the case; nor did I go inside the house. I just delivered the letters and went on my way.

**Question:** Henry Frendo stated he sent two letters, one addressed to Carmela Borg at No. 49, St. Catherine Street, Qormi, and the other to Carmela Camilleri, likewise at No. 49, St. Catherine Street, Qormi; and that neither letter was returned. Two letters were posted under Registered cover, and one of them was returned undelivered; but the others, the two letters, never came back. 20

**Answer:** There is nothing I can say. I cannot remember the fate of so many letters. I hurry along — I knock, enquire and go on to the next.

**Question:** Have you spoken to Plaintiff, Maria Cassar?

**Answer:** Maria Cassar told me she needed to know my name so as to call me as witness. I said nothing to her — I said nothing either to the one or the other. I did not, as Counsel would suggest, show her I was sorry about anything.

**Question:** Do you remember to whom you delivered this letter? 30

**Answer:** I do not remember to whom letters are delivered. We deliver thousands of them, especially during the time of the Lottery. It is impossible to remember.

**Question:** Whom do you find at home generally when you deliver letters addressed to Carmela Camilleri?

**Answer:** I do not remember. I knock, someone opens the door, I make the usual enquiry and leave at once.



**Question:** If you know that Carmela Camilleri lives at that address, and you have a letter addressed to her, what do you do?

No. 22  
Evidence —  
4th March, 1952  
(26) —  
Rosario Zammit  
—Continued

**Answer:** I ask just the same, even though I may happen to know that Carmela Camilleri lives at that address.

**Question:** And if she tells you she is Carmela Borg?

**Answer:** I give it to her, for the matter has nothing to do with me. If the letter is addressed to Carmela Borg, and if she answers "Yes" to my question "Are you Carmela Borg," I deliver the letter to her, even though I know that Carmela Camilleri lives there.

**Question:** Supposing you have a letter addressed to Carmela Borg, and the person who opens the door to you is known to you as Carmela Camilleri, do you ask that person: "Are you Carmela Borg?" Or do you say, for instance: "Is there anybody here by the name of Carmela Borg?"

**Answer:** I say to her: "Is Carmela Borg here?" And if she answers "Yes," I deliver the letter to her.

**Question:** Why did you not deliver the Registered letter, the first letter you returned, although addressed to Carmela Borg?

**Answer:** When I asked her to sign for it, and they told me she did not live there, I had the right to take it back.

**Question:** If you have a letter addressed to me, and if, when you call to deliver it, you find at home no one else but my daughter — would you give it to my daughter if she signs for it?

**Answer:** Yes, but she must be over eighteen years of age. If we do not find the addressee himself, we can deliver the letter to his daughter, provided she signs for it.

**Question:** Do you remember whether you had one Registered letter — or two?

**Answer:** I do not remember.

**Question:** Is this your handwriting on this envelope?

**Answer:** The handwriting on the back of the envelope which is being shown to me by the Court is my handwriting.

**Question:** Before this one, in connection with the Easter Draw of the Lottery, did you deliver to them two other receipts?

**Answer:** I do not remember — we deliver so many.

**Question:** Apparently you sent back only this letter?

No. 22  
Evidence —  
4th March, 1952  
(26) —  
Rosario Zammit  
—Continued

**Answer:** Perhaps the others were correctly addressed.

**Question** How long have you known Carmela Camilleri by her name?

**Answer:** Since the Draw of the Lottery. I did not know her before.

**Question:** Could it be that, when you delivered the letter addressed to Carmela Borg, you called at the address of Carmela Camilleri, asked whether Carmela Borg lived there, someone answered "Yes" and you left the letter there?

**Answer:** That could have happened.

10

(Signed) ROSARIO ZAMMIT.

No. 22  
Evidence —  
4th March, 1952  
(27) —  
Gina Formosa

(27) — Gina Formosa

In H.M. Civil Court, First Hall.

4th March, 1952.

Gina Formosa, produced by Plaintiff, states on oath:—

I am Carmela Camilleri's niece. I live with her at Qormi. I have been to school and can read and write.

**Question:** Were you ever in the house when the postman called?

**Answer:** No. I was at work.

20

**Question:** Were you there when one of the boys of Maria Cassar came?

**Answer:** After we won the Lottery, he called for the receipt. It was the younger boy. My aunt, Carmela Camilleri, said to me: "Here is the receipt, give it to him." She went to fetch it as it lay on the chest-of-drawers and I gave it to him.

The boy took it home with him. I do not know who else came home afterwards. I stayed in and my aunt went out to see Tas-Sikkina and also to tell Maria Cassar that she had given the receipt to the boy.

30

I stayed in, but I do not remember whether anyone else came to the house.

I did see Lawrence Cassar, but he did not come home. I saw him outside leaning against the wall. He did not come in. My aunt was inside the house. Lawrence Cassar did not come inside. My aunt fetched the receipt which lay on the chest-of-drawers and said to me: "Here, give it to him." She fetched it

either as it lay on the chest-of-drawers or from the wardrobe — I do not remember which. I was in one room and my aunt went for it elsewhere. There are a chest-of-drawers and a wardrobe in that room.

No. 22  
Evidence —  
4th March, 1952  
(27) —  
Gina Formosa  
—Continued

**Question:** So perhaps the receipt was kept in the wardrobe?

**Answer:** Yes.

**Question:** Do you know of any letter — or, rather envelope containing the ticket — being delivered to your house before you won the Lottery?

10 **Answer:** No, I was at work. I did not see the envelope.

**Question:** After you gave the receipt to Maria Cassar's son, your aunt went out to see Carmela Borg and also to tell Maria Cassar that the receipt had been given to her son?

**Answer:** My aunt called on Maria Cassar. At the same time, Carmela Borg came home, for there was a Press photographer who wanted to have their picture taken.

**Question:** How do you know it was Carmela Borg?

20 **Answer:** I have known she is Carmela Borg since the Draw of the Lottery. I heard people say so. I did not know her before. I know that her brothers and sisters are named Mifsud. Before, we used to know her by the nick-name "Tas-Sikkina." Carmela Borg is married — I do not know how long she has been married — but she has a child who is five or six years old.

(Signed) GINA FORMOSA.

Read over to witness.

„ U. BRUNO  
Deputy Registrar.

(28) — Consiglio Vella

In H.M. Civil Court, First Hall.

30

4th March, 1952.

No. 22  
Evidence —  
4th March, 1952  
(28) —  
Consiglio Vella

Consiglio Vella, produced by Plaintiff, states on oath:—

**Question:** Were you present one day after the Draw when Carmela Camilleri was speaking to Maria Cassar?

**Answer:** I was upstairs with the children at Maria Cassar's house. I was in her employment at the time. At about half-past midday, Carmela Camilleri came to see Maria Cassar. I heard them talking downstairs. Maria Cassar's children went downstairs. I went down too and I heard Carmela Camilleri say to

No. 22  
Evidence —  
4th March, 1952  
(28) — Consiglio  
Vella  
—Continued

her: "Give me that paper." I also heard her say she could neither read nor write.

Maria Cassar's children were downstairs. There were Ninu and the others. I asked Maria Cassar's boy: "Is she 'Iz-Zeblegina?" He answered: "Yes." All this was after the Draw of the Lottery.

(Signed) CONSIGLIO VELLA

Read over to witness.

" G. BRUNO,  
Deputy Registrar.

10

No. 22.  
Evidence —  
4th March, 1952  
(29) —  
Giuseppe Cassar

(29) — Giuseppe Cassar

In H.M. Civil Court, First Hall.

4th March, 1952.

Giuseppe Cassar, produced by Plaintiff, states on oath:—

I have never before appeared before this Court in connection with this lawsuit. I was outside in the corridor when I was called.

**Question:** Did you one day hear somebody speak to your mother, Maria Cassar?

**Answer:** On Monday, the day after the Draw, I had just arrived on a truck to take my brother his meal when I saw Carmela Camilleri come down the street. She was running and out of breath. Carmela Camilleri came into the garage and at once started talking to my mother. She told my mother: "Give me back the ticket I sent you with the boy. That ticket is not mine. It belongs either to my sister's daughter or to Gina." My mother replied: "Gina is not Carmela Borg." Carmela Camilleri said: "Won't you give me back the receipt?" My mother replied: "No, not before you give me mine." 20

Then my father came in and told her: "Don't you know you have a receipt for the ticket which you share with my wife?" Carmela Camilleri replied: "Yes." My father said: "Go and bring it to us. If you do, we will give you the other one." 30

Carmela Camilleri never came back.

This was on the Monday following the Draw. The time was half-past twelve or quarter to one. My mother repeatedly asked her for the receipt.

(Signed) JOSEPH CASSAR,

Read to witness.

(Signed) J. DEBONO,  
Deputy Registrar.

40

**No. 23.**No. 23  
Plaintiff's  
Minute**Plaintiff's Minute**

In H.M. Civil Court, First Hall.

Maria Cassar &amp; Another

v

Carmela Camilleri and Others

Plaintiff's Minute.

Whereby Plaintiff produces the annexed Submissions.

(Signed) J.M. GANADO,  
Advocate,

10

The Twenty-third April, 1953.

Filed at the Sitting by Dr. J.M. Ganado with Submissions.

(Signed) J. DEBONO,  
Deputy Registrar.

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**No. 24.**No. 24  
Plaintiff's  
Submissions**Plaintiff's Submissions**

In H.M. Civil Court, First Hall.

Maria Cassar and Another

v.

Carmela Camilleri and Others.

20

Plaintiff's Submissions.

Respectfully sheweth:—

It has been conclusively established that:—

a) Defendant bought two tickets only — one in partnership with Plaintiff and the other in partnership with Co-defendant — and the particulars in the respective counterfoils were filled in by Francis Agius inside premises conducted by Giuseppa Saliba.

30

b) Francis Agius wrote out the particulars exactly as dictated to him by Carmela Camilleri. In the one ticket (No. 115086), he wrote out the nom-de-plume of "Suor Concettina", the name of Carmela Camilleri and the address at No. 49, St. Catherine Street, Qormi; in the other (No. 115087), he wrote out the nom-de-plume of "Ejja naghmlu ħbieb," the name of Carmela Borg and the address at No. 49, St. Catherine Street, Qormi.

c) Francis Agius invented none of the particulars he wrote out. He did not put down the name of Carmela Borg just to satisfy a whim of his own. Nor was he mistaken in writing out that name because, he knew neither Carmela Camilleri nor Carmela Borg. He filled in all the particulars exactly as dictated to him by Carmela Camilleri and he paid equal attention to each and every part of the counterfoil.

d) The counterfoils of Tickets Nos. 115086 and 115087 were sent in after the closing date. The tickets were therefore declared invalid for the Easter 1951 Draw and, following the usual practice, they were replaced by two other tickets (Nos. 108222 and 108223) for the next succeeding Draw, that to be held in June, 1951. 10

e) Ticket No. 108222, bearing the name of Carmela Camilleri, secured First Prize. The other Ticket, bearing the name of Carmela Borg, proved unsuccessful.

2. The fact that Carmela Camilleri took over and accepted the tickets without protest or remonstrance shows that those tickets had been made out just as she had wanted them to be made out. According to section 8 of the Government Lotteries Act (No. XXVI of 1948), the staker is bound to fill in the particulars as required in the counterfoil. It follows that, in making out the tickets, Francis Agius acted as agent for Carmela Camilleri, so that, for all the ends and purposes of law, it was Carmela Camilleri herself who made out the two tickets — and therefore it can never be said by Carmela Camilleri that the tickets had been wrongly made out. 20

3. The ownership of the two tickets which, as stated, were taken over and accepted by Carmela Camilleri without protest or remonstrance was determined and established at the very moment the tickets were written out — all the more so because the purchase represented a nominative title, to the ownership of which the name of the person appearing thereon bears witness. 30

The importance of the ticket as a nominative title is rooted in the law itself. In fact, section 14 of the Lotteries Act requires the Collector to notify, immediately after the Draw, the person whose **name, surname and address** are shown on a counterfoil drawn; and section 16 of the Act lays down: "Every prize shall be paid or remitted to the person **only** whose name, surname and address are shown on the respective counterfoil drawn," or in accordance with properly authenticated instructions or assignment. Therefore, according to law, the prize-winner is 40

the person whose particulars appear on the counterfoil of the winning ticket — and the law recognises only that as entitled to the prize.

10 4. In matters concerning the acquisition of nominative titles which, as stated, bear their own testimony, one must adhere rigidly to the objectivity of the title itself — even in the absence of any provisions of the law thereanent. That apart, it is to be observed that where the thing acquired is of a “quasi-fungible” nature, that is to say, lacking in those substantial  
10 qualities that distinguish it from other things of the same species, a strictly objective scrutiny becomes imperative.

This principle applies all the more strongly where the interests of third parties are at stake, in that such cases admit of no circumstances or acts *inter alios* that could in the slightest degree affect the interests of the third parties concerned.

20 5. That Carmela Borg is part owner of Ticket No. 115087 (subsequently No. 108223) is an incontrovertible and undeniable fact; and, according to law, the contrary is not even admissible in evidence. The name of Carmela Borg is written down and shown on the counterfoil bearing that Number — and that is enough. Apart from that, we have the additional factor that it was so written down at the behest of the person who was then acting as her own agent — and, clearly, oral evidence would be being directed *contra scriptum*.

30 As already submitted, once Ticket No. 108223 is the Ticket in which Carmela Borg is concerned, the other Ticket, No. 108222 — that is to say, the winning ticket — is that owned and held in equal shares between Carmela Camilleri and Plaintiff Maria Cassar. The decisive moment is that in which the tickets were issued, and there can be no doubt that at that moment, the position — objectively looked at — was that Plaintiff held a share in Ticket No. 115086 (108222) and Co-defendant in Ticket No. 115087 (108223).

40 No one is alleging that the one or the other had in some way or other dispossessed herself of her share, and therefore all evidence as to what happened after the tickets were purchased and made out is absolutely irrelevant. Co-defendant, Carmela Borg, is not claiming any assignment of the ownership of the ticket after its purchase; she is simply disclaiming ownership of the ticket which in fact she really owns. Even if she were alleging the assignment of any right after the purchase of the tickets, the only share involved would have been the share held by Carmela Camilleri — and no one else's.

6. The pleadings of Carmela Borg in effect bear out Plaintiff's case. She maintains she agreed to share a ticket with Carmela Camilleri and to name the ticket "Suor Concettina." If that is true, it means that Carmela Camilleri should have told Francis Agius to put down the nom-de-plume of "Suor Concettina" in the ticket in which he put down the name of Carmela Borg. If Carmela Camilleri had done that, the result, for all practical purposes, would have been the same, seeing that Ticket No. 108223 was not the winning Ticket. Whatever its name, that ticket, No. 108223, is still the ticket that failed. 10

7. Assuming, for the sake of argument, that oral evidence is admissible, then that evidence must be strong enough to be convincing **in respect of all contending parties**, — and such as to leave no uncertainty, subjective or objective. Doubt, where it arises, must go to the benefit of the party seeking to uphold the genuineness of the written word — and not in favour of the party that disclaims its own recorded writing.

Although, clearly, oral evidence is inadmissible so far as the cardinal point at issue is concerned, one may perhaps — for the sake of a better implementation of the case — make certain submissions thereanent. 20

8. Carmela Camilleri knew quite well that one of the tickets stood in the name of Carmela Borg. She herself told Francis Agius to put down her name; and she received the envelope addressed to Carmela Borg and held in her possession the receipt for the ticket duly made out to the name of Carmela Borg. As soon as the Lottery was drawn, and Carmela Borg gave it out that they had won first prize together, Carmela Camilleri at once realised that the position was not what it should be. It is a revealing fact that fifteen or thirty minutes after the Draw, Carmela Camilleri told Antonio Falzon that she was **confused about it** and that **she had no idea what to do with his sister**. No one up to that moment had said anything to Carmela Camilleri about the questions that afterwards arose but she knew well enough what the position really was and she had her own misgivings about it. The reason she gave — that Antonio Falzon's sister held another ticket — was not such as to make her feel "confused." The remarks which she made later on when Antonio Falzon suggested a settlement out of Court were even more significant. Here are her own words: "I said there was nothing for me to settle with anybody, because I was still entitled to my own share of the money **whether the other share belonged to his sister or to Carmela Borg. My own half of the money was there in any case.**" 30 40



9. The following submissions may be made as regards the evidence given by certain witnesses individually.

10 a) **Giuseppe Spiteri.** — On his own admission, witness made statements which were untrue. In fact, he started out by describing a whole conversation allegedly heard by him at the time the tickets were being made out, only to admit, on being admonished by the Court, that he had in fact heard nothing at all. This is what he stated: "I heard Carmela Camilleri tell the person who wrote out the other two tickets for her when I was present inside the shop: "The ticket, named Suor Concettina in partnership with Tas-Sikkina, five shillings each, and the ticket named Iz-zewgħt Iħbieb in partnership with Maria Ta' l'Għagin. **She told him these exact words:** "Write out the ticket. Iz-zewgħt Iħbieb together with Ta l'Għagin and Suor Concettina always with Tas-Sikkina,' — I want to rectify my statement. I was present and **I did not hear her tell him how he should write out the ticket;** and I heard this because it was common talk."

20 b) **Sebastiana Cassar.** — This witness is of the same calibre and she too owned up to a series of fabrications. First she denied Defendants had offered her any money in connection with her evidence, and then, confronted by witness Emmanuele Cassar, she went on to describe how the promise had been made. In other words, Sebastiana Cassar admitted that which she had denied a few moments before. Such evidence, it is submitted, is unworthy of any consideration.

30 c) **Giuseppa Saliba.** — Witness was evidently inspired by ideas put into her head by someone else. She went so far as to tell Plaintiff that her name had been written down on Ticket No. (108223) 115087, knowing all the time that that was untrue. 40 (Vide Plaintiff's evidence). She stated she heard Carmela Camilleri dictating to Francis Agius when the latter was making out the tickets: "She said to Francis Agius: 'I want one to be named Suor Concettina and the other Ejja naghmlu hbieb — that is to say, the ticket between Carmela Camilleri and Carmela Borg, Suor Concettina, and that between Carmela Camilleri and Maria Cassar, Ejja naghmlu hbieb.'" I am quite certain she told him: "That one with Carmela Borg and the other with Maria Cassar.'" In the first place, both Francis Agius and Carmela Camilleri state that they were some distance away from the others and that there was no one next to them when the tickets were being written out. Agius stated: "Giuseppa Saliba was serving customers quite a distance away from me." And Carmela Camilleri stated: "There was no one with me when I went to buy the tickets." Apart from that, witness, at various

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Plaintiff's  
Submissions  
--Continued

stages, merely gave hearsay evidence. For instance, she stated she knew that Carmela Borg and Carmela Camilleri had agreed between them as to the name to be given to the ticket. Asked how she knew it, she replied: "I know they so spoke to each other." In short, **scio quia scio** .....

d) **Defendant Carmela Camilleri** lapsed into inexactitudes that undermine the whole of her evidence.

i) She affirmed that Carmela Borg's surname was unknown to her — which is untrue. She knew her surname only too well and she dictated it to Francis Agius. It is **only now** that she is putting up that excuse and suggesting that Francis Agius had himself invented and put down that surname. It should be noted that Francis Agius did not know Co-defendant. 10

ii) She denied having called upon Plaintiff to ask her to give her back the receipt which she had sent her. The fact that she did, however, has been affirmed in evidence by the Plaintiff, by Carmela Bugeja and by the whole family — as well as by Consiglio Vella, an independent witness. Not only did she ask Plaintiff for the ticket, but she promised she would send her her own ticket or receipt — which she never did. 20

iii) She stated that Gina Formosa was illiterate — a false statement that leads one to suspect that Carmela Camilleri has no idea of the most elementary obligations weighing upon a witness. Gina Formosa herself affirmed that she could read and write.

iv) She stated she received letters on **two** and not on three occasions. If that is true, it means she first received Ticket No. 108222 (under Registered cover) and then **the two receipts** at one and the same time. According to her, however, she did not receive both receipts together. If **that** is true, then she must have received letters on three different occasions. 30

v) Speaking of the receipt for the Suor Concettina ticket, witness stated that, when she received it, she took it over to Carmela Saliba so that the latter might read out the particulars to her. To quote her own words: "Saliba said it was the receipt for the ticket named Suor Concettina. I told her: 'Put down my name.'" This is obviously untrue. The receipt for the "Suor Concettina" ticket was issued to and bore the name of Carmela Camilleri and it would therefore have been superfluous to note down the name in pencil. She stated also that she afterwards asked the same thing of Carmela Borg. Which prompts one to enquire why, once she had already asked 40

Giuseppa Saliba, and once she had already been told in whose name the receipt was, why again ask Carmela Borg?

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Plaintiff's  
Submissions  
—Continued

vi) The evidence of Carmela Camilleri is replete with error and contradiction where it deals with the subject of postal deliveries and what she did with the postal matter delivered to her. The confused details were given by her when she gave her evidence the second time. Her various statements are at variance with the facts. Receipts Nos. 108222 and 108223 were posted together. Further, the first thing she received by post was Ticket No. 108222 together with the covering letter sent by the Lotto Office. It will be seen at a glance that no mention is made of the nom-de-plume of the ticket either in the ticket itself or in the covering letter. It follows therefore that that ticket could not have been the subject of the alleged conversation either with Giuseppa Saliba or Carmela Borg. On the other hand, if one were to assume that the conversation took place on the arrival of the receipt for Ticket No. 108222, then the conversation with Giuseppa Saliba — during which she told her that the other ticket had not yet arrived — becomes unexplainable.

vii) Carmela Camilleri states that she talked to Francis Agius about Maria Cassar and Carmela Borg and explained to him how it had been agreed by them to share the tickets. Francis Agius flatly denies it. The only thing that happened was that she dictated the particulars to him — and he wrote out the particulars under her dictation. Further, the alleged conversation borders on the ridiculous. For instance, she stated she told Francis Agius to make out a ticket for her with "Tas-Sikkina as usual." It happens however, that Francis Agius knew neither Carmela Camilleri nor Carmela Borg and had never made out tickets for them.

e) As regards Carmela Borg, it should be stated that, once she had no direct connections with her, anything said or done by Carmela Borg in no way affects Plaintiff. It should however be observed that:—

i) Carmela Borg disclaimed any knowledge of the fact that Carmela Camilleri was in the habit of sharing Lottery tickets with other stakers. This is contradicted by Carmela Camilleri who stated she had informed Carmela Borg that another receipt had still to come showing her the ticket so that she might know by whom it was shared.

ii) Apparently, Carmela Borg possesses a fertile imagination. Suffice it to mention that Henry Frendo of the Lotto Office denied uttering any of the statements attributed to him

No. 24.  
Plaintiff's  
Submissions  
—Continued

by Carmela Borg — and denied it in a way that hardly leaves room for doubt.

iii) Carmela Borg stated she had never taken other Lottery tickets. Witness Giuseppe Spiteri affirmed that he himself had on occasion made out tickets for her.

iv) Carmela Borg went so far as to say that Carmela Camilleri's surname was unknown to her. Yet she had known her for years, was a friend of hers and had shared Lottery tickets with her on several occasions. All that notwithstanding, she denied all knowledge of her surname. In any case, when she read out the name of Carmela Camilleri, she did not find it necessary to enquire who that person was. 20

Other evidence produced by Defendants adds nothing of any interest and therefore calls for no comment.

10. Finally, it should be observed that were Defendant pleadings correct, Plaintiff would be out of the reckoning in both tickets. If Ticket No. 108223, bearing the name of Carmela Borg, had been drawn, the Plaintiff would certainly have had no claim to make. Once it is Ticket No. 108222 that happened to be drawn, Carmela Borg is claiming one half of that ticket for her own. That one half belongs to Plaintiff is beyond doubt. The other half apparently belongs to Carmela Camilleri, but it would seem that **hoc erit in votis**. 20

(Signed) J.M. GANADO,  
Advocate.

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Defendant's  
Minute

**No. 25.**

**Defendant's Minute**

In H.M. Civil Court, First Hall.

Maria Cassar and Another  
Carmela Camilleri and Others 30

Defendant's Minute.

Whereby Defendant produces the annexed Submissions.

(Signed) H. GANADO,  
Advocate.

This Twenty-sixth May, 1952.

Filed at the Sitting by Dr. Herbert Ganado.

(Signed) J. DEBONO,  
Deputy Registrar.

## Defendant's Submissions

Maria Cassar &amp; Another

v

Carmela Camilleri &amp; Others.

The Submissions of Defendant Carmela Camilleri.

Respectfully sheweth:—

1. In order to weigh the merits of the case at issue, and at the same time avoid lengthy digressions on circumstances which are either irrelevant or of secondary importance — thus obscuring, as did Plaintiff in her Submissions, the main argument — it is necessary to recapitulate all the attendant facts and circumstances and to abide by that interpretation of them which would be the most likely and the most acceptable.

2. Carmela Camilleri, who bought the winning ticket (No. 108222), was no more than a mere acquaintance of Maria Cassar and Carmela Borg, so much so that, as is usual in most villages, she knew both of them only by their Christian name and nickname: Maria (Cassar) "Ta l'Ghagin", Plaintiff, and Carmela (Borg) "Tas-Sikkina."

Carmela Camilleri bought two tickets, one in partnership with Maria Cassar and the other in partnership with Carmela Borg.

3 It is not enough to look at the winning ticket made out to the name of Carmela Camilleri at No. 49, St. Catherine Street, Qormi, and bearing the nom-de-plume of "Suor Concettina" to determine whether it is Maria Cassar or Carmela Borg who holds a one-half share therein: one must turn to the evidence and interpret and assess all the facts. And the established facts are those hereunder stated.

4. It is first of all necessary to ascertain who of the two contending parties entrusted Defendant with the specific task of buying a ticket under the name "Suor Concettina" — for the object of investigation must be the winning ticket, and not any other ticket of secondary and subsidiary importance.

A sister of Carmela Borg is a nun inside the cloister of St. Catherine in Valetta, the same Convent, that is, where Suor Concettina had lived and died. When she died, on the 25th May, 1950, Suor Concettina left the feeling amongst the other sisters that hers had been a saintly life. Carmela Borg was urged by

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Defendant's  
Submissions  
—Continued

her own sister to seek the aid of the late nun in all her wordly needs. Thereupon, Carmela Borg, who was in the habit of sharing Lotto tickets with Carmela Camilleri, suggested staking three numbers representing important dates in connection with the life and death of Suor Concettina. They did so and eventually secured a win. Then, with the approach of one of the Draws of the National Lottery, Carmela Borg and Carmela Camilleri decided to name their ticket after Suor Concettina; and in fact they bought Lottery tickets bearing the nom-de-plume of Suor Concettina on three successive occasions. Not only that, but the mother of Carmela Borg also named her ticket "Suor Concettina" (Evidence 23rd Nov. 1951). And so great was the attachment of Carmela Borg's family towards the late nun that, some time before the Draw of the Lottery, they distributed pictures of her. (Vide Exhibit "In Memoriam").

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The antecedent circumstances above related, viewed objectively, are enough in themselves to afford a sufficient indication of the fact that the ticket under the nom-de-plume of "Suor Concettina" was that which Carmela Borg and Carmela Camilleri bought and shared together — and both Carmela Borg and Carmela Camilleri affirmed in their evidence that they had in fact so bought and shared that ticket.

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5. As against that, what connection had Plaintiff with Suor Concettina? None whatever. She did not even know of her existence. And she had never used or otherwise put her faith in that name in any of her ventures.

Plaintiff, however, states:— "Defendant had mentioned to me that many favours were being obtained through the intercession of Suor Concettina... and she went on to say that next time thus we would name the ticket. A few days later we agreed to buy a ticket for the Easter Draw and she (Carmela Camilleri) went to buy the ticket by herself."

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6. Assuming that we are to believe Maria Cassar, who has sought in some way or other to identify her ticket with the name of Suor Concettina, the facts related by her — not corroborated by other evidence — amount to no more than that some **days** before the Draw, Carmela Camilleri made a vague proposal to her that they should give their ticket the nom-de-plume of "Suor Concettina". In actual fact, quite a number of days elapsed. Carmela Camilleri agreed to buy and share the "Suor Concettina" ticket together with Carmela Borg — as had been done before. And she went and bought the ticket by herself. Plaintiff, continuing her evidence, negatived any such import-

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ance as might have attached to the fact (granted it were a fact) that Carmela Camilleri had some days before mentioned to her the name of Suor Concettina. In fact, the Plaintiff stated that when, some days later, she paid her her share of the stake money (together with her wages), Carmela Camilleri did not tell her what name had been given to the ticket..... "Before going to buy the ticket, she asked me: "What name shall we give it?" And I replied: 'Name it as you wish, to your heart's content'." Which means there was no idea to name the ticket

10 "Suor Concettina". "What name shall we give it?" And, paying her her share of the stake, Plaintiff left it entirely to Carmela Camilleri to choose whatever name appealed to her most.

Carmela Camilleri gives a better explanation of the specific mandate she was to carry out. She states she told Plaintiff that she proposed naming the ticket "Ejja naghmlu hbieb," to which Plaintiff replied "Yes". (Evidence 23rd. Nov. 1951); and the fact is corroborated by Sebastiana Cassar (Evidence 3rd. Oct. 1951).

As was but natural, Carmela Camilleri took out the "Suor Concettina" ticket jointly with Carmela Borg, and the other, named "Ejja naghmlu hbieb," jointly with Plaintiff. The fact is confirmed first and foremost by Carmela Camilleri, who is the chief protagonist here and who knows better than anyone else how she invested and how she had to invest the money. It should be noted in fact that Carmela Camilleri's version of the facts, apart from being the most probable in the circumstances, is also the most deserving of trust, in that, having her own win to rely upon no matter what happened, it was, and still is, a matter of indifference to her whether she shares the prize with

20 Maria Cassar rather than with Carmela Borg, or with Carmela Borg rather than with Maria Cassar.

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Further, the manner as to how the tickets were taken out is confirmed by Carmela Borg — and not only by Carmela Borg, but also by George Magri, Giorgio Gatt and Teresa Grech (Evidence 10th Dec. 1951); and, finally, this most important part of the evidence of Carmela Camilleri is confirmed by the seller of the ticket, Giuseppa Saliba (Evidence 23rd Nov. 1951): "I am quite certain she told him (Francis Agius): 'That one (named Suor Concettina) with Carmela Borg and the other with

40 Maria Cassar.'" And Plaintiff's daughter, Carmela Bugeja, stated: "At the time the Lottery was drawn, my mother still did not know the name that had been given to the ticket." (Evidence 9th Nov. 1951). Meantime, **on the very day** following the Draw, the seller of the ticket, questioned on the subject, told

Plaintiff and her daughter: "She bought two tickets, one in partnership with you, named either 'Id-f-id' or "Ejja naghmlu hbieb," and the other, named 'Suor Concettina', in partnership with Carmela Borg." (Evidence 24th Oct. and 9th Nov. 1951).

7. Now, even if she had had the vaguest idea that her ticket bore the name of Suor Concettina, Plaintiff, on hearing on Rediffusion that the fortunate ticket bore that name, would no doubt have betrayed some excitement — or at least would have made haste to call on Carmela Camilleri to find out all about it. "My mother has Rediffusion installed in the house. I know they listened in to the Draw; I was there at the time. We heard the prizes announced. First prize went to the ticket named Suor Concettina." (Evidence 9th Nov. 1951). Far from taking any personal interest in the matter, however, Plaintiff sent her congratulations to Carmela Camilleri. 10

As against that, it is worth while recalling how Carmela Camilleri and Carmela Borg re-acted to the announcement — and how naturally they give their evidence and what a living picture they produced in describing what happened after the Draw. 20

Carmela Camilleri: "That day of the Draw of the Lottery, that evening, on my way back from Church, I called at the house of Tas-Sikkina's mother, and no sooner had I heard them mention the name of Suor Concettina that I told her: 'It must be ours!' We gave way to our joy and a crowd of people and priests gathered around, and I went to tell my sister and collected quite a crowd. I told her: 'Suor Concettina has remembered us!' And everybody came out to congratulate me." (Evidence 23rd Nov. 1951).

Carmela Borg: "On the way, we met another sister of mine. She said: 'Hurry up, the Draw has started!..... Then someone mentioned the name "Suor Concettina" and Carmela told me: 'Hurry, it must be ours! I said we should make quite sure, but then they announced the number of the winning ticket — No. 108222 — and I exclaimed 'Yes, it's ours! And she started jumping about for joy and even managed somehow to cut open my lip and a crowd gathered around.'" 30

What a contrast between the reaction of those who did really and truly win and those who thought they might have won by syllogisms and the process of deduction. 40

8. There is in this case one fact of outstanding importance which of itself is enough to solve the question at issue. The



winning ticket — and it is the winning ticket that has to be reckoned with, in that, as rightly maintained by Plaintiff in her Submissions, a nominative title is the property of the person to whom it is inscribed — bears the name of Carmela Camilleri. It is therefore hers to dispose of and to share with whomsoever she pleases. Plaintiff, who left it entirely to her to name and choose the ticket, certainly has no say in the matter. Now, as established by Carmela Camilleri and Carmela Borg, corroborated by Giorgia Gatt (Evidence 23rd Nov. and 10th Dec. 1951), Carmela Camilleri, as soon as she received the “Suor Concettina” ticket, which later proved to be the winning ticket, proceeded to hand it over to Carmela Borg. And in that way, Carmela Camilleri definitely made Carmela Borg her partner in the ticket. Not only had Carmela Borg instructed Carmela Camilleri to name the ticket “Suor Concettina” (a matter in regard to which Plaintiff had expressed no choice of her own), but she actually came into possession of the ticket she had ordered. The title of co-ownership in respect of that ticket thus attained completion. The sequence is perfect: Carmela Borg entrusted Carmela Camilleri with the purchase of the ticket under the name of “Suor Concettina,” Carmela Camilleri duly purchased the ticket under that name, and then, before the Draw, Carmela Borg acquired possession as the part owner thereof. What more is needed to complete the picture of co-ownership? Absolutely nothing.

The case is very different where Plaintiff is concerned. Plaintiff gave no specific instructions to Carmela Camilleri as to the nom-de-plume to be adopted; on the contrary, as she herself admits, she left the matter entirely in her hands. Plaintiff had never before shared with Defendant any tickets named after Suor Concettina. And she never had possession or even the mere custody of the winning ticket for one single moment. All Plaintiff did was to give 5/- to Carmela Camilleri so the latter might buy a joint ticket — and name the ticket exactly as she wished. Carmela Camilleri could have bought no tickets at all. She could have bought two tickets jointly with Carmela Borg. And it was possible for the person who filled in the particulars mistakenly to put down the name of Carmela Borg where he should have put down the name of Carmela Camilleri.

9. That Agius made a mistake is all too obvious. Tickets are made out in the purchaser's name — as evidenced by the fact that **both tickets** bear the one and the same address at No. 49, Saint Catherine Street, Qormi, which is the address of

No. 26.  
Defendant's  
Submissions  
—Continued

Carmela Camilleri. If the tickets bear the same address, it is obvious they had to be made out to the name of the person living at that address — Carmela Camilleri. Which is enough to remove any doubt on the matter

If it had been the wish of Carmela Camilleri to have the tickets so written out as to answer to the name of her co-partners, she would have had one ticket made out to the name of Maria Cassar and the other to the name of Carmela Borg; and there was no reason why, in filling in two tickets purchased at one and the same time, she should change methods and have her own name written down in one and the name of Carmela Borg in the other. Again, if Carmela Camilleri had taken out the ticket "Ejja naghmlu hbieb" in partnership with Carmela Borg, it would have been that ticket she would have handed over to Carmela Borg — and not the "Suor Concettina" ticket. It is true Carmela Camilleri is illiterate — the cause of the whole misunderstanding and the reason why she failed to discover that the name of Carmela Borg was shown on the ticket; but then, when she gave Carmela Borg the first ticket to reach her, and when Carmela Borg read out the name of "Suor Concettina" appearing on that ticket, and kept the ticket itself as the ticket in which she held a share, Carmela Camilleri — if the ticket named "Ejja naghmlu hbieb" had really and truly been that shared with Carmela Borg — would at once have told Carmela Borg that the "Suor Concettina" ticket was not hers, but Maria Cassar's, and that her own ticket, named "Ejja naghmlu hbieb," had not yet arrived. It would have been the most natural thing for her to do before the Draw. Instead, she let Carmela Borg keep the "Suor Concettina" ticket. And having thus eliminated one of the two tickets bought, she naturally concluded, without further ado, that the other was that shared with Maria Cassar. Being illiterate, she could not read and verify the particulars for herself — which is why she made no protest or remonstrance, such as Plaintiff insists upon in her Submissions.

10. When all the circumstances are thus examined in their logical sequence, the fact that the name of Carmela Borg was put down instead of the name of Carmela Camilleri — in a ticket **bearing the latter's address** — loses all practical importance. That quite obvious mistake could have been incurred in several ways. Francis Agius could have mixed up the name of Camilleri with the name of Borg — two very common names. Or someone inside the shop, hearing Carmela Camilleri stating she wanted a ticket named "Suor Concet-

tina" in partnership with Tas-Sikkina, and another named "Ejja naghmlu hbieb" in partnership with Ta' l'Ghagin, may have coupled one of the nicknames with the name Borg, thus inducing Francis Agius, who stated he was some distance away, to write out "Carmela Borg" where he should have written out "Carmela Camilleri." And there are various other ways in which such a mistake could have been incurred and it is often very difficult to trace the origin of a mistake. All the circumstances go to show, however, that a mistake was in fact incurred.

10 And that mistake, incurred in connection with **a ticket that proved unsuccessful**, is devoid of all practical importance. The winning ticket stands in the name of Carmela Camilleri, and, vis-a-vis Government, Camilleri is the person entitled to the whole prize; and the winning ticket was in the possession of Carmela Borg, in accordance with the nom-de-plume agreed upon, and because of the co-ownership of the ticket. Possession of the ticket certainly amounts to a title of co-ownership. According to her own Submissions, Maria Cassar, in the case at issue, is unable to claim either that her name appears on

20 the winning ticket or that she ever gave any instructions as regards the nom-de-plume or that she ever held possession of the winning ticket. Which explains why, when the Lottery was drawn, and the results were announced by Rediffusion installed in her own room, she kept calm and aloof. She knew then she had won nothing at all. And it was afterwards, by the process of deduction, that she imagined she had won. But it is not even in the power of Suor Concettina to bestow such favours.

At most, Plaintiff may be entitled to the recovery of her share of the stake, in that, mistake or no mistake, the ticket in

30 question bears the name of Carmela Borg instead of the name of Carmela Camilleri — a claim which it is open to her to press even though, obviously, it is the latter's name that should have been shown thereon, as evidenced by the address as well as by the nom-de-plume agreed upon. At all events, the dispute, so far as the Plaintiff is concerned, is in respect of an unsuccessful ticket in connection with which she paid the sum of five shillings. The Plaintiff, as the evidence shows, has nothing to do with the other ticket — the winning ticket.

(Signed) H. GANADO,  
Advocate,

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No. 27.  
Co-Defendant's  
Minute

**No. 27**

**Co-Defendant's Minute**

In H.M. Civil Court, First Hall.

Maria Cassar and Another

v.

Carmela Camilleri and Others.

The Minute of Co-defendant, Carmela Borg.

Whereby Co-defendant produces the annexed Submissions in answer to those filed by Plaintiff.

(Signed) F. CREMONA, 10  
Advocate.

The Twenty-sixth May, 1952.

Filed at the Sitting by Dr. F. Cremona with Submissions.

(Signed) J. DEBONO,  
Deputy Registrar.

No. 28.  
Co-Defendant's  
Submissions

**No. 28**

**Co-Defendant's Submissions.**

In H.M. Civil Court, First Hall.

Maria Cassar and Another

v.

Carmela Camilleri and Others. 20

The Submissions of Co-defendant Carmela Borg.  
Respectfully sheweth:—

1. The following facts have been established beyond all doubt.

a) That Defendant and Carmela Borg had at least on two occasions **before** the Lottery held in Easter 1951 bought Lottery tickets in partnership and gave them the nom-de-plume of "Suor Concettina" — and the reasons for their doing so are explained in the evidence given by Defendant as well as by Carmela Borg. 30

b) That, on each of those occasions, the ticket was made out in the name and address of Carmela Camilleri.

c) That Defendant and Carmela Borg agreed to buy a ticket for the Easter 1951 Draw of the Lottery and again to name the ticket "Suor Concettina;" and that ticket was again made out in the name and address of Carmela Camilleri, as on previous occasions.

d) That when, eventually, she received the receipt for the ticket named "Suor Concettina," Carmela Camilleri, as usual, handed it over to Carmela Borg, who kept it in her possession throughout the whole period up to the Draw. (Vide evidence Carmela Borg — 10th December, 1951).

10 Clearly, then, Carmela Camilleri and Carmela Borg had agreed to buy a ticket in partnership, the ticket had to be made out in the name of one of the partners — that is, in the name of Carmela Camilleri — and the nom-de-plume had to be that of "Suor Concettina." Defendant was as usual entrusted with the task of buying the ticket — and Defendant duly bought the ticket, named it as agreed upon and immediately handed it over to Carmela Borg. In these circumstances, therefore, there is no doubt that the ticket bought by Carmela Camilleri under the nom-de-plume of "Suor Concettina" was that which was the joint property of Carmela Camilleri and Carmela Borg.

20 2. The facts stated in the preceding paragraph show that **no mistake was incurred** in connection with the ticket bearing the nom-de-plume of "Suor Concettina," whether as regards the staker's name, the address or the nom-de-plume. If some other ticket bought by Defendant on her own or in partnership with anyone else was erroneously made out, the fact, at law, has not the slightest bearing on the ownership of the "Suor Concettina" ticket. Nor is it juridically sound to say that a mistake possibly incurred by Defendant wilfully or otherwise in connection with an unsuccessful ticket may have its repercussions upon a successful ticket in which no mistake was incurred and which has never been in question. It is an established fact, unshaken by any of the evidence produced, that in the mind of all the parties concerned as well as **objectively**, which is even more important, the ticket under the nom-de-plume of "Suor Concettina" is that which Defendant bought in partnership with Carmela Borg. It is difficult to see how one can possibly come to the conclusion that because of a mistake in another different ticket, Co-defendant, Carmela Borg — who certainly had nothing to do with any such mistake, and who, in fact, only came to know of it when this lawsuit arose — should find herself prejudiced in her own rights when the ticket which was and which remained in her possession had been made out exactly according to her wishes, both as regards the staker's name and as regards the nom-de-plume.

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3. Another important fact that cannot fail to be noticed, and that emerges from the mass of evidence produced, is that, in their own mind, the parties concerned attached much more

No. 28.  
Co-Defendant's  
Submissions  
—Continued

importance to the nom-de-plume than to the staker's name. This is all the more obvious when one considers that Defendant and Carmela Borg were making use of that nom-de-plume for personal reasons, and that they had repeatedly put their trust in that name, not only in connection with the National Lottery, but also in connection with Draws of the Public Lotto — in which they had successfully staked the numbers corresponding to the age and the day of the death of Suor Concettina. None of all these circumstances applies in the case of Plaintiff who, in fact, had no connection whatever with the aforesaid nun. And after all no evidence has been produced to show that it had ever been agreed between Plaintiff and Defendant to buy a joint National Lottery ticket under the nom-de-plume of "Suor Concettina." 10

4. The argument in the last paragraph of Plaintiff's Submissions is idle and unprofitable. In fact, once the successful ticket is that held in partnership between Defendant and Carmela Borg, bearing the nom-de-plume of "Suor Concettina," it is out of place to indulge in speculations so to what would have been the issue if the ticket under the nom-de-plume of "Ejja naghmlu hbieb" had been drawn instead — which speculations lead to conclusions that, at law, have but the value of gratuitous assertions and are to that extent undependable and unhelpful. 20

5. In conclusion, it is submitted that Plaintiff Submissions show that every effort is being made to side-track the main question at issue — which is one that concerns the winning ticket and no other. So far as the winning ticket is concerned, the facts go to show that no error was incurred in making it out — and that the ownership of that ticket is a matter patent to everyone and has never been in question. As for the other ticket, any mistake that may have been incurred in connection with it cannot change the nature and the ownership of the winning ticket. The question, calmly considered, is simple and may be solved by supplying the answers to the following questions: 30

a) Who of the contending parties decided to buy a National Lottery ticket made out in the name of Carmela Camilleri and under the nom-de-plume of "Suor Concettina?"

b) How was the ticket made out? Was it made out erroneously? 40

c) Who kept the receipt for that ticket and who has throughout been considered the owner of that ticket?

d) Should an error in making out another ticket, incurred by someone other than Carmela Borg, cause Carmela Borg to forfeit her share of the winning ticket which she held in partnership with Defendant?

No. 28.  
Co-Defendant's  
Submissions  
—Continued

The answers to those questions are clear, and it is because they are clear, and precisely because they adversely affect the interests of Plaintiff, that it is sought to ignore their importance and to bring the argument round to a point which is not the real and principal point at issue in the action.

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(Signed) F. CREMONA,  
Advocate.

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No. 29.

**Plaintiff's Minute**

No. 29.  
Plaintiff's  
Minute

In H.M. Civil Court, First Hall.

Maria Cassar and Another  
vs.  
Carmela Camilleri and Others.

Plaintiff's Minute.

20 Plaintiff begs leave to make reference to the following judgments:—

i) Vol. XXXI. I, 449.

Wherein the following occurs: "It is true that oral evidence is admissible where it is necessary to elucidate points that are obscure or to impugn a given instrument; but oral evidence does not serve to explain that which in itself is already clear."

ii) Vol. XXX. II, 115.

Wherein it is held that a person may not go against his own declaration.

iii) Vol. XXIX. II. 1203.

30 Wherein various references are made to jurisprudence relating to the principle **contra testimonium scriptum, testimonium non scriptum non fertur.**

(Signed) TOM. FENECH,  
Advocate.  
„ J.M. GANADO,  
Advocate.

This Eleventh June, 1952.

Filed at the Sitting by Dr. Tom. Fenech.

(Signed) J. DEBONO,  
Deputy Registrar.

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**Judgment, H.M. Civil Court, First Hall**

HER MAJESTY'S CIVIL COURT

FIRST HALL

Judge:

The Honourable Mr. Justice J. Caruana Colombo B. Litt., LL.D.

Sitting held on Wednesday  
Thirtieth July, 1952:

**No. 4.**

**Writ-of-Summons No. 547/1951**

10

Maria, the wife of Salvatore Cassar, acting with her husband's concurrence and consent, and, where necessary, the said Salvatore Cassar, in his capacity of head of the community of acquests

versus

Carmela Camilleri; — and Carmela Borg and her husband Giorgio Borg, joined as parties to the suit by Decrees dated 3rd and 24th October, 1951.

20

The Court,

Having seen the writ-of-summons, whereby the Plaintiffs, premising: That Plaintiff and Defendant held between them an equal stake in a Ticket on the National Lottery, Malta; — that, in the respective Draw, which took place on the 17th June, 1951, the Ticket so held between them secured First Prize of £13,000; — and that Defendant has refused to acknowledge and has denied that the winning Ticket was that which she held jointly with Plaintiff; — prayed that; — every necessary ruling being prefaced and any expedient order being given; — it be ruled that Plaintiff is entitled to a one-half share of the aforesaid prize of £13,000. — Saving her rights in respect of the payment of the sum due, and without prejudice to any other action, civil as well as criminal. — With Costs, including those of the garnishee order of 19th June, 1951.

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Having seen Plaintiff's Statement.

Having seen Defendant pleadings wherein Plaintiff claims 40



are stated to be groundless in that the winning Ticket, bearing the nom-de-plume of "Suor Concettina," was held between Defendant and one Carmela Borg — and not between Defendant and Plaintiff who, in fact, shared another Ticket with Defendant, that bearing the nom-de-plume of "Ejja naghmlu hbieb."

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Judgment,  
H.M. Civil Court  
First Hall  
—Continued

Having seen Defendant Statement.

Having seen the Exhibits produced by Defendant together with her Pleadings.

- 10 Having seen the Decree delivered on 3rd October, 1951, whereby Carmela Borg, on Defendant's Application, was joined as a party to the suit.

20 Having seen the Pleadings of Carmela Borg, wherein she submitted: (1) That her husband, Giorgio Borg, is the person who should have been called as a party to the suit, and that, in any case, he has not been called even for his consent and concurrence; — (2) that, on the merits, and without prejudice to the preliminary plea submitted above, Plaintiff claim is untenable, in that the winning ticket in the National Lottery Draw of 17th June, 1951 was held between her, Carmela Borg, and Defendant Carmela Camilleri. — Without prejudice to other pleas.

Having seen the Statement of Carmela Borg.

Having seen the Decree delivered on 24th October, 1951, whereby Giorgio Borg, the husband of Carmela Borg, was joined as a party to the suit.

Having seen the Pleadings of Giorgio Borg, submitting that Plaintiff claims should be dismissed on the grounds submitted in the Pleadings of his wife Carmela Borg.

- 30 Having seen the Statement of Giorgio Borg.

Having heard the evidence on oath of Plaintiff, Defendant, the parties joined in the suit and of the witnesses produced.

Having examined all the acts filed in the Record, including those mentioned in the procès verbaux dated 9th November, 1951 and 10th December, 1951.

Having heard Counsel for litigants.

Having considered:

Defendant Carmela Camilleri was for a time employed with Plaintiff. She left her employment on 14th May, 1951 after

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H.M. Civil Court  
First Hall  
—Continued

quarrelling with Plaintiff's son. Some little time before she left her employment with Plaintiff, Carmela Camilleri purchased two tickets for the National Lottery draw due to be held in Easter, 1951, sharing one ticket with the Plaintiff, and the other with Carmela Borg. The two tickets were acquired by her from a shop conducted by Carmelo and Giuseppa Saliba. Both Carmelo and Giuseppa Saliba are illiterate and, at the time the tickets were purchased, Carmelo Saliba was abroad. Whereas Carmela Camilleri too is illiterate, the required particulars on both tickets were filled in for her by one Francis Agius, who happened to be in the shop at the time. The tickets bore Numbers 115086 and 115087. The first, No. 115086, was made out to "Carmela Camilleri, 49, St. Catherine Street, Qormi, Malta" and bore the nom-de-plume of "Soru Kungetina." The other, No. 115087, was made out to "Carmena Borg, 49, St. Catherine Street, Qormi, Malta" and bore the nom-de-plume of "Ejja naghmlu hbieb."

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The counterfoils of the two tickets were returned to the Head Office of the National Lottery after the closing date fixed by the Regulations. They were therefore declared invalid for the forthcoming Easter Draw and, according to law, the Director of the Public Lotto issued to the holders two other tickets in lieu, valid for the National Lottery Draw to take place the following June. The new tickets were numbered 108222 and 108223. Ticket No. 108222 replaced that bearing No. 115086, with all the respective particulars, and Ticket No. 108223 replaced that bearing No. 115087, likewise with all the respective particulars.

20

In the National Lottery draw held in June, 1951, Ticket No. 108222, bearing the particulars above-mentioned, secured First Prize.

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Plaintiffs claim that the winning ticket was held in equal shares between Plaintiff Maria Cassar and Defendant Carmela Camilleri and seek that it be ruled to that effect. Defendant, supported by Co-defendants, maintains that the ticket which Plaintiff shared with her was the one bearing No. 108223, and not the winning ticket which, in fact, was held in equal shares between her and Carmela Borg.

It is agreed that Carmela Borg bought no tickets for the above-mentioned Draw of the National Lottery and that the two tickets in question were bought by Defendant Carmela Camilleri. It is also agreed that Defendant bought **only** those two tickets, sharing **one** with **Plaintiff** and **the other** with **Carmela Borg**. Defendant has herself stated in evidence that she

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asked Francis Agius to fill in for her one ticket in partnership with "Tas-Sikkina" (the nick-name of Carmela Borg) and another in partnership with "Tal-ghagin" (the nick-name of Plaintiff Maria Cassar). The reasonable inference to be drawn is that Ticket No. 108223 was issued to Defendant jointly with Carmela Borg, and that Ticket No. 108222 was issued to Defendant jointly with Plaintiff because, whilst Ticket No. 108223 bore the name of Carmela Borg and the address of Defendant Carmela Camilleri, the other, No. 108222, bore both the name and address of Defendant Carmela Camilleri.

According to Carmela Camilleri, the nom-de-plume of the winning ticket, "Suor Concettina," had been agreed upon by her and by Carmela Borg — so much so that Carmela Borg had herself kept the ticket throughout the whole time until the Draw. However, all other circumstances apart, and setting aside the fact that, though Plaintiff left it to Defendant herself to choose the nom-de-plume of the ticket taken between them, Defendant had informed Plaintiff that she would probably have the ticket named "Suor Concettina" — the nom-de-plume and the actual possession of the ticket does not constitute ownership within the meaning of the law relating to Government Lotteries. Section 16 (1) of Act No. XXVI of 1948 (the Government Lotteries Act, 1948) provides that: "Every prize shall be paid or remitted to that person only whose name, surname and address are shown on the respective counterfoil drawn....." According to law, therefore, that person is the owner of the ticket, independently of the nom-de-plume and whether that person is or is not in possession of the ticket. Thus, if the winning ticket had been Ticket No. 108223, the prize, according to law, would have been payable to the Defendant Carmela Camilleri and to Co-defendant, Carmela Borg — to the former, because the address shown on the ticket was her own, to the latter, because her name and surname appeared thereon. The fact therefore that the winning ticket was in her possession does not of itself entitle Carmela Borg to the respective prize, or any part thereof. The same may be said as regards the nom-de-plume appearing on the ticket. According to section 8 (1) of the Act, the nom-de-plume on a National Lottery ticket is not a sine qua non and the essential particulars required are only the name and surname and the address of the staker. It follows therefore that no importance need be attached to the fact that Carmela Borg had agreed with the Defendant Carmela Camilleri to name the ticket "Suor Concettina" — she having some connection with that name, whilst the Plaintiff had none. Carmela Borg is not entitled to the sole and exclusive use of the

pseudonym "Suor Concettina," as she seems inclined to assume. Apart from the fact, duly established in evidence, that the name "Suor Concettina" had been used on National Lottery tickets in previous Draws, the very same name had also been bestowed on Ticket No. 115082 — a ticket three numbers away from the ticket above referred to.

The Defendant Carmela Camilleri and Co-defendant Carmela Borg have submitted that, in filling in the particulars of Ticket No. 115087, later substituted by Ticket No. 108223, Francis Agius had made a mistake; and that Carmela Borg should not, in consequence of that mistake, forfeit her share of the prize. The circumstance that Defendant and Co-defendant allege the commission of a mistake further strengthens Plaintiff claim. In fact, if a mistake were incurred, Francis Agius, or the Defendant herself, may be responsible therefor — but never Plaintiff, if ever, only Defendant herself. In terms of Section (8) (1) of the Act above-mentioned, Defendant, as the staker, should have made certain that the particulars set out in Ticket No. 115087 (later substituted by Ticket No. 108223) had been correctly filled in according to her wishes. Francis Agius made out the ticket for Defendant and Defendant accepted the ticket without protest or remonstrance. Therefore, if a mistake were incurred, such mistake is chargeable to Defendant and it cannot prejudice Plaintiff.

It has however been established that no mistake was incurred by Francis Agius, unless it were a mistake which Defendant herself had directly incurred; but even Defendant had incurred no mistake.

The following considerations go to stress the fact:—

1. The person who wrote out the particulars on the two tickets, Francis Agius, does not live at Qormi. He knew neither Plaintiff nor Defendant nor Co-defendant; and he did not know the name nor address of any of them. Actually, Francis Agius had come back from abroad on the very day he was asked to make out the tickets. As he himself has affirmed in evidence, and as may be clearly inferred, Francis Agius did not put down anything of his own accord — that is to say, he wrote out the particulars on the one and the other ticket as dictated to him by Defendant. Therefore, once he wrote out the name and surname of Carmela Borg on Ticket No. 115087, it was, undoubtedly, because Defendant had told him to do so. And Giuseppa Saliba stated **she is certain** Defendant told Francis Agius that she wished to share one ticket **with Carmela Borg** and the other **with Maria Cassar**. Which goes to show that it was Defen-

dant who gave Francis Agius the name and surname of Carmela Borg, and that it was not Francis Agius who invented that name and surname.

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First Hall  
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2. The foregoing makes it clear that no reliance is to be attached to Defendant statement to the effect that she still had no knowledge of the surname of Carmela Borg up to the time the winning ticket was drawn in the National Lottery. It is also unlikely that that should be the case, considering that Defendant and Carmela Borg had been friends for a long time and live in the same neighbourhood almost next to each other and that Defendant even knows the maiden name of Carmela Borg.

It would not appear therefore that any mistake was incurred. On the contrary, there seems reason to believe that Defendant was fully conscious of her own actions *ab initio*. If it were otherwise, it would be difficult to explain (a) why she told Antonio Falzon that she was 'confused' and that she had no idea what to do with Plaintiff who had only just failed to share with her the prize she had won — a matter which should not have caused any dismay to Defendant, seeing that, as everyone knows, only one First Prize is drawn in the National Lottery; (b) why, when she discovered that the receipt for the other ticket — that issued in the name of Carmela Borg — had been sent to Plaintiff, she quarrelled with her niece, Gina Formosa, and took her to task for sending that receipt to Plaintiff; (c) why, a little later, on the same occasion, she hurriedly called upon Plaintiff to ask her to give her back that receipt, a fact which ill accords with the line taken by her in these proceedings, showing that she was then well aware that that receipt, and therefore the respective ticket, did not belong to Plaintiff. Not only that but, on this same occasion, Defendant, confused as she was, alleged that that receipt was for a ticket belonging to her sister's daughter, Gina Formosa; and she promised Plaintiff she would return to her the receipt for the ticket which they held in partnership — something which in fact she never did. All this is tantamount to an admission on Defendant's part that the ticket made out in the name of Carmela Borg was not the ticket which she held in partnership with Plaintiff. Inevitably, therefore, it was the other ticket which she held in partnership with Plaintiff, considering that, on her own showing, only two tickets were taken in partnership, one with Plaintiff and one with Carmela Borg.

It is not out of place to mention some of the contradictions to be found in Defendant's evidence. She stated (a) that she

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herself and all the members of her family, including the niece staying with her, Gina Formosa, were illiterate; yet Gina Formosa stated in her evidence that she could read and write; (b) that Plaintiff, on learning that the ticket which she held in partnership with Defendant was invalid for the Easter 1951 National Lottery, sought to back out of the Draw and wanted her five shillings back — all of which has been denied by Plaintiff; (c) that she told Francis Agius to write out the ticket for her in partnership with Tas-Sikkina **as usual** — which is obviously incorrect, not only because Francis Agius, as stated by him in evidence, resides elsewhere than at Qormi and therefore knew none of the persons concerned, either by name or nickname, but also because that was the one and only time he had filled in Lottery tickets for Defendant; and it was therefore impossible Defendant had told him to write out the ticket for her “as usual”; and (d) that, in taking the receipt for the ticket “Suor Concettina” to Carmela Borg, she told Carmela Borg “Another receipt has yet to be sent to us” — which shows that Defendant was well apprised of the fact that she had **another ticket** in partnership with Carmela Borg. In fact, Carmela Borg stated in evidence she had no knowledge of the fact that Defendant was in the habit of taking and sharing tickets with other stakers.

Defendant lays the greatest emphasis on three points: (1) through witness Sebastiana Cassar, Defendant claims that, after she bought the ticket and some time before the Draw, she reminded Plaintiff that the ticket held in partnership between her and Plaintiff was that bearing the nom-de-plume of “Ejja naghmlu ħbieb”; — (2) in her Submissions, Defendant points out that she duly informed Plaintiff of her intention to give the ticket held between them the nom-de-plume of “Ejja naghmlu ħbieb” — as she herself had stated in evidence; and (3) that there was and there is no reason or motive why she should prefer to share the money with Carmela Borg rather than with Plaintiff.

Now, to begin with, if Defendant had Plaintiff’s consent from the very beginning to give the ticket whatever name she chose — indeed, the name she herself had chosen and suggested — then there was no reason why she should have found it necessary to remind Plaintiff of the name given to the ticket. These allegations as regards the ticket’s nom-de-plume are completely denied by Plaintiff and, in the circumstances, it appears that no credence is to be attached to the evidence given by Defendant and Sebastiana Cassar: not to Defendant’s evidence be-

cause, throughout her evidence, Defendant contradicted herself to a very considerable extent, and not to the evidence of Sebastiana Cassar because of the attitude of that witness in giving evidence and because of the various contradictions she too fell into, especially when confronted with witness Emanuela Cassar. As to any reasons or motives Defendant may have had for preferring to share the prize with Plaintiff rather than with Carmela Borg, or with Carmela Borg rather than with Plaintiff, nothing can be said. It may not be amiss to mention, however, that Defendant left her employment with Plaintiff because of her quarrel with Plaintiff's son, on which occasion she chased and threatened Plaintiff's son with a knife; — that, consequently, she and Plaintiff fell out with each other, and that, speaking of Plaintiff, she told Plaintiff's brother, Antonio Falzon: "You know what your sister does? She repays you with a handful of paste."

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First Hall  
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The foregoing goes to show that, in connection with the Draw of the National Lottery above mentioned, Defendant bought two tickets only, one in partnership with Plaintiff, and the other in partnership with Co-defendant; and that the ticket which in that Draw secured First Prize was that which Defendant held in partnership with Plaintiff.

On these grounds

The Court

Rules, allowing the claim as advanced in the writ-of-summons, with Costs, including those reserved, against Defendant, excepting those of Co-defendants, who shall bear their own Costs.

(Signed) J. DEBONO,  
Deputy Registrar.

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**No. 31.**

**Defendant's Minute of Appeal**

No. 31.  
Defendant's  
Minute of Appeal

In H.M. Civil Court, First Hall.

Maria Cassar and Another  
vs.

Carmela Camilleri and Others.

The Minute of Appeal of Defendant Carmela Camilleri.

Defendant Carmela Camilleri hereby enters an appearance and, deeming herself aggrieved by the Judgment deliver-

No. 31  
Defendant's  
Minute of Appeal  
—Continued

ed in the action abovementioned by H.M. Civil Court, First Hall, on 30th July, 1952, hereby enters appeal therefrom to H.M. Court of Appeal.

(Signed) H. GANADO,  
Advocate.  
„ G. PACE,  
Advocate.

This Sixth August, 1952.

Filed by P. Saliba L.P. without Exhibits.

(Signed) J.N. CAMILLERI, 10  
Deputy Registrar.

No. 32.  
Co-Defendants'  
Minute of Appeal

**No. 32.**

**Co-Defendants' Minute of Appeal**

In H.M. Civil Court, First Hall.

Maria Cassar and Another  
vs.  
Carmela Camilleri and Others.

The Minute of Appeal of Co-defendants, Giorgio and Carmela Borg.

Co-defendants, Giorgio and Carmela Borg, deeming themselves aggrieved by the judgment delivered by this Honourable Court on 30th July, 1952, in the suit aforesaid, hereby enter Appeal therefrom to Her Majesty's Court of Appeal. 20

(Signed) GIOV. BORG OLIVIER,  
Advocate.  
„ C. VASSALLO,  
Legal Procurator.

This Sixth August, 1952.

Filed by C. Vassallo L.P. without Exhibits.

(Signed) J.N. CAMILLERI, 30  
Deputy Registrar.



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In

H.M. COURT OF APPEAL

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**Defendant Petition**

In H.M. Court of Appeal

Maria, the wife of Salvatore Cassar, acting with her husband's concurrence and consent, and, where necessary, the said Salvatore Cassar, in his capacity of head of the community of acquests

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versus

Carmela Camilleri; and Carmela Borg and her husband Giorgio Borg, joined as parties to the suit by Decrees dated 3rd and 24th October, 1951.

The Petition of Defendant Carmela Camilleri.

Respectfully sheweth:—

By Writ-of-Summons filed in H.M. Civil Court, First Hall, Plaintiff, premising: That she and the Defendant Carmela Camilleri held between them an equal stake in a Ticket on the National Lottery, Malta; — that, in the respective Draw, which took place on 17th June, 1951, the Ticket so held between them secured First Prize of £13,000; — and that Defendant Carmela Camilleri has refused to acknowledge and has denied that the winning Ticket was that which she held jointly with Plaintiff Maria Cassar; — prayed that; — every necessary ruling being prefaced and any expedient order being given; — it be ruled to the effect that Plaintiff Maria Cassar is entitled to a one-half share of the aforesaid prize of £13,000. — Saving her rights in respect of the sum due, and without prejudice to any other action, civil as well as criminal. — With costs, including those of the garnishee order of 19th June, 1951.

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Defendant, in her Pleadings submitted that Plaintiff claim was groundless in that the winning Ticket, bearing the nom-de-plume of "Suor Concettina", was shared between her and one Carmela Borg, and not between Defendant and Plaintiff who, in fact, held another Ticket with Defendant, that bearing the nom-de-plume "Ejja naghmlu ħbieb."

H.M. Civil Court, First Hall, by Judgment delivered on 30th July, 1952, allowed the claim as advanced in the Writ-of-Summons, with costs, including those reserved, against Defen-

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dant, excepting the costs of the Co-defendants, who were ordered to bear their own costs.

No. 33.  
Defendants'  
Petition  
—Continued

Petitioner, deeming herself aggrieved by that Judgment, entered appeal therefrom to this Honourable Court by Minute filed on 6th August, 1952.

Her grievance is manifest. In fact, the Judgment appealed from is open to criticism under three heads.—

10 One. — The Court below based its conclusions upon the provisions of the Government Lotteries Act (Exhibit "A"), and, more particularly, sections 8, 14, 15 and 16 of the Act, whereby the Collector is empowered to pay the prize money to the person whose name, surname and address appear on the counterfoil of the respective ticket — so that, the Collector, making payment accordingly, shall be deemed to have paid correctly. Those provisions of the law, however, hold good where the Collector is Defendant in a lawsuit in which Plaintiff claims that payment should have been made to him notwithstanding that his name and address do not appear on the counterfoil of the winning ticket — and they do not therefore  
20 apply in the case at issue. Had Plaintiff, Maria Cassar, advanced a claim to the effect that the Collector should have made payment to her rather than to Petitioner, the one and only person whose name appears on the counterfoil of Ticket No. 108222 — then the Collector would have been wholly covered by the enactment. In this instance, however, Plaintiff is seeking a ruling to the effect that she is entitled to a moiety of the prize notwithstanding that her name nowhere appears on the counterfoil of the winning ticket, insisting as she does that she and  
30 Petitioner held an equal stake in that ticket. Therefore, in the humble opinion of Petitioner, the Court below was wrong in allowing itself to be guided by the provisions of the Government Lotteries Act.

40 Two. — Secondly, the Court below based its conclusions upon the facts as they occurred. Petitioner, as recalled by the Court below, bought two tickets only for the Easter Draw of the National Lottery, that is to say, Tickets Nos. 115086 and 115087; and the two Tickets, having been sent in too late for the Draw, were replaced by Tickets Nos. 108222 and 108223, the former bearing the name of Petitioner and the nom-de-plume of "Suor Concettina," the latter the name of Carmela Borg and the nom-de-plume of "Ejja nagħmlu ħbieb" — and both bearing the address "No. 49, St. Catherine Street, Qormi, Malta," which is Petitioner's address. Therefore, according to the argu-

ment followed by the Court below, once those two tickets were held in partnership — one with Plaintiff and the other with Carmela Borg — the ticket bearing the name of Carmela Borg is that held in partnership between Carmela Borg and Carmela Camilleri, and, therefore, the other is that shared between Plaintiff and Carmela Camilleri.

The argument, on the face of it, appears sound, were there not grave and precise circumstances to prove exactly the contrary. In fact, the line of reasoning followed by the Court may lead to the assumption that, of the two tickets bought, the one which proved unsuccessful bore the name of Carmela Borg — but it is an assumption **juris tantum** and not one which is absolute **juris et de jure**. Here are the facts as established in evidence and here too is the evidence itself:— (1) Three times in succession did Defendant Carmela Camilleri and Defendant Carmela Borg buy Lottery tickets in partnership between them under the nam-de-plume of “Suor Concettina.” (2) Carmela Borg in the witness-box on 10th December 1951 stated: “We bought tickets twice, and then, at the third attempt, the nun helped us to win;” (3) Vide-evidence Giuseppe Spiteri 10th December 1951: “I know Carmela Camilleri had tickets named ‘Suor Concettina’ in partnership with Tas-Sikkina (Carmela Borg)..... Before the Draw of the Lottery in which the winning ticket is now in dispute, I wrote out a ticket for Carmela Camilleri under the nom-de-plume of ‘Suor Concettina’. Carmela Camilleri applying for a ticket, told me she wanted to take the ticket in partnership with Tas-Sikkina under the nom-de-plume of “Suor Concettina”..... I was always inside premises conducted by Giuseppa Saliba;” (4) George Magri 10th December 1951: “I asked them what name they proposed giving the ticket and they replied: ‘Suor Concettina’. Besides myself, there was present on that occasion Carmela Borg, my sister-in-law, and Carmela Camilleri; (5) Giorgia Gatt 10th December 1951: “The ticket with the nom-de-plume of ‘Suor Concettina’ was in possession of Carmena Tas-Sikkina before the Draw of the Lottery;” (6) Teresa Grech 10th December 1951: “I did on occasion hear Carmela Camilleri mention something about some tickets..... I asked her whether she had taken one and what name she had given it. She replied — ‘I and Tas-Sikkina named it **Suor Concettina**, and I took the other one with my employer and it is named **Ejja naghmlu hbieb**”..... This was a month or so before the Draw of the Lottery;” (7) Plaintiff in the witness-box on 24th October 1951: “Giuseppa Saliba told me — ‘She bought two tickets, one in partnership with you, named either **Id-fid** or **Ejja naghmlu hbieb**, and the other, named **Suor Con-**

**cettina**, in partnership with Tas-Sikkina..... Take my word for it, the tickets are made out thus — yours is named either **Id-f'id** or **Ejja naghmlu hbieb** and the other is named **Suor Concettina;**"

(8) Defendant, Carmela Camilleri, giving evidence at the request of Plaintiff, on 18th January 1952: "The receipts for the tickets were not delivered to me at one and the same time. I first received that for the ticket named 'Suor Concettina' and then the other receipt..... When I received the receipt for the ticket 'Suor Concettina,' which came first, I gave it to Carmela Borg.

10 I do not remember when I received the other. When I did, I went to give it to Plaintiff, but she would not keep it. I have already stated I am illiterate. I came to know that the receipt was for the 'Suor Concettina' ticket when I took it over to Carmela, who said "This is ours! And she kept it;" (9) Giuseppa Saliba in the witness-box on 23rd November 1951: "Carmela Camilleri bought a ticket for the Easter Draw of the Lottery. She bought tickets on three occasions. For the Lottery in which she won first prize, she bought two tickets — 'Suor Concettina' and 'Ejja naghmlu hbieb'..... Three times had Carmela Camilleri named her ticket

20 'Suor Concettina'..... She said to Francis Agius — 'I want one ticket to be named **Suor Concettina** and the other **Ejja naghmlu hbieb**' — that is to say, the ticket between Carmela Camilleri and Carmela Borg, **Suor Concettina**, and that between Carmela Camilleri and Maria Cassar, **Ejja naghmlu hbieb**. I am quite certain she told him — 'That one with Carmela Borg and the other with Maria Cassar'..... I said to her (Plaintiff) — 'She and Carmela Borg bought tickets naming them **Suor Concettina** on about three other occasions'..... I said to her — '**Suor Concettina** has always been taken by her and Tas-Sikkina in partnership between them'..... On other occasions, too, Carmela Camilleri had bought tickets in partnership with Plaintiff. Once they gave their ticket the nom-de-plume of 'Ix-Xahar tal-Erwieh.' They, Maria Cassar and Carmela Camilleri, never gave their tickets the same nom-de-plume..... No ticket under the nom-de-plume of 'Ejja naghmlu hbieb' had been bought before. Camilleri and Borg always gave theirs the same nom-de-plume (that is, 'Suor Concettina')."

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The whole evidence, taken together, establishes most clearly that Carmela Borg never entrusted Petitioner with any other

40 task than that of buying a ticket under the nom-de-plume of "Suor Concettina," and that, in actual fact, Carmela Camilleri bought that ticket and gave it the nom-de-plume of "Suor Concettina." Further, when the receipt arrived, Petitioner gave it to Carmela Borg to check, and Carmela Borg found it was the receipt for the "Suor Concettina" ticket; and Petitioner and

Carmela Borg, who at that moment could hardly have prophesied the result of the Draw, agreed that the receipt should be kept by Carmela Borg.

Carmela Borg was not acquainted with Plaintiff and she had nothing to do with her in connection with any Lottery tickets. The only person with whom she was concerned was Petitioner with whom she shared the ticket in question — the receipt for which ticket she had in her possession before the Draw of the Lottery. There is therefore no reason why it should be ruled that Carmela Borg has no juridical right to a moiety 10  
 of the winning ticket.

Plaintiff gave 5/- to Petitioner for her to buy a Lottery ticket in partnership. As regards the nom-de-plume to be given to the ticket, she simply told Petitioner "Name it what you will." When Petitioner, who is illiterate, asked Francis Agius to write out the tickets for her, she told him clearly that she wanted the ticket named "Suor Concettina" in partnership with Tas-Sikkina and that under the nom-de-plume of "Ejja naghmlu hbieb" in partnership with Plaintiff. Now, either Petitioner carried out the instructions given to her by Plaintiff, or she did not. She 20  
 certainly carried out instructions given to her by Carmela Borg to buy the usual "Suor Concettina" ticket in partnership. She bought the ticket made out in her own name and under the nom-de-plume of "Suor Concettina" — declaring to Giuseppa Saliba, as testified to by all the witnesses quoted above, that she wanted that ticket, the "Suor Concettina" ticket, in partnership with Tas-Sikkina. The whole question, therefore, is whether or not Petitioner carried out the instructions to buy a Lottery ticket jointly between her and Plaintiff Maria Cassar — and what are the consequences if she did not. It has been established 30  
 that Francis Agius wrote out the name of Carmela Borg on the second ticket without anyone having authorized him to do so. He heard Petitioner state that she wanted the "Suor Concettina" ticket in partnership with Tas-Sikkina and that named "Ejja naghmlu hbieb" in partnership with Plaintiff; and after making out the first ticket to the name and address of Petitioner and under the nom-de-plume of "Suor Concettina," he proceeded to fill in the second ticket — writing out the same address, 49 St. Catherine Street, Qormi, and the name of Carmela Borg. All that can be said is that had the ticket drawn been that 40  
 bearing the name of Carmela Borg, the Collector would have been justified in paying the prize to Carmela Borg — but then Plaintiff as well as Petitioner would have brought against her an action for recovery, and proved that, in actual fact, they and not Carmela Borg were the rightful beneficiaries; and Carmela

Borg would have been in no position to maintain the contrary, seeing that her possession of the receipt for the "Suor Concettina" ticket would of itself have been the strongest argument against any claim of hers to the prize drawn by the ticket called "Ejja naghmlu ħbieb."

10 Therefore, the fact that the name of Carmela Borg appears on the ticket bearing the nom-de-plume of "Ejja naghmlu ħbieb" leads but to the conclusion that Petitioner, being illiterate, failed to notice that the ticket had been wrongly made out so far as Plaintiff was concerned — and that she would have been liable for damages towards Plaintiff had that ticket secured the prize and if the prize had been paid to Carmela Borg; but it is wrong to conclude that the ticket named "Suor Concettina", which was never Plaintiff's, has become her property in consequence of that mistake, so that what was the property of Co-defendant should, because of a mistake which was no fault of hers, become the property of Plaintiff.

20 Three. — Further ground for criticism of the judgment appealed from is afforded by the fact that the Court below discarded the evidence given by Petitioner as to who shared the winning ticket with her — whether Plaintiff or Carmela Borg. However, apart from the evidence of Petitioner, we have the evidence above referred to. The Court gave no consideration whatever to that evidence, especially that of Carmela Borg and Giuseppa Saliba which, together with Plaintiff's own evidence, proves quite definitely, independently of the evidence given by Petitioner, that Plaintiff Maria Cassar never had anything to do with the winning ticket. In fact, the evidence given by Carmela Borg has in no way been shaken. It has been established  
30 that, together with Petitioner, she had previously tried her luck on the Public Lotto by staking the numbers corresponding to the age and the day of the death of Suor Concettina; that, afterwards, she decided to bestow the name of "Suor Concettina" as a nom-de-plume on National Lottery tickets; that she bought National Lottery tickets three times consecutively, always under the same nom-de-plume, and always in partnership with Petitioner; and that, at the third attempt, she succeeded in winning first prize. It has been established that Carmela Borg can read and write; that the receipt for the winning  
40 ticket was in her possession before the Draw — at a time, that is, when none yet knew that that ticket would draw first prize; that, actually, during the Draw, she compared the number of the ticket and the nom-de-plume with those which had been announced; and that she and her relatives and friends were overwhelmed with joy when it was found that that ticket was

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in fact the winning ticket; that Plaintiff herself congratulated Petitioner and Carmela Borg on the success scored with the "Suor Concettina" ticket and that it never even crossed her mind that she had any connection with that nom-de-plume — for, as she stated in evidence, she did not at any time know the nom-de-plume of the ticket which she shared with Petitioner.

The same applies to the evidence of Giuseppa Saliba, who certainly cannot be considered an interested witness. Giuseppa Saliba assured Plaintiff — as soon as Plaintiff questioned her on the subject — that the ticket which the Petitioner held jointly with "Tas-Sikkina" was in fact named "Suor Concettina" and that the ticket which Petitioner shared with her bore the nom-de-plume of "Ejja naghmlu ħbieb." 10

Petitioner therefore humbly holds that the Court below was wrong in discarding her evidence and in ruling that Plaintiff Maria Cassar was entitled to a moiety of the prize and not Carmela Borg.

Therefore, producing the undermentioned surety for the costs of the action, making reference to the evidence heard below, and reserving the right to produce all further evidence admissible at law — including a reference to Plaintiff's oath, to tender which Plaintiff is hereby summoned — Petitioner humbly prays that the judgment appealed from be reversed and that Plaintiff claim be dismissed with Costs both of the First and of this Second Instance. 20

(Signed) G. PACE,  
Advocate.  
" H. GANADO,  
Advocate.  
" E. AXIAK MIFSUD, 30  
Legal Procurator.

This Seventeenth August, 1952.

Filed by Edw. Axiak Mifsud L.P., with one Exhibit.\*

(Signed) U. BRUNO,  
Deputy Registrar.

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\*Act No. XXVI of 1948.



**No. 34**No. 34.  
Defendants'  
Surety Bond**Defendant's Surety Bond.**

Salvatore Camilleri, Clerk, son of Francesco and Angela née Caruana, deceased, residing at No. 46, Bakery Street, Lija, hereby enters an appearance and stands joint surety with Appellant Carmela Camilleri for the Costs of this Appeal, hypothecating the whole of his present and future property in general and renouncing to every benefit accorded by law.

(Signed) SALVATORE CAMILLERI.

10 The said Salvatore Camilleri has affixed his signature hereto in my presence.

This Nineteenth August, 1952.

(Signed) J. DEBONO,  
Deputy Registrar.

**No. 35**No. 35.  
Defendants'  
Substitute  
Surety Bond**Defendant's Substitute Surety Bond**

20 Giuseppe Pace, Doctor of Laws, Advocate, son of Giovanni, Legal Procurator, and of Emilia née Attard, both deceased, born and residing in Sliema, hereby enters an appearance and stands joint surety with Appellant Carmela Camilleri for Costs of this Appeal, hypothecating the whole of his present and future property in general and renouncing to every benefit accorded by law.

(Signed) GIUSEPPE PACE,

The said Giuseppe Pace, Doctor of Laws, Advocate, has affixed his signature hereto in my presence.

This Twentieth October, 1952.

(Signed) J. CAMILLERI CACOPARDO,  
Deputy Registrar,

## Co-Defendants' Petition.

In H.M. Court of Appeal.

Maria Cassar and Another  
vs.  
Carmela Camilleri and Others.

The Petition of Co-defendant, Giorgio and Carmela Borg.  
Respectfully shew:—

Plaintiff, in the Writ-of-Summons, premising: — that Plaintiff Maria Cassar and Defendant Carmela Camilleri held between them an equal stake in a Ticket on the National Lottery, Malta — that, in the respective Draw, which took place on 17th June, 1951, the Ticket so held between them secured First Prize of £13,000; — and that Defendant Carmela Camilleri has refused to acknowledge and has denied that the winning ticket, was that which she held jointly with Plaintiff Maria Cassar — prayed that — every necessary ruling being prefaced and any expedient order being given — it be ruled that Plaintiff Maria Cassar is entitled to a one-half share of the aforesaid prize of £13,000. — Saving her rights in respect of payment of the sum due, and without prejudice to any other action, civil as well as criminal. — With costs, including those of the garnishee order issued on 19th June, 1951. 10 20

In her Pleadings, Defendant, Carmela Camilleri, submitted that Plaintiff claims are groundless in that the winning ticket, bearing the nom-de-plume of "Suor Concettina," was held between her and Carmela Borg — and not between Defendant and Plaintiff who, in fact, shared another ticket with Defendant, that bearing the nom-de-plume of "Ejja nagħmlu ħbieb."

H.M. Civil Court, First Hall, by Decree dated 3rd October, 1951, ordered that Carmela Borg be joined as a party to the suit; and, by Decree dated 24th October, 1951, the Court ordered that Giorgio Borg, husband of Carmela Borg, be also joined as a party to the suit. 30

Carmela Borg, in her Pleadings, submitted: (1) That her husband, Giorgio Borg, is the person who should have been called as a party to the suit, and that, in any case, he has not even been enjoined for his consent and concurrence; — (2) that, on the merits, and without prejudice to the preliminary plea submitted above, Plaintiff claim is untenable, in that the winning ticket in the National Lottery Draw of 17th June, 1951 was 40

held between her, Carmela Borg, and Defendant Carmela Camilleri. — Without prejudice to other pleas.

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Giorgio Borg, in his Pleadings, submitted that Plaintiff claim should be dismissed on the grounds submitted in the Pleadings of his wife Carmela Borg.

10 H.M. Civil Court, First Hall, by judgment delivered on 30th July, 1952, allowed the claim advanced in the Writ-of-Summons, with Costs, including those reserved, against Defendant, excepting those of Co-defendants, who were ordered to bear their own Costs.

Petitioners, deeming themselves aggrieved by that judgment, entered appeal therefrom to this Honourable Court by Minute filed on 6th August, 1952.

20 Their grievance is manifest: the Court below held that the winning ticket was shared between Carmela Camilleri and Maria Cassar, thus allowing Plaintiff claim and ordering that costs of the action, including those reserved, be borne by Defendant, excepting those of Co-defendants, who were ordered to bear their own Costs. — In actual fact, however, it was Petitioner who shared the winning Ticket with Defendant Carmela Camilleri.

30 Indeed, it has been established by evidence that Petitioner and Carmela Camilleri had agreed between them to buy a joint ticket for the Easter 1951 Draw of the National Lottery; and the ticket, as in the case of other tickets they had shared between them on previous occasions, had to be made out in the name and address of Carmela Camilleri and given the nom-de-plume of "Suor Concettina." Which is exactly what was done in actual fact. The ticket, No. 115086, was made out in the name of Carmela Camilleri at the address at No. 49, St. Catherine Street, Qormi and bore the nom-de-plume of "Soru Kungetina". Whereas, however, the respective counterfoil was sent in after the closing date, the ticket was replaced by another valid for the June 1951 Draw of the Lottery; and the new ticket, No. 108222, bearing the very same particulars, was that which secured First Prize in the June Draw.

This is borne out:—

40 1. By Petitioner's evidence: "My sister is a nun inside the cloister of St. Catherine's in Valetta. Once, when I went to see her, my sister told me that a saintly nun had died at the convent that week. She suggested I should stake on the Lotto the numbers corresponding to her age and the date and time

of her death and that I should henceforth endeavour to cause devotion to her as widespread as possible. 'Perhaps she will help you to win,' she said. Afterwards, I went to see Carmela Camilleri and told her we should stake the numbers the following day. She agreed. We took out the numbers twice and we won. I then suggested to her we should try our luck in the National Lottery — perhaps the nun would help us again. This was soon after the death of the nun. We bought tickets twice, and then, at the third attempt, the nun helped us and we won. Some time later, Carmela Camilleri called and asked me: 'See if this is the receipt.' I replied: 'Carmela Camilleri and Suor Concettina — it is ours.'" Evidence — 10th December, 1951) ..... "Whenever I went in shares with Carmela Camilleri the ticket was always in her name. The particulars were filled in thus: 'Carmela Camilleri, 49 St. Catherine Street — Suor Concettina.'" (Evidence — 10th December, 1951). That receipt has been in my possession since the day I received it. I have the receipt for the winning ticket. The receipts were always in my possession. (Evidence, 10th December, 1951).

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2. By Defendant's evidence: "I used to go and buy the tickets myself. I bought one ticket to share with Tas-Sikkina and another to share with Maria Cassar, with whom I was employed. The ticket between Tas-Sikkina and myself I used to name 'Suor Concettina.' The reason for this was that I and Tas-Sikkina had won on the Public Lotto held on Saturdays by staking the numbers corresponding to the date and the time of Suor Concettina's death, and her age at the time of her demise. Subsequently Carmela Borg said to me: 'We will now have Lottery tickets named after her — perhaps we will win'. And I replied: 'Yes'. Carmela Borg knew all about Suor Concettina, for her own sister is a nun in the same cloister. She told me: 'We will now give the ticket that name, for my sister is in the same cloister and Suor Concettina died there'. We always gave the ticket that name..... and, at the third attempt, Suor Concettina won us the prize. Three tickets in succession I named 'Suor Concettina' and I held each one of them in partnership with Tas-Sikkina." (Evidence 23rd November 1951).

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3. By Giuseppa Saliba's evidence: "It was always Carmela Camilleri who came to buy the tickets. I did not fill in the particulars in the tickets bought by Carmela Camilleri. There was someone else who was writing them out — a man named Francis Agius..... But I was present when she bought the tickets..... She said to Francis Agius: 'I want one to be named Suor Concettina and the other **Ejja naghmlu hbieb** — that is

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to say, the ticket between Carmela Camilleri and Carmela Borg (it was afterwards that witness learnt the name of Carmela Borg), **Suor Concettina**, and that between Carmela Camilleri and Maria Cassar **Ejja naghmlu hbieb**..... Maria Cassar sent for me the day after the first prize was won by the Suor Concettina ticket. I said to her; 'She and Carmela Borg bought tickets naming them **Suor Concettina** on about three other occasions..... I said to her: '**Suor Concettina** has always been taken by her and Tas-Sikkina as friends, that is in partnership between them.'" Camilleri and Borg always bestowed the same name. (Evidence 23rd November, 1951).

4. By Teresa Grech's evidence: "Carmela Camilleri 'Ta Zeblek' is known to me. Before the Draw of the Lottery, I did on occasion hear her mention something about some tickets..... and I asked her whether she had taken a ticket and what she had named it. She replied: 'I and Tas-Sikkina named it **Suor Concettina** and I took the other in partnership with my employer and it is named **Ejja naghmlu hbieb** — for I had two tickets'..... This was about a month or so before the Draw of the Lottery.'" (Evidence 10th December, 1951).

5. By George Magri's evidence: "I was present one day when Carmela Camilleri and Carmela Borg were talking about buying a Lottery ticket together..... I was at my sister-in-law's when I heard Carmela Camilleri tell Carmela Borg: 'Are we going to stake a ticket?' To which Carmela Borg replied: 'Yes.' I asked them what name they proposed giving the ticket and she replied: **Suor Concettina**.'" (Evidence 10th December, 1951).

6. By the fact that, when she received the receipt bearing the nom-de-plume of "Suor Concettina" — at a time when none could have foreseen that the respective ticket would emerge the winner, Carmela Camilleri promptly gave it to Carmela Borg, the joint owner of the ticket; which receipt remained in the possession of Carmela Borg till after the Draw.

7. By the fact that it was always under the nom-de-plume of "Suor Concettina" that Carmela Camilleri and Carmela Borg bought Lottery tickets in partnership, whilst those between Carmela Camilleri and Plaintiff were always given a different name. (Giuseppa Saliba, 23rd November, 1951).

8. By the fact that Carmela Borg had her own reasons for insisting upon the use of the nom-de-plume of "Suor Concettina" — which nom-de-plume she herself suggested to Carmela Camilleri; and that Plaintiff showed not the slightest interest

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in the choice of a nom-de-plume leaving the choice in fact entirely to Carmela Camilleri.

It is therefore satisfactorily established beyond any measure of doubt (a) that Carmela Camilleri and Carmela Borg had agreed between them that Carmela Camilleri should buy a National Lottery ticket for the Easter Draw of 1951 in partnership between them, and that, as on former occasions, the ticket should be made out in the name and address of Carmela Camilleri and bearing the nom-de-plume of "Suor Concettina"; — (b) that that agreement, or, rather, that **undertaking** on the part of Carmela Camilleri was duly carried out, in that Carmela Camilleri did in fact buy Ticket No. 115086 — later replaced by Ticket No. 108222 valid for the June, 1951 Draw; — (c) that, as had happened on previous occasions when Carmela Camilleri and Carmela Borg bought Lottery tickets in partnership, the receipt for that ticket was kept by Carmela Borg throughout the whole period between the date of delivery and the date of the Draw; — (d) that Ticket No. 108222, bearing all particulars agreed upon between Carmela Camilleri and Carmela Borg, secured the First Prize in the June 1951 Draw; — and consequently, no serious doubts could possibly be entertained as regards the ownership of that ticket, which was exactly the ticket Carmela Camilleri had purchased pursuant upon the agreement entered into between her and Petitioner.

It is Appellant's submission that the Court below wrongly invoked the provisions of the Government Lotteries Act in support of the view that the nom-de-plume and the actual possession of the ticket are no proof as to the ownership thereof. It is true it is laid down in section 16 (1) of the Act that "Every prize shall be paid or remitted to the person only whose name, surname and address are shown on the respective counterfoil drawn....." But the conclusions drawn therefrom in the judgment on appeal are fallacious. The Act concerns and governs only transactions between Government that is bound to pay or remit the prize money and the person who is entitled to the payment thereof; and it was necessary that the Act should include some such provision as that quoted above to forestall the endless complications that might otherwise arise. That does not rule out the possibility, however, that a pre-existing agreement between the person whose name and address appear on the ticket and other persons whose name and address do not appear therein may, in the event of a win, entitle the latter to the whole or part of the prize. It is all in the realm of evidence and very often agreement as regards the nom-de-

plume and the possession of the ticket affords proof or at least a strong indication as to the actual ownership thereof. It may well be that a person whose name appears on a ticket is not the staker at all — a prête-nom, in fact — and therefore in no way entitled to the ownership of the ticket. It is not inconceivable, for instance, that a person who is loaded with debt may, in order to guard against the possibility of being one day overwhelmed by his creditors, have a ticket bearing the name and address of someone else — someone who has nothing to lose or gain from the ticket. Clearly, in a case such as that above envisaged, Government, in terms of section 16 (1) of the Act, would rightly and properly pay the person whose name appears on the ticket, even though such person is merely an intermediary who has lent his name to the transaction. That does not mean, however, that the rights of ownership in respect of the ticket, if satisfactorily established, are to be denied the actual staker who has made use of somebody else's name: it only means that where the staker claims payment, Government would rightly maintain that, in terms of section 16 (1), the person entitled to receive payment is the person only whose name appears on the ticket.

According to section 8 of the Lotteries Act, the nom-de-plume is not an essential and indispensable requisite so far as the validity of the ticket is concerned. Nevertheless, where it has been used, a nom-de-plume may — and indeed does in certain cases — carry weight and importance. For instance, in the case where a staker has bought one ticket for himself and another in partnership with someone else, it is exactly to the nom-de-plume that one would look in order to distinguish between one ticket and the other.

It is true that actual possession of a winning ticket does not entitle the holder to draw payment of the whole or part of the prize; and it is true also that actual possession is no proof of ownership. In its application, however, the principle is not so absolute as it was held to be in the judgment appealed from. It may hold good in the case where possession pure and simple is unaccompanied by any qualifying circumstances, such as throw light on the question of ownership; but the case is different where attendant circumstances and conjecture are such as to lead to the conviction that the holder is the owner or part owner of the ticket. Thus, in the case at issue, the facts and circumstances hereunder stated are such as leave no room for doubt that Petitioner is in fact part owner of the ticket:—

(1) The fact that at least on two previous occasions Car-

mela Borg shared Lottery tickets bearing the name and address of Carmela Camilleri and the nom-de-plume of "Suor Concettina" — and that on each occasion the receipt for the tickets was kept by Carmela Borg. (Vide evidence of Petitioner and of Carmela Camilleri.)

(2) The fact that Carmela Camilleri handed over the receipt to Carmela Borg as soon as she received it — and therefore at a time when none could have foreseen that the respective ticket would secure first prize; and that the receipt remained in the possession of Carmela Borg till after the Draw. 10

(3) The fact that, on each occasion she bought tickets bearing her name and address, and the nom-de-plume of "Suor Concettina," Carmela Camilleri invariably made it known to everybody that she shared those tickets with "Tas-Sikkina."

In the Submissions filed before the Court of First Instance (to which due reference is made), Petitioner submitted that the **decisive moment** to be taken into account in determining the question at issue is that in which the tickets were purchased and the particulars filled in. Now, it has been settled conclusively and beyond all doubt that, in buying Ticket No. 115086 bearing her name and address and under the nom-de-plume of "Suor Concettina" — as agreed upon and as had been done before — Carmela Camilleri had duly carried out the precise task entrusted to her by Carmela Borg. If somehow or other, an error were incurred in connection with the other ticket (No. 115087), the fact cannot possibly impair or undo that which had been correctly done in accordance with the instructions given by the Petitioner, and the most that can be said is that Carmela Camilleri failed to carry out, or wrongly carried out, the task entrusted to her by Plaintiff. The position of Carmela Borg is in no way prejudiced by the fact that Carmela Camilleri accepted the ticket made out for her by Francis Agius — Ticket No. 115087 — without protest or objection of any sort. The point made in the judgment appealed from that Carmela Camilleri (who is illiterate) failed to make sure whether the particulars in the counterfoil of Ticket No. 115087 had been correctly filled in according to her wishes — as required by section 8 (1) of the Lotteries Act — has no bearing on the issue respecting the ownership of the winning ticket, which was issued correctly and as agreed upon: It simply exonerates Government from all responsibility — a matter, this, which is extraneous to the case at issue. 20 30 40

The Court below wrongly construed the words used by Carmela Camilleri when she told Francis Agius to write out



the ticket for her in partnership "with Tas-Sikkina as usual". Obviously, in using those words, Carmela Camilleri never meant to say that it was usual for Francis Agius to write out tickets for her; all she meant to convey was that **it was usual for her** to take Lottery tickets in partnership with Tas-Sikkina. Similarly, the Court wrongly interpreted the phrase "Another receipt has yet to be sent to us," which Carmela Camilleri used when, evidently, she had in mind the receipt for the ticket under the nom-de-plume of "Ejja naghmlu hbieb," which she  
10 shared with Plaintiff.

It is not a fact that, some time before the purchase of the ticket for the Easter Draw, Defendant had mentioned the name of Suor Concettina to Plaintiff, to whom she said that next time she would so name the ticket. That statement has been flatly denied by Carmela Camilleri. Nor is it at all likely that any such conversation had taken place. If it did take place, there would have been no reason why, before buying the ticket, Carmela Camilleri should have asked Plaintiff what nom-de-plume they should adopt, and much less for Plaintiff  
20 to answer: "Name it what you will." It is far more likely that had the matter been previously discussed between them, Plaintiff would have reminded Carmela Camilleri that the ticket should be named "Suor Concettina". It should here be mentioned that Plaintiff, in an effort to impart to her evidence some semblance of truth, affirmed that the ticket she had previously shared with Carmela Camilleri had been given the name of "Cunceziona" — a name which sounds very much like that of "Suor Concettina." The expedient resorted to by Plaintiff has availed her naught: it  
30 has deceived nobody, for it has been conclusively established that the two previous tickets had been named — one "San Giusepp" and the other "Ix-Xahar tal-Erwieh." That Plaintiff was well aware that the winning ticket bearing the nom-de-plume of "Suor Concettina" was not that which she shared with Carmela Camilleri is established by the fact that both she and her daughter (Carmela Bugeja) proceeded to congratulate Carmela Borg soon after learning through the Rediffusion that the Lottery had been won by that ticket — the ticket named "Suor Concettina." (Vide Plaintiff evidence, 9th November,  
40 1951; and Carmela Bugeja's evidence on 9th November, 1951). It should also be pointed out that Plaintiff did not say the truth when she stated in her evidence that she knew nothing that evening about the winning ticket (Plaintiff Evidence, 24th October, 1951). Actually, she had listened in to the Draw and had heard that the successful ticket was that named "Suor

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Concettina" (Vide Evidence of Carmela Bugeja, on 9th November, 1951: "My mother has Rediffusion installed in the house. I know they listened in to the Draw; **I was there at the time.** We heard the prizes announced. First prize went to the ticket named 'Suor Concettina'.")

Finally, the fact that Plaintiff knew beforehand that the ticket in which she was interested bore the nom-de-plume of "Ejja naghmlu hbieb" is established by the evidence given by Defendant on 23rd November, 1951: "I had told Maria Cassar the name that had been given to the ticket..... I told her: 'You know that the ticket we shared between us was named **Ejja naghmlu hbieb**'. She said: 'Yes, I know.....' She said: 'You have a mistake in the receipt. It has the name Borg on it'. I replied: 'I know nothing about it.' She said: 'I know mine is named **Ejja naghmlu hbieb**,' which evidence is corroborated by Sebastiana Cassar (3rd October, 1951). 10

Wherefore, producing the undermentioned surety for Costs of the action, making reference to the evidence produced and reserving the right to produce all further evidence admissible at law — and making reference to the Submissions filed on 20th May, 1952 — Petitioners humbly pray that the judgment appealed from be reversed and that Plaintiff claim be dismissed with Costs both of the First and of this Second Instance. 20

And Petitioners humbly pray that justice be administered according to law.

(Signed) GIOV. BORG OLIVIER,  
Advocate.

„ G. PACE BONELLO,  
Legal Procurator.

This Twentieth August, 1952.

Filed by G. Pace Bonello L.P. without Exhibits.

(Signed) J.N. CAMILLERI,  
Deputy Registrar.

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Co-Defendants'  
Surety Bond

**Co-Defendants' Surety Bond**

Domenico Sciortino, son of Emmanuele and of Maria née Cutajar, deceased, born at Hamrun, residing in Valetta, hereby enters an appearance and stands joint surety with Appellants, Giorgio and Carmela Borg, for Costs of this Appeal, hypothecating the whole of his present and future property in general and renouncing to every benefit accorded by law.

10 The said Domenico Sciortino has affixed his signature herein in my presence.

This Twentieth August, 1952.

(Signed) J. CAMILLERI CACOPARDO,  
Deputy Registrar.

**No. 38.**

No. 38.  
Co-Defendants'  
Substitute  
Surety Bond

**Co-Defendants' Substitute Surety Bond**

20 Giuseppe Maria Camilleri, Doctor of Laws, Advocate, son of His Honour Dr. Louis Anthony Camilleri, Chief Justice and President of Her Majesty's Court of Appeal, and of Erminia née Cali, born in Victoria, in the Island of Gozo, and residing at Sliema, Malta, hereby enters an appearance and stands joint surety with Co-defendant Appellants Carmela and Giorgio Borg for Costs of this Appeal, hypothecating the whole of his present and future property in general and renouncing to every benefit accorded by law.

(Signed) G.M. CAMILLERI

The said Giuseppe Maria Camilleri, Doctor of Laws, Advocate, has affixed his signature hereto in my presence.

This Twentieth October, 1952.

(Signed) J. CAMILLERI CACOPARDO,  
Deputy Registrar.

**Plaintiffs Respond**

In H.M. Court of Appeal

Maria Cassar and Another  
vs  
Carmela Camilleri and Others

Plaintiff Maria Cassar and her husband, Salvatore Cassar, in his capacity of head of the community of acquests, Respond to the Petition entered by Co-defendants .

Respectfully shew:—

10

Surety produced by Appellants, Carmela and Giorgio Borg, is unacceptable.

On the merits — provided an acceptable surety he produced — the judgment appealed from is fair and just and should be upheld.

In fact, whilst the Court of First Instance sifted all the evidence, and minutely examined the **whole** picture emerging therefrom, the efforts of Carmela and Giorgio Borg have, right from the beginning, been directed toward concealing an important part of the evidence. It is enough to mention that the only point raised by Co-defendants in their Submissions before the Court below was that the Court should look at the winning ticket and ignore the other. In other words, whilst the Court kept constantly before it and gave all due consideration to the fact that Carmela Camilleri had bought **two** tickets at one and the same time — thus accomplishing the two tasks entrusted to her — Co-defendants would have the Court confine its attention to the winning ticket, to the exclusion of the other ticket in the name of Carmela Borg. The consequence of that submission of Co-defendants is that Plaintiff's part, and her relations with Defendant Carmela Camilleri, should be ignored — something which evades rather than solves the issue.

20

30

It was rightly held by the Court below that Francis Agius wrote out exactly what had been dictated to him by Carmela Camilleri; and once Ticket No. 115087 (108223) was made out in the name of Carmela Borg, the inescapable conclusion is that Carmela Borg shared that ticket with Carmela Camilleri,

and that the only other ticket which had been bought — that is, Ticket No. 115086 (108222) — was held between Plaintiff and Carmela Camilleri. That argument is not only convincing, but unanswerable.

No. 39.  
Plaintiffs Respond  
—Continued

10 The examination and the weighing of the evidence by the Court below are both accurate and convincing. The incoherences and the contradictions of Defendant Carmela Camilleri could not but have left a profound impression on all who heard and followed the oral evidence. Those contradictions have been adequately stressed in the judgment appealed from and in the Submissions filed by Plaintiff Respondents. The reasons which may have prompted Defendant to give her version of the story have also been made abundantly clear by the Court below.

20 Co-defendants, quoting evidence, have not been altogether accurate. For instance, it is incorrect to say that witness Carmela Bugeja stated in evidence that Plaintiff had heard the result of the Draw on the Rediffusion. The actual words used by witness, which are also quoted, show otherwise: “My mother has Rediffusion installed in the house. I know they listened in to the Draw; I was there at the time.” That does not mean that the Plaintiff was there too — and it has in fact been clearly established that she was not. It is also incorrect to say that Plaintiff congratulated Defendant. It was Carmela Bugeja who said something about being glad when told by Carmela Camilleri she had won the Lottery.

30 In their Petition, Co-defendants avoided all reference to the principal argument which led to the conclusions arrived at by the Court of First Instance. The judgment on appeal, in fact, is based partly on the results that emerge from an **objective** examination of the tickets as issued and partly on the inconclusiveness of the evidence produced by Defendants — which evidence, in the view of the Court below, is also suspect for the greater part of it. Co-defendants made no effort to deny that the tickets, objectively examined, disprove the case they have sought to make out. They would have the Court look only at one ticket and the allegedly intimate relations between Defendants — as if what happened between them after the tickets were purchased could possibly affect the rights of Plaintiffs.

40 Plaintiff Respondents therefore respectfully pray that the Appeal be declared abandoned and — should suitable surety be produced — that the judgment appealed from be upheld and the Appeal dismissed on the grounds set out above and those

No. 39  
 Plaintiffs Respond  
 —Continued

set out in the judgment and in their Submissions. — With Costs both of the First and of this Second Instance against Appellants.

(Signed) TOM. FENECH,  
 Advocate.  
 „ J.M. GANADO,  
 Advocate.  
 „ G. GALDES,  
 Legal Procurator.

This Twenty-fourth September, 1952.

Filed by G. Galdes L.P. without Exhibits.

10

(Signed) J. CAMILLERI CACOPARDO,  
 Deputy Registrar.

No. 40.  
 Co-Defendants  
 Respond

**No. 40.**  
**Co-Defendants Respond**

In H.M. Court of Appeal.

Maria Cassar and Another  
 vs  
 Carmela Camilleri and Others

Co-defendants, Giorgio and Carmela Borg, Respond to the Petition entered by Defendant Appellant, Carmela Camilleri. 20

Respectfully shew:—

The Appeal entered by Defendant Carmela Camilleri should be upheld and the judgment appealed from reversed — and this on the grounds submitted in the Petition to this Court of Appeal and on the grounds that shall be submitted during the oral proceedings.

(Signed) F. CREMONA,  
 Advocate.  
 „ G. PACE BONELLO,  
 Legal Procurator. 30

This 25th September, 1952.

Filed by G. Pace Bonello L.P. without Exhibits.

(Signed) J. DEBONO,  
 Deputy Registrar.

**Plaintiffs Respond**

In H.M. Court of Appeal.

Maria Cassar and Another  
vs  
Carmela Camilleri and Others.

10 Plaintiffs (Respondents) Maria Cassar, and her husband, Salvatore Cassar, in his capacity of head of the community of acquests, Respond to the Petition entered by Defendant Appellant, Carmela Camilleri.

Respectfully shew:—

Surety produced by the Defendant Appellant is refused on the ground of unsuitability and Appeal should therefore be declared abandoned.

On the merits — provided acceptable surety be produced — the judgment appealed from is fair and just and should be upheld.

20 Respondents beg leave to make reference to their submissions in answer to the Petition to this Court of Appeal entered by the Co-defendants, Giorgio and Carmela Borg.

30 However, it may also be observed that, in order to determine the question of ownership of the tickets, the decisive moment to be taken into account is that in which the tickets were purchased. Once, at that moment, Respondent Maria Cassar held a share in the winning ticket, all that may have happened afterwards becomes irrelevant. Appellant alleges that an error was incurred in filling in the particulars, but Francis Agius, a disinterested witness, categorically denies any such possibility. Further, the alleged error, even if incurred in actual fact, leads nowhere: either the pseudonym of “Suor Concettina” should have been entered in the unsuccessful ticket in which the name of Carmela Borg appears, or the name of Carmela Borg should have been entered on the winning ticket. In the first case, Carmela Borg would have been left out of it altogether — and only in the second case would she have been entitled to claim the prize. Clearly, however, in order to determine who actually won the prize, one must not resort to transposing names from one ticket to another.

40 It should be noted that Appellant Carmela Camilleri has not made the slightest attempt to explain away the contradic-

No. 41.  
Plaintiffs Respond  
—Continued

tions and the palpable inexactitudes to be found in her evidence. As rightly observed by the Court of First Instance, those contradictions reveal the animus of Carmela Camilleri towards Respondent Maria Cassar.

On these grounds, and on the grounds stated in their Submissions — no less than on the grounds set out in the judgment appealed from — Respondents respectfully pray that the Appeal entered by Defendant Carmela Camilleri be dismissed and that the judgment appealed from be upheld with Costs both of the First and of this Second Instance.

10

(Signed) TOM. FENECH,  
Advocate.  
„ J.M. GANADO,  
Advocate.  
„ G. GALDES,  
Legal Procurator.

This 24th September, 1952.

Filed by G. Galdes L.P. without Exhibits.

(Signed) J. DEBONO,  
Deputy Registrar. 20

No. 42  
Defendant  
Responds

## No. 42

### Defendant Responds

In H.M. Court of Appeal.

Maria Cassar & Another  
v  
Carmela Camilleri & Others

Defendant Carmela Camilleri responds to the Petition filed by Giorgio and Carmela Borg.

Respectfully sheweth:—

Defendant concurs with the arguments submitted by Co-defendant Appellants against the judgment delivered by the Court of First Instance, against which she too has entered Appeal.

30



Defendant therefore makes reference to the principal Appeal entered by her and prays that the judgment appealed from be reversed with Costs against Plaintiffs.

No. 42  
Defendant  
Responds  
—Continued

(Signed) G. PACE,  
Advocate.  
„ JOS. D'AMATO,  
Legal Procurator.

This Twenty-sixth September, 1952.

Filed by Jos. D'Amato L.P. without Exhibits.

10

(Signed) J. DEBONO,  
Deputy Registrar.

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**No. 43**

**Evidence — 24th October 1952**

**Co-Defendant Carmela Borg**

No. 43  
Evidence —  
24th Oct., 1952  
Co-Defendant  
Carmela Borg

In H.M. Court of Appeal.

24th October, 1952.

Carmela Borg, at her own request, states on oath:—

20 About six days after the Court of First Instance gave judgment in this case, whilst I was on my way to visit my mother-in-law, I met Giorgia Scerri. Giorgia Scerri asked me how it happened that I had succumbed in litigation. I replied: "How could it be otherwise, seeing that, giving evidence, she called a door a window."

Giorgia Scerri asked me to explain and I told her I had succumbed because Maria Cassar had stated in her evidence that she had named her ticket "Suor Concettina", just as I had myself.

30 Then Giorgia Scerri went on to tell me that, eight days after we had won the Lottery, she met Maria Cassar and told her: "What, you are going to Court! Was it not Carmela Borg and Carmela Camilleri, then, who won the Lottery?" Maria Cassar said to her: "Oh, no, they did'nt — not when I hold Carmela Borg's receipt."

Giorgia Scerri then asked her where her own receipt was to be found, and Maria Cassar told her she had left it with Carmela Camilleri, explaining that she had several other receipts

No. 43.  
Evidence —  
24th Oct., 1952  
Co-Defendant  
Carmela Borg  
—Continued

to look after and had thought she might lose that one. So Giorgia Scerri remarked: "What matters if Carmela Camilleri happens to have the receipt — you do not know the name your ticket bore?" And Maria Cassar replied: "Yes, Carmela Camilleri and I named the ticket 'Ejja naghmlu hbieb'." She went on to tell her they had so named the ticket ("Ejja naghmlu hbieb" — "Let us be friends") because a cousin of Giorgia Scerri, who was employed with Maria Cassar, had quarrelled with Carmela Camilleri and had then patched up the quarrel; — that is to say, Maria Cassar had quarrelled with Carmela Camilleri on account of Giorgia Scerri's cousin, the reason being that Maria Cassar used to provide meals to Giorgia Scerri's cousin, and Carmela Camilleri, working in the same place, was jealous of the fact.

10

### Cross-Examination

Judgment in the action was given on a Wednesday and I think this conversation took place on the following Tuesday.

I met Giorgia Scerri, and had that conversation with her, at about six in the evening. I did not repeat that conversation with her to anyone.

20

When Giorgia Scerri told me of her conversation with Maria Cassar, I asked whether she would be prepared to repeat it in evidence before the Court; and she said she was prepared to do so.

I told my husband of that conversation.

The following day, or the day after, I took Giorgia Scerri to Dr. Camilleri so that she might repeat that conversation in his presence.

Although they had quarrelled, Carmela Camilleri continued working for Plaintiff.

30

Giorgia Scerri's cousin left the employment of Maria Cassar because she was getting married and Carmela Camilleri continued working for Maria Cassar. Giorgia Scerri's cousin has a baby now about eight months old.

(Signed) CARMELA BORG

Read over to witness.

„ J.N. CAMILLERI  
D/Registrar.

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**Evidence — 17th Nov. 1952.**  
**Co-Defendant Carmela Borg.**

No. 44  
 Evidence —  
 17th Nov. 1952  
 Co-Defendant  
 Carmela Borg

In H.M. Court of Appeal

17th November, 1952.

Carmela Borg, produced by Plaintiff, states on oath:—

The conversation with Giorgia Scerri, mentioned by me in my evidence before this Court, took place in the street outside Giorgia Scerri's house at No. 245, Victory Street.

10 The last time I saw Giorgia Scerri was last Friday at about 8 in the evening.

That evening, last Friday, I was accompanying my son, who is eight years old. The boy had pains in the stomach and was crying. Giorgia Scerri asked me what was the matter with the boy and I told her he had stomach-ache.

She asked me to go in, but I did not want to, because I had noticed Maria Cassar's children near by and I imagined they would be saying I had been visiting her.

20 Giorgia Scerri said to me: "Never mind, come in. It is more important to see what is wrong with the boy — and never mind about the lawsuit."

I took the boy in and she told me she would not let me go before the boy was feeling better. I was in her house for about an hour. In the meantime the boy went to sleep.

She offered to go and tell my husband to bring the car round for the boy, but I told her she had better not because it might alarm my husband.

When I left the house, Maria Cassar's children were still there.

30 On my way out, Giorgia Scerri offered to come and see me home, but I declined and thanked her.

I heard Maria Cassar's children whistle and say something to the effect that they had found me out, but I took no notice and went on my way.

When I went for the boy, I passed by Giorgia Scerri's house, but Giorgia Scerri was not there at the time. That is the street

No. 44  
Evidence —  
17th Nov. 1952  
Co-Defendant  
Carmela Borg  
—Continued

I usually take. It is not shorter to the place where I wanted to go to by way of St. Francis Square.

My father-in-law lives at No. 60, St. Bartholomew Street.

On my way back, I was holding the boy close to me, for he was in pain. When I left Giorgia Scerri, the boy was asleep and I carried him in my arms.

On leaving her, I went straight on and did not cross over to the sidewalk on the other side of the street.

On this occasion, nothing was said between Giorgia Scerri and myself about the lawsuit. 10

During the time I was inside her house, I was not thinking of it, but of the boy who, as I said, was in pain.

(Signed) CARMELA BORG.

Read over to witness.

(Signed) S. BUGEJA,  
Deputy Registrar.

18. 11. 52.

No. 44  
Evidence —  
17th Nov. 1952  
Giorgia Scerri

**Giorgia Scerri.**

In H.M. Court of Appeal.

17th November, 1952. 20

Giorgia Scerri, produced by Co-defendant, Carmela Borg, states on oath:—

I live at Victory Street, Qormi.

Some ten days after the Draw of the Lottery, I met Plaintiff, Maria Cassar, and said to her: "So it's you who has won the Lottery — not Tas-Sikkina (Carmela Borg)." She replied by saying she was not in possession of the ticket and that she had given it to Carmela Camilleri to keep — for it was she who had had the ticket made out. She said she had named her ticket "Ejja naghmlu ħbieb." ("Let us be friends"). 30

I then asked her: "Why, had you quarrelled?" She answered: "Not exactly, but sometimes we do not see eye to eye about my brother's daughter, Nina, to whom sometimes she was a little too partial."

She went on to say that the main thing was that she had the ticket in her possession and that her Legal Adviser had cautioned her not to lose possession of it — for it would enable her to prove she was the winner.

One day — it was after the Court of First Instance had given judgment in the action — I met Carmela Borg. She came to speak to me because we had suffered the loss of a five-year old child. Whilst we were talking, we turned to the subject of the lawsuit, and I asked her whether it was true she had succumbed.

No. 44  
Evidence —  
17th Nov. 1952  
Giorgia Scerri  
—Continued

10 She replied it was true and so I said to her: "Then it has not been decided on your ticket but on the other we named 'Ejja naghmlu ħbieb' and not on the ticket named 'Suor Concettina!'"

I then gave her an account of the conversation I had had with Maria Cassar, about which I have already testified.

### Cross-Examination

When I spoke to Maria Cassar the first time, about ten days after the Draw of the Lottery, the action had already been instituted.

When I spoke to Carmela Borg, that same action had already been decided by the Court of First Instance.

20 During my conversation with her, Maria Cassar did not mention Carmela Borg. She only said that she shared the ticket with Carmela Camilleri and that she had named it "Ejja naghmlu ħbieb."

Carmela Borg states she had named her ticket "Suor Concettina."

Maria Cassar had said to me that Carmela Camilleri had told her she had named her ticket (the ticket shared between Maria Cassar and Carmela Camilleri) "Ejja naghmlu ħbieb."

30 My niece was in Maria Cassar's employment until she was married or until just before; and she has now been married for two years or more and has a one year old baby.

During my conversation with Carmela Borg she said in answer to my question that she had named her ticket "Suor Concettina." She also told me she had succumbed because Maria Cassar had stated in her evidence that her ticket also bore the name "Suor Concettina."

Last Friday, I saw Carmela Borg pass in front of my house. She had with her a small boy who was crying profusely. I called out to her and asked her why the boy was crying and she said

No. 44  
Evidence —  
17th Nov. 1952  
Giorgia Scerri  
—Continued

it was because he had stomach-ache. I asked her to come into my house to see if we could do anything for him.

As soon as we brought him in, the boy relieved himself. Then we massaged his stomach and laid him on a bed. Soon after the boy fell asleep. She stayed waiting on the off-chance that her husband might drive down the street blowing his horn and that we would then call out to him to collect the boy — who was a big boy to carry.

When, at about quarter past nine, there was still no sign of her husband, I suggested I should go and tell her people to come for her and the boy; but she did not agree to this and, picking up the boy, she left to go home. 10

When we opened the door, there were outside Maria Cassar's son and a man who is married in Maria Cassar's family. They addressed insulting words to us and they said to me: "Thank you, thank you, thank you." I took no notice of them.

Carmela Borg went on her way and I shut the door. On this occasion, not a word was said about the lawsuit. When Carmela Borg left my house, she stepped off the pavement and walked away up the street. I heard no doors being shut when I opened my own door. 20

GIORGIA SCERRI — Her Mark.

Read over to witness.

(Signed) S. BUGEJA,  
Deputy Registrar.

18. 11. 52.

No. 44  
Evidence —  
17th Nov. 1952  
Henry Frendo

**Henry Frendo.**

In H.M. Court of Appeal.

17th November, 1952. 30

Henry Frendo, produced by Plaintiff, states on oath:—

I produce the two certificates referred to in the sub-poena served on me.

Read over to witness.

(Signed) J.N. CAMILLERI,  
Deputy Registrar.

**Plaintiff Maria Cassar.**

In H.M. Court of Appeal.

17th November, 1952.

No. 44  
Evidence —  
17th Nov. 1952  
Plaintiff  
Maria Cassar

Maria Cassar, at her own request, states on oath:—

It is a fact I met previous witness, Giorgia Scerri, about ten days after the Draw of the Lottery.

The conversation I had with her took place outside the door of her house. She asked me what had happened about the Lottery. She said: "So it is you who won the Lottery together  
10 with Carmela Camilleri?" I replied: "See what happened — she and I won the Lottery together with the ticket named Suor Concettina and she insists that it was the ticket Ejja naghmlu hbieb that I shared with her.

I told her also that Carmela Camilleri had stated she had bought only one ticket, the one she shared with me, and that she had bought no other tickets in partnership with anyone else. I also told her that Carmela Camilleri had said to me that she would name the ticket also "Suor Concettina."

That was all we said to each other and we mentioned  
20 neither the girl nor anything else.

Nina, niece of Giorgia Scerri, left my employment about this time two years ago when she became engaged.

**Cross-Examination.**

In my conversation with her, I also told Giorgia Scerri that we had already gone to Court.

I also told her that, when the Lottery was drawn, I had nothing in my possession — that I had sent to ask Carmela Camilleri for the receipt and that Carmela Camilleri had sent me a receipt bearing the name of Carmela Borg and the address  
30 of Carmela Camilleri and the nom-de-plume of "Ejja naghmlu hbieb."

When she sent that receipt, I sent it back with one of my sons with a message to the effect that the receipt bore the name of Carmela Borg and the address of Carmela Camilleri. I stated all this in my evidence before the Court below.

I did not tell Giorgia Scerri I had kept the ticket in my possession because my Legal Adviser had cautioned me to do so.

Lately, I was told by my son and my son-in-law that Carmela Borg had gone into the house of Giorgia Scerri at about

No. 44  
Evidence —  
17th Nov. 1952  
The Plaintiff  
Maria Cassar  
—Continued

quarter to eight in the evening and had stayed there till quarter to ten. They did say Carmela Borg had a boy with her, but they did not tell me the boy was crying. My son told me that, when Carmela Borg came out of the house, he said to Giorgia Scerri: "Thank you very much — Good evening."

Giuseppa Saliba, the ticket-seller, did tell me at the outset that Carmela Camilleri had bought two tickets for that Lottery.

Giuseppa Saliba told me so the day after the Draw of the Lottery. She told me Defendant had taken one ticket in partnership with me under the nom-de-plume of "Ejja naghmlu hbieb," and the other in partnership with Carmela Borg under the nom-de-plume of "Suor Concettina." I answered that Carmela Camilleri had told me that she had bought only one ticket, the one she shared with me — and that she would name it "Suor Concettina."

10

This conversation with Giuseppa Saliba took place on the day after the Draw at about ten o'clock in the morning.

Giuseppa Saliba confirmed what she had told me before, namely, that one ticket, that which she shared with me, was made out for Carmela Camilleri and named "Ejja naghmlu hbieb," and the other, that in partnership with Carmela Borg, was also made out for Carmela Camilleri but with the nom-de-plume of "Suor Concettina."

20

Giuseppa Saliba told me to take her word for it and not to move in the matter — that is to say, not to start litigation.

I took tickets in partnership with Carmela Camilleri on other occasions and we named those tickets after some saint or other. Subsequently she told me of the death of a certain nun and of the many miracles that were being ascribed to her. So when we agreed to buy this ticket together, she suggested we should name it after that nun.

30

About four days later, she asked me whether I wanted to get the ticket. She asked me what name I wished to give it and I answered: "Name it what you will — to your heart's content."

At the last Sitting, Giorgia Scerri was in the corridors of these Courts and I saw her in conversation with Carmela Borg and Dr. Camilleri.

(Signed) MARIA CASSAR.

Read over to witness.

(Signed) J.N. CAMILLERI,  
Deputy Registrar.

40



**Professor F. Cremona LL.D.**

In H.M. Court of Appeal.

17th November, 1952.

No. 44  
Evidence —  
12th Nov. 1952  
Professor  
F. Cremona LL.D.

Professor F. Cremona LL.D., on behalf of the Defendant, states on oath:—

At the last Sitting, I was asked by the Court whether witness Giorgia Scerri was in Court and I answered I did not know.

Some time before that Sitting, Dr. Camilleri informed me about that witness and we agreed to ask leave of the Court to  
10 produce her.

Early in the morning, at about 9 a.m., Dr. Camilleri told me that witness, Giorgia Scerri, was in Court; and I replied there was no need for her to stay, seeing that we were not sure the Court would grant us leave to produce her, and that, if the Court would, we could always serve her with a sub-poena.

I think that is the reason I gave the Court to understand Giorgia Scerri was not present in Court on that day.

**No. 45****Evidence — 5th Dec. 1952.****Henry Frendo**

No. 45  
Evidence —  
5th Dec., 1952  
Henry Frendo

20

In H.M. Court of Appeal.

5th December, 1952.

Henry Frendo, produced by Plaintiff, states on oath:—

I produce the Statement referred to in the sub-poena.

**Joseph Cassar.**

In H.M. Court of Appeal

5th December, 1952.

No. 45  
Evidence —  
5th Dec., 1952  
Joseph Cassar

Joseph Cassar, produced by Plaintiff, states on oath:—

I am a son of Maria Cassar, Plaintiff. About three weeks ago — that is to say, three days before Giorgia Scerri testified  
30 before this Court — I was sitting outside on the doorstep in the evening when I saw Carmela Borg come down the street accompanied by a boy.

No. 45  
Evidence —  
5th Dec., 1952  
Joseph Cassar  
—Continued

The time was about 7.15 p.m.

Giorgia Scerri was talking to neighbours. In passing, Carmela Borg looked towards her. They then nodded to each other. Carmela Borg continued on her way and Giorgia Scerri went in and sat down behind the door of her house.

I suspected that Carmela Borg wanted to go to Giorgia Scerri's house, but that, on account perhaps of the people outside, she had put it off for the moment.

So I went home and watched from my balcony.

At about 7.45 p.m., I saw Carmela Borg come up the street together with the boy. On reaching Giorgia Scerri's door, she looked about her and then went into the house. Seeing this, I went down and again sat outside on the doorstep. As soon as they noticed me on the doorstep, they pushed the door further, leaving it only just ajar. 10

About a quarter of an hour or half an hour later, Francesco Buhagiar, my brother-in-law, came driving down the street. I stopped him and asked him where he was going to and he said he was on his way to take a disabled car in tow. He in turn asked me what I was doing there and I explained that Carmela Borg had gone into Giorgia Scerri's house and I was watching them. 20

Francesco Buhagiar drove on in his car. He came back a little later and found me still sitting outside on the doorstep. He sat down beside me and we waited together to see at what time Carmela Borg would come out of Giorgia Scerri's house.

Carmela Borg came out of the house at quarter to ten, holding the boy close to her. She darted across to St. Edward's Street, which is opposite to Giorgia Scerri's house. She did not however go by St. Edward's Street, but kept to the side-walk on the shadowy side of the street — that is to say, that side of the street which faces Giorgia Scerri's house. And she walked up the street. 30

I said to Giorgia Scerri: "Good evening, Giorgia, and thank you very much for the conference this evening," I said so to her two or three times over. We followed Carmela Borg as far as the alley. When she reached the alley, she put the boy down on his feet and the boy walked on beside her. I did not hear that boy cry either before she entered Giorgia Scerri's house or after she left. 40

Before Carmela Borg left Giorgia Scerri's house, I, on the

suggestion of my brother-in-law, knocked at my own door and immediately opened it again. Then I saw her act as I have described.

No. 45  
Evidence —  
5th Dec., 1952  
Joseph Cassar  
—Continued

By St. Francis Square, it is a five minutes walk from Carmela Borg's house to the house where her father lives. If you go by Victory Street, however, it takes nine minutes. My brother-in-law and I measured the distance on purpose.

**Cross-Examination by Dr. J. Pace.**

10 I am Maria Cassar's son. Carmela Borg's father is dead, but her father-in-law is still living.

Before going into Giorgia Scerri's house, Carmela Borg was talking to the wife of a man named Consolato and another woman who lives about two doors away from her own house.

I have been living in that street for about three years.

(Signed) JOSEPH CASSAR,

Read over to witness.

(Signed) J. MICALLEF,  
Deputy Registrar.

**Francesco Buhagiar.**

No. 45  
Evidence —  
5th Dec., 1952  
Francesco Buhagiar

20 In H.M. Court of Appeal.

5th December, 1952.

Francesco Buhagiar, produced by Plaintiff, states on oath:—

I am married to Plaintiff's daughter.

About two or three weeks ago, at 7.30 p.m., I saw previous witness Joseph Cassar sitting outside on the doorstep of his house, which faces Giorgia Scerri's house. I asked him what he was doing there and he said that Carmela Borg had gone into Giorgia Scerri's house. I drove on to Birkirkara.

30 When I came back, I found Joseph Cassar still in the same place. In the meantime, some twenty minutes had gone by. I sat on the doorstep next to Joseph Cassar.

Joseph Cassar told me that Carmela Borg was still in the house. We waited and watched for about half-an-hour. Then I suggested to Joseph Cassar that he should go into his house, open the door, bang it and gently open it again. Immediately

No. 45  
Evidence —  
5th Dec., 1952  
Francesco Buhagiar  
—Continued

he did so, Carmela Borg opened the door of Giorgia Scerri's house, came out and walked up the street. As soon as she reached the alley next to our house, she put the boy down and the boy walked beside her.

### Cross-Examination.

She put down the boy after she had carried him for a distance equal about to that between the building of these Courts and the Valletta market.

The boy is about 7 or 8 years old.

(Signed) F. BUHAGIAR. 10

Read over to witness.

(Signed) J.N. CAMILLERI,  
Deputy Registrar.

No. 45  
Evidence —  
5th Dec., 1952  
Co-Defendant  
Carmela Borg

### Co-Defendant Carmela Borg.

In H.M. Court of Appeal.

5th December, 1952.

Carmela Borg, produced by Plaintiff, states on oath:—

On the day of the Draw of the Lottery, I had two tickets in my possession, my own and my husband's. My own ticket was that with the nom-de-plume of "Suor Concettina." The nom-de-plume of my husband's ticket was "Indiana." 20

I kept a copy-book in which to write down the numbers of the ticket drawn as announced on the Rediffusion. The receipt for the "Suor Concettina" ticket is in my possession. I filed it in the Court of First Instance.

I did not put down anything in the copy-book, because as soon as it was announced that the first ticket drawn was named "Suor Concettina," I went wild with joy and told the others: "I don't want to win anything more now!"

As regards my husband's ticket, both the ticket and the receipt were under my charge, but I held in my hand only the receipt. 30

I heard witnesses Joseph Cassar and Francis Buhagiar testify. It is not true I had the boy with me when I first went down the street. At that time, the boy was with his father.

(Signed) CARMELA BORG.

Read over to witness.

(Signed) S. BUGEJA,  
Deputy Registrar.

**Co-Defendant Giorgio Borg.**

No. 45  
Evidence —  
5th Dec., 1952  
Co-Defendant  
Giorgio Borg

In H.M. Court of Appeal.

5th December, 1952.

Giorgio Borg, produced by Carmela Borg, states on oath:—

I am Carmela Borg's husband.

10 One day about three weeks ago, the boy was with me. As he was crying, and I thought he wanted to go somewhere, I sent him back home with his mother. When I went home in the evening, my wife told me the boy had had pains in the stomach, and that, passing by Victory Street, Giorgia Scerri had called out to her and taken her into her house.

**Cross-Examination.**

That evening, I went home at about ten o'clock. That is the time I usually go home. I am a bus driver on the Zebbug route. I go back home as soon as I finish my work for the day. I cannot say exactly at what time I went home that evening. Sometimes I return home after 10, sometimes at 9.30 and sometimes even at 8.30. When I went home that evening, my wife was there already.

20 It was getting dark when, as I have already stated, I left the boy with my mother — when he was crying and my wife took him back home. I cannot say at what time my wife collected the boy. He had no school that day and he had been out with me a long time.

I do not remember what day of the week it was. Nor do I remember exactly how long ago. I brought away the boy from my own house and then took him to my mother. There I found my wife. As he was crying, I told my wife to take him back home.

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Read over to witness.

(Signed) GEORGE BORG.

(Signed) S. BUGEJA,  
Deputy Registrar.

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No. 46  
Plaintiffs'  
Application

**No. 46**

**Plaintiffs' Application.**

In H.M. Court of Appeal.

Maria Cassar and Another  
vs  
Carmela Camilleri and Others

**Plaintiffs' Application**

Respectfully shew:—

Plaintiffs wish to produce the annexed Minute in order to explain a misunderstanding which arose in the course of the proceedings. 10

Plaintiffs therefore respectfully pray that they be granted leave to file the annexed Minute.

(Signed) J.M. GANADO,  
Advocate.  
„ G. GALDES,  
Legal Procurator.

This Thirteenth December, 1952.

Filed by G. Galdes L.P. with a Minute.

(Signed) J. CAMILLERI CACOPARDO, 20  
Deputy Registrar.

No. 47  
Plaintiffs'  
Minute

**No. 47.**

**Plaintiffs' Minute.**

In H.M. Court of Appeal.

Maria Cassar and Another  
vs  
Carmela Camilleri and Others

**Plaintiffs' Minute.**

Respectfully shew:—

With reference to their counter-submissions filed by the undersigned, and in order to avoid any misunderstanding, 30

Plaintiffs wish to make reference to the following extract from the judgment appealed from, in regard to which certain submissions have been made:—

No. 47  
Plaintiff's  
Minute  
—Continued

10 “As to any reasons Defendant may have had for preferring to share the prize with Plaintiff or with Carmela Borg, nothing can be said. **It may not be amiss to mention, however, that Defendant left employment with Plaintiff because of her quarrel with Plaintiff's son, on which occasion she chased and threatened Plaintiff's son with a knife, — that, subsequently, she and Plaintiff fell out with each other.....**”

(Signed) J.M. GANADO,  
Advocate.

Seen.

(Signed) G.M. CAMILLERI, Advocate  
on behalf of Carmela Borg.  
„ G. PACE, Advocate  
on behalf of Carmela Camilleri.

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No. 48.

No. 48  
Judgment, H.M.  
Court of Appeal

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**Judgment, H.M. Court of Appeal**  
**HER MAJESTY'S COURT OF APPEAL**  
(Civil Hall)

Judges:—

His Honour L.A. Camilleri LL.D. President  
The Honourable Mr. Justice A.J. Montanaro Gauci LL.D.  
The Honourable Mr. Justice W. Harding B.Litt., LL.D.

Sitting held on Monday, Twelfth  
January 1953.

No. 8

30 **Writ-of-Summons No. 547/51.**

Maria, the wife of Salvatore Cassar, acting with her husband's concurrence and consent, and, where necessary, the said Salvatore Cassar, in his capacity of head of the community of acquests.

versus

Carmela Camilleri; — and Carmela Borg and her husband Giorgio Borg, joined as parties to the suit by Decrees dated 3rd and 24th October, 1951.

The Court,

Having seen the Writ-of-Summons, whereby Plaintiff, premising: That Plaintiff and Defendant held between them an equal stake in a ticket on the National Lottery, Malta; — that, in the respective Draw, which took place on 17th June, 1951, the Ticket so held between them secured First Prize of £13,000; — and that Defendant has refused to acknowledge and has denied that the winning ticket was that which she held jointly with Plaintiff; — prayed that; — every necessary ruling being prefaced and any expedient order being given; — it be ruled that Plaintiff is entitled to a one-half share of the aforesaid prize of £13,000. — Saving her rights in respect of the payment of the sum due, and without prejudice to any other action, Civil as well as Criminal. With Costs, including those of the garnishee order of 19th June, 1951. 10 20

Having seen Plaintiff Statement.

Having seen Pleadings wherein Defendant submitted that Plaintiff claims are groundless in that the winning ticket, bearing the nom-de-plume of "Suor Concettina", was held between Defendant and one, Carmela Borg and not between Defendant and Plaintiff who, in fact, shared another ticket with the Defendant, that bearing the nom-de-plume "Ejja nagħmlu ħbieb."

Having seen Defendant Statement.

Having seen the Exhibits produced by Defendant together with her Pleadings. 30

Having seen the Decree delivered on 3rd October, 1951, whereby Carmela Borg, on Defendant's Application, was joined as a party to the suit.

Having seen the Pleadings of Carmela Borg, wherein she submitted (1) That her husband, Giorgio Borg, is the person who should have been called as a party to the suit, and that, in any case, he has not even been called for his concurrence and consent — (2) that, on the merits, and without prejudice to the preliminary plea submitted above, Plaintiff claim is untenable, 40



in that the winning ticket in the National Lottery draw of 17th June, 1951 was held between her, Carmela Borg, and Defendant Carmela Camilleri. — Without prejudice to other pleas.

No. 48  
Judgment, H.M.  
Court of Appeal  
—Continued

Having seen the Statement of Carmela Borg.

Having seen the Decree delivered on 24th October, 1951, whereby Giorgio Borg, the husband of Carmela Borg, was joined as a party to the suit.

10 Having seen the Pleadings of Giorgio Borg, submitting that Plaintiff claim should be dismissed on the grounds submitted in the Pleadings of his wife Carmela Borg.

Having seen the Statement of Giorgio Borg.

Having seen the Judgment delivered by Her Majesty's Civil Court, First Hall, on 30th July, 1952, allowing the claim as advanced in the Writ-of-Summons, with Costs, including those reserved, against Defendant, with the exception of Costs of the parties joined in the suit, who were ordered to bear their own Costs.

That Court having considered:—

20 That Defendant Carmela Camilleri had been employed with Plaintiff up to 14th May, 1951 when she left after having quarrelled with Plaintiff's son. Some little time before she left her employment with Plaintiff, Defendant had purchased two tickets for the National Lottery Draw to be held in Easter, 1951, sharing one ticket with Plaintiff, and the other with Co-defendant Carmela Borg. The two tickets were acquired by her from a shop conducted by Carmelo and Giuseppa Saliba, both of whom are illiterate and, at the time the tickets were purchased, Carmelo Saliba was abroad. Whereas Carmela Camilleri too is illiterate, the required particulars on both tickets were filled in for her by one Francis Agius, who happened to be on the premises at the time. The tickets bore Numbers 115086 and 30 115087. The first, No. 115086, was in the name of "Carmela Camilleri, 49, St. Catherine Street Qormi, Malta" and bore the nom-de-plume of "Soru Kungetina." The other, No. 115087, was made out to "Carmela Borg, 49, St. Catherine Street, Qormi, Malta" and bore the nom-de-plume of "Ejja naghmlu ħbieb."

40 That the counterfoils of the two tickets were returned to the Head Office of the National Lottery after the closing date fixed by the Regulations. They were therefore declared invalid for the forthcoming Easter Draw and, according to law, the Director of the Public Lotto issued to the holders two other tickets in lieu, valid for the National Lottery Draw to take

No. 48  
Judgment, H.M.  
Court of Appeal  
—Continued

place the following June. The new tickets were numbered 108222 and 108223. Ticket No. 108222 replaced that bearing No. 115086; with all the respective particulars, and ticket No. 108223 replaced that bearing No. 115087, likewise with all the respective particulars. In the National Lottery Draw held in June, 1951, Ticket No. 108222, bearing the particulars above-mentioned, secured First Prize. Plaintiffs claim that the winning ticket was held in equal shares between Plaintiff Maria Cassar and Defendant and are seeking a judicial ruling to that effect. Defendant, supported by the party joined in the suit, maintains that the ticket which Plaintiff shared with her was the one bearing No. 108223, and not the winning ticket which, in fact, was held in equal shares between her and Carmela Borg.

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That all concurred that Carmela Borg had bought no tickets herself for the above-mentioned draw of the National Lottery and that the two tickets in question had been bought by Defendant Carmela Camilleri. All likewise concurred that Defendant had bought **only** those two tickets, sharing **one** with **Plaintiff** and **the other** with **Carmela Borg**, Defendant as herself stated in evidence that she had asked Francis Agius to fill in for her one ticket in partnership with "Tas-Sikkina" (the nick-name of Carmela Borg) and another in partnership with "Tal-ghagin" (the nick-name of Plaintiff Maria Cassar). The reasonable inference to be drawn is that Ticket No. 108223 was taken by Defendant jointly with Carmela Borg, and that Ticket No. 108222 was taken by Defendant jointly with Plaintiff — regard being had to the fact that, whilst Ticket No. 108223 bore the name of Carmela Borg and the address of Defendant, the other, No. 108222, bore both the name and address of Defendant aforesaid.

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That, according to Carmela Camilleri, the nom-de-plume of the winning ticket, "Suor Concettina," had been agreed upon by her and by Carmela Borg — so much so that Carmela Borg had herself kept the ticket from beginning to end until the Draw. However, all other circumstances apart, and setting aside the fact that, although Plaintiff left it to Defendant herself to choose the nom-de-plume of the ticket taken between them, Defendant had informed Plaintiff that she would probably have the ticket named "Suor Concettina" — the nom-de-plume and the actual possession of the ticket do not constitute ownership within the meaning of the law relating to Government Lotteries. Section 16 (1) of Act No. XXVI of 1948 (the Government Lotteries Act, 1948) provides that: Every prize shall be paid or remitted to the person only whose name,

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- surname and address are shown on the respective counterfoil drawn..." According to law, therefore, that person is the owner of the ticket, independently of the nom-de-plume and independently of the fact as to whether or not he is in possession of the ticket. Thus, if the winning ticket had been ticket No. 108223, the prize, according to law, would have been payable to Defendant and to Co-defendant as owners thereof — to the former, because the address shown on the ticket was her own, to the latter, because her name and surname appeared thereon.
- 10 The fact therefore that the winning ticket was in her possession does not of itself entitle Co-defendant to the respective prize, or any part thereof. Nor does the nom-de-plume appearing on the ticket constitute any right to a prize or of ownership. According to section 8 (1) of the Act, the nom-de-plume on a National Lottery ticket is not a sine qua non requisite and the essential particulars required are only the name and surname and address of the staker. It follows therefore that no importance need be attached to the fact that Co-defendant had agreed with Defendant to name the ticket "Suor Concettina" —
- 20 she having some connection with that name, whilst Plaintiff had none. Carmela Borg is not entitled to the sole and exclusive use of the pseudonym "Suor Concettina," as she seems inclined to assume. Apart from the fact, duly established in evidence, that the name "Suor Concettina" had been used on National Lottery tickets in previous Draws, the very same name had also been bestowed on ticket No. 115082 — a ticket three numbers away from the ticket above referred to.

- That Defendant and Co-defendant submitted that, in filing in the particulars of Ticket No. 115087, later substituted
- 30 by Ticket No. 108223, Francis Agius had made a mistake; and that Carmela Borg should not, in consequence of that mistake, forfeit her share of the prize. If anything, however, that allegation on the part of Defendant and Co-defendant strengthens Plaintiff claim. In fact, if a mistake were incurred, Francis Agius, or Defendant herself, might be responsible therefor — but not Plaintiff, if ever, only Defendant herself. In terms of Section (8) (1) of the Act above-mentioned, Defendant, as the staker, should have made certain that the particulars set out in Ticket No. 115087 (later substituted by Ticket No. 108223)
- 40 had been correctly filled in according to her wishes. Francis Agius made out the ticket for Defendant and Defendant accepted the ticket without protest or remonstrance. Therefore, if a mistake were incurred, such mistake is chargeable to Defendant — and can never be prejudicial to the interests of Plaintiff.

That it has however been established that no mistake was incurred by Francis Agius, unless it were a mistake which Defendant herself had directly incurred; but even Defendant had incurred no mistake.

That the following considerations went to stress the fact:—

1. The person who wrote out the particulars on the two ticket, Francis Agius, does not live at Qormi. He knew neither Plaintiff nor Defendant nor Co-defendant; and he did not know the name nor address of any of them. Actually, Francis Agius had come back from abroad on the very day he was asked to make out the tickets. As he himself had affirmed in evidence, and as might be clearly inferred, Francis Agius did not put down anything of his own accord — that is to say, he wrote out the particulars on the one and the other ticket as dictated to him by Defendant. Therefore, once he wrote out the name and surname of Carmela Borg on Ticket No. 115087, it was, undoubtedly, because Defendant had told him to do so. And Giuseppa Saliba stated in evidence **she was certain** Defendant told Francis Agius that she wanted to take one ticket **with Carmela Borg** and another **with Maria Cassar**. Which goes to show that it was Defendant who gave Francis Agius the name and surname of Carmela Borg, and that it was not Francis Agius who invented that name and surname. 10 20

2. That the foregoing made it clear that no reliance was to be attached to Defendant's statement to the effect that she still had no knowledge of the surname of Carmela Borg up to the time the winning ticket was drawn in the National Lottery. It was also unlikely that that should be the case, considering that Defendant and Carmela Borg have been friends for a long time and lived in the same neighbourhood almost next to each other — and that Defendant even knew the maiden name of Carmela Borg. 30

That it would not appear therefore that any mistake was incurred. On the contrary, there seemed to be reason to believe that Defendant was fully conscious of her actions ab initio. Had it been otherwise, it would be difficult to explain (a) why she told witness Antonio Falzon that she was 'confused' and that she had no idea what to do with Plaintiff who had only just failed to share with her the prize she had won — a matter which should not have caused any dismay to Defendant, seeing that, as everyone knows, only one First Prize is drawn in the National Lottery; (b) why, when she discovered that the receipt for the other ticket — that issued in the name of Carmela 40

Borg — had been sent to Plaintiff, she quarrelled with her niece, Gina Formosa, and took her to task for sending **that** receipt to Plaintiff; (c) why, a little later, on the same occasion, she hurriedly called upon Plaintiff to ask her to give her back **that receipt**, a fact which ill accords with the line taken by her in these proceedings, showing as it does that she was then well aware that **that** receipt, and therefore the respective **ticket**, did not belong to Plaintiff. Not only that, but on this same occasion Defendant, confused as she was, alleged that that receipt was  
 10 for a ticket belonging to her sister's daughter, Gina Formosa. And she promised Plaintiff she would return to her the receipt for the ticket which they held in partnership — something which in fact she never did. All this is tantamount to an admission on Defendant's part that the ticket made out in the name of Carmela Borg was not the ticket which she held in partnership with Plaintiff. Inevitably, therefore, it was the other ticket that she held in partnership with Plaintiff, considering that, on her own showing, **only two** tickets were taken in partnership, one with Plaintiff and one with Co-defendant.

20 That it was not out of place to mention some of the contradictions to be found in Defendant's evidence. She stated (a) that she herself and all the members of her family, including the niece staying with her, Gina Formosa, were illiterate. Gina Formosa stated in her evidence that she could read and write; (b) that Plaintiff, on learning that the ticket which she held in partnership with Defendant was invalid for the Easter 1951 National Lottery, sought to back out of the Draw and wanted her five shillings back — all of which has been denied by Plaintiff; (c) that she told Francis Agius to write out the ticket for  
 30 her in partnership with Tas-Sikkina as usual; — which is obviously incorrect, not only because Francis Agius, as stated by him in evidence, resides elsewhere than at Qormi and therefore knew none of the persons concerned, either by name or by their nick-name, but also because that was the one and only time he had filled in Lottery Tickets for Defendant — and it was therefore impossible Defendant had told him to write out the ticket for her "as usual"; and (d) that, in taking the receipt for the ticket "Suor Concettina" to Carmela Borg, she told Carmela Borg: "Another receipt has yet to be sent to us"  
 40 — which showed that Defendant was well apprised of the fact that she had **another ticket** in partnership with Co-defendant. In fact, Co-defendant stated in evidence she had no knowledge of the fact that Defendant was in the habit of taking and sharing tickets with other stakers.

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 Judgment, H.M.  
 Court of Appeal  
 —Continued

That Defendant laid the greatest emphasis on three points: (1) Through witness Sebastiana Cassar, Defendant claimed that, after she bought the ticket and some time before the Draw, she had reminded Plaintiff that the ticket held in partnership between her and Plaintiff was that bearing the nom-de-plume of "Ejja naghmlu ħbieb"; (2) in her Submissions, Defendant points out that she duly informed Plaintiff of her intention to give the ticket held between them the nom-de-plume of "Ejja naghmlu ħbieb" — as she herself had stated in evidence; — (3) that there was and there is no reason or motive why she should prefer to share the money with Co-defendant rather than with Plaintiff. 10

That to begin with, if Defendant had Plaintiff's consent from the very beginning to give the ticket whatever name she chose — indeed the name she herself had chosen and suggested — then there was no reason why she should have found it necessary to remind Plaintiff of the name given to the ticket. — These allegations as regards the ticket's nom-de-plume were completely denied by Plaintiff and, in the circumstances, it appeared that no credence was to be attached to the evidence given by Defendant and Sebastiana Cassar: not to Defendant's evidence because, throughout her evidence, Defendant contradicted herself to a very considerable extent, and not to the evidence of Sebastiana Cassar because of the attitude of that witness in giving her evidence and because of the various contradictions she too fell into, especially when confronted with witness Emmanuela Cassar. As to any reasons or motives Defendant may have had for preferring to share the prize with Plaintiff rather than with Co-defendant, or with Co-defendant rather than with the Plaintiff, nothing can be said. It might not be amiss to mention, however, that Defendant had left her employment with Plaintiff because of her quarrel with Plaintiff's son, on which occasion she chased and threatened Plaintiff son with a knife; that, afterwards, she and Plaintiff fell out with each other, and that, speaking of Plaintiff, she had told Plaintiff's brother, Antonio Falzon: "You know what your sister does: she repays you with a handful of paste." 20 30

That the foregoing went to show that, in connection with the Draw for the National Lottery above-mentioned, Defendant had bought two tickets only, one in partnership with Plaintiff, and the other in partnership with Co-defendant; and that the ticket which in that Draw secured First Prize was that which Defendant held in partnership with Plaintiff. 40

Having seen Defendant Minute of Appeal, and her Peti-

tion, praying that that judgment be reversed and that Plaintiff claims be dismissed with Costs both of the First and of this Second Instance.

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Judgment, H.M.  
Court of Appeal  
—Continued

Having seen the submissions in Response filed by Co-defendants, submitting that the Appeal entered by Carmela Camilleri should be allowed.

Having seen the Submissions in Response filed by Plaintiff, praying that the judgment appealed from be upheld.

10 Having seen Co-defendants' Minute of Appeal, and their Petition, praying that the judgment be reversed and that Plaintiff claim be dismissed with Costs.

Having seen Plaintiff Submissions in Response, praying that the judgment be upheld, with Costs against Appellants.

Having seen Defendant Submissions in Response, submitting — as in fact she submitted in her Petition — that the judgment should be reversed.

Having examined the acts filed in the Record.

Having heard Counsel for litigants.

Having considered:

20 In the Writ-of-Summons, Plaintiffs, premising that Plaintiff Maria Cassar and Defendant held between them an equal stake in a Ticket on the National Lottery, Malta; — that, in the respective Draw, which took place on 17th June, 1951, the Ticket so held between them secured First Prize of £13,000; — and that Defendant has refused to acknowledge and has denied that the winning Ticket was that which she held jointly with Plaintiff Maria Cassar; — prayed that it be ruled that Plaintiff Maria Cassar is entitled to a moiety of the aforesaid prize of £13,000.

30 On the basis of their premises aforesaid, if their claim is to succeed, Plaintiffs must prove that Plaintiff Maria Cassar and Defendant Carmela Camilleri had taken and held in partnership between them a Ticket on the National Lottery, Malta, to be drawn in June, 1951, and that that Ticket had secured First Prize in that Draw of the National Lottery. Defendant admits the first part, namely having taken a Ticket in partnership with Maria Cassar, but denies that that Ticket had won the first or any other prize. And she moreover maintains that the winning ticket was that which she held in partnership with  
40 Co-defendant, Carmela Borg in conformity with the submissions of Co-defendants.

Having considered:

It has been established that Appellant Carmela Camilleri bought of witness Giuseppa Saliba two tickets for the National Lottery Easter Draw of 1951 one in partnership with Maria Cassar, and the other in partnership with Carmela Borg. One ticket, No. 115086, was in the name of "Carmela Camilleri, 49, St. Catherine Street, Qormi, Malta" and bore the nom-de-plume of "Soru Kungetina;" the other, No. 115087, was made out to "Carmela Borg, 49, St. Catherine Street, Qormi, Malta" and bore the nom-de-plume of "Ejja nagħmlu ħbieb." The counterfoils of both tickets, having been sent in after the closing date fixed by the Regulations, were declared invalid for the Easter Draw of 1951 and were replaced by two other tickets for the June Draw, 1951 of the National Lottery. The new tickets were numbered 108222 and 108223. Ticket No. 108222 replacing Ticket No. 115086 bore the particulars and nom-de-plume of the replaced ticket, namely "Carmela Camilleri, 49, St. Catherine Street, Qormi, Malta — Soru Kungetina". The other ticket, No. 108223, replacing ticket No. 115087 likewise bore the particulars and the nom-de-plume of the replaced ticket "Carmena Borg, 49, St. Catherine Street, Qormi, Malta "Ejja nagħmlu ħbieb." It so happened that in the Draw of the National Lottery held in June, 1951, the ticket winning the first prize was Ticket No. 108222, or that which, Plaintiffs claim, had been taken jointly by Plaintiff Maria Cassar and Defendant Carmela Camilleri.

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Having considered:

The issue between litigants, therefore, concerns solely the winning ticket, Plaintiff claiming that she held that ticket in partnership with Carmela Camilleri and that therefore she is entitled to a moiety thereof, whilst Carmela Camilleri and Carmela Borg maintain that the ticket is solely and exclusively their own property. Plaintiff Respondents in their Submissions in Response, submitted that, in order to determine the question of ownership, one should consider the circumstances at the moment of the purchase of the two tickets. Appellants concur with that view, but they rightly maintain that it is not only the concomitant circumstances attending the purchase of the tickets that should be considered but also those preceding and following upon such purchase, because these too may very well have an important bearing upon the matter at issue. It is therefore incumbent upon the Court to go into all the circumstances established in evidence, and, on that evidence, to determine the question of ownership of Ticket No. 108222, bearing the

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name and address of Carmela Camilleri and the nom-de-plume "Soru Kungetina" — that is to say, the Ticket that secured first prize in the Draw of June, 1951.

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—Continued

Having considered:

The circumstances hereunder stated have been established in evidence to the satisfaction of the Court:—

- 10 1. A sister of Carmela Borg is a nun at the cloister of St. Catherine's in Valetta. Another nun in the same Convent, Suor Concettina, famed for her piety, died a little over two years ago. Carmela Borg was encouraged by her sister to stake the numbers corresponding to the date and the time of Suor Concettina's death, and to her age at the time of her death, on the Public Lotto. Thereupon Carmela Borg and Carmela Camilleri began to stake the suggested numbers — 25, 10 and 38 — on the Public Lotto. On the third occasion they did so, they won on two numbers (ambo) — numbers 25 and 38 having been drawn on 24th June, 1950. Thus encouraged, Carmela Camilleri and Carmela Borg decided to try their luck on the National Lottery, naming the ticket after Suor Concettina.
- 20 2. Actually, before the Draw held in June, 1951, Carmela Camilleri and Carmela Borg had twice taken National Lottery tickets in partnership, using the nom-de-plume of Suor Concettina on each occasion. (Vide Evidence of Carmela Camilleri, Carmelo Saliba, Giuseppa Saliba and Giuseppe Spiteri).
- 30 3. Carmela Camilleri and Carmela Borg decided, as on the two previous occasions, to buy a ticket for the Draw of the National Lottery due to be held in Easter, 1951, again naming the ticket "Suor Concettina." At about this time, too, Carmela Borg distributed commemorative pictures bearing the image of Suor Concettina (Vide Evidence of Giorgia Gatt) The tickets were usually bought by Carmela Camilleri, and on this occasion too they were bought by her from Giuseppa Saliba.
- 40 4. Carmela Camilleri had also held a ticket in partnership with Plaintiff Maria Cassar in the two draws preceding the Easter 1951 Draw. On the first occasion they named the ticket "San Giuseppe" and, on the second occasion, "Ix-Xaharta' l'Erwieh". They too decided to buy in partnership a ticket for the Draw of Easter, 1951. As regards the nom-de-plume to be given to that ticket, Maria Cassar stated in her evidence that she told Carmela Camilleri: "Name it as you will — after your own heart." On the other hand, Carmela Camilleri affirmed that they had agreed to give the ticket the nom-de-plume

of "Ejja naghmlu hbieb." The Court will later go into the question as to which of the two versions is the more acceptable.

5. Carmela Camilleri went into the shop of Giuseppa Saliba and asked for two National Lottery tickets for the Draw of Easter 1951. Several men were present at the time. Carmela Camilleri told Saliba she wanted to take one ticket in partnership with "Tas-Sikkina" (Carmela Borg) under the nom-de-plume of "Suor Concettina", and the other in partnership with "Tal Ghagin" (Maria Cassar) under the nom-de-plume of "Ejja naghmlu hbieb." It may here be mentioned that, locally, country people often know and speak of each other by nick-name, without knowing the surname of the person concerned (Vide Evidence of Giuseppa Saliba and Giuseppe Spiteri). Carmela Camilleri bought the two tickets, numbered consecutively 115086 and 115087, and the required particulars were filled in by witness Francis Agius. Ticket No. 115086 was in the name of "Carmena Camilleri, 49, St. Catherine Street, Qormi, Malta" and bore the nom-de-plume of "Soru Kungetina;" the other ticket, No. 115087, was in the name of "Carmela Borg, 49, St. Catherine Street, Qormi, Malta" and bore the nom-de-plume of "Ejja naghmlu hbieb." For the reasons above referred to, these tickets were replaced by two other tickets, valid for the Draw to be held in June, 1951, and bearing Numbers 108222 and 108223 —the former replacing ticket No. 115086, and the latter, ticket No. 115087.

6. Appellant, Carmela Camilleri, who is illiterate, received by post the receipts for tickets Nos. 108222 and 108223 on different dates. As soon as she received the first receipt, Carmela Camilleri took it to show to Carmela Borg, who can read and write. Carmela Borg ascertained that the receipt was made out to Carmela Camilleri and bore the nom-de-plume of "Soru Kungetina." That done, Carmela Camilleri gave the receipt to Carmela Borg to keep. Some days later, Carmela Camilleri received the other receipt, that for Ticket No. 108223, and she called on Plaintiff, Maria Cassar, to give it to her to keep; but Maria Cassar told her: "Keep it yourself — it is the same thing after all." And so that receipt was kept by Carmela Camilleri.

7. About a month before the Draw in June, 1951, Carmela Camilleri told witness Teresa Grech that she held two National Lottery tickets, one in partnership with Tas-Sikkina (Carmela Borg), under the nom-de-plume of "Suor Concettina," and the other in partnership with Maria Cassar, under the nom-de-plume of "Ejja naghmlu hbieb."

8. The Draw, as stated, took place on 17th June, 1951. On hearing on Rediffusion the nom-de-plume of the ticket that secured first prize, and the corresponding number, Carmela Borg was overjoyed: she went round proclaiming her win and created quite a commotion. Carmela Camilleri behaved in like manner. Now, Maria Cassar also heard the announcements of the Draw on Rediffusion, which she has installed in her own house (Vide Evidence of Maria Cassar's daughter, Carmela Bugeja); and when Maria Cassar heard that the ticket securing first prize was that bearing the nom-de-plume of "Suor Concettina," she in no way lost her composure. Indeed, as she herself stated in evidence, she sent her congratulations both to Carmela Camilleri and to Carmela Borg. Her daughter, too, on the following day, congratulated a sister of Carmela Borg.

9. In the evening, on the day of the Draw, Carmela Camilleri happened to meet Antonio Falzon, the brother of Maria Cassar. Falzon asked her whether it were true she had won first prize. She replied in the affirmative, adding that, but for the difference of one number, she would have shared the prize with his sister. It appears that, on the morrow, Falzon told his sister of his conversation with Carmela Camilleri, and that it was then that doubts began to assail the mind of Maria Cassar. In fact, she sent word to Carmela Camilleri to let her have the receipt for the ticket held in partnership between them. Carmela Camilleri duly sent her the receipt which she had in her possession, made out to "Carmela Borg, 49, St. Catherine Street, Qormi, Malta" and bearing the pseudonym of "Ejja naghmlu ħbieb." Maria Cassar maintained and insisted that that receipt was for the ticket held between Carmela Camilleri and Carmela Borg, and that, consequently, the ticket that had won first prize was that which she and Carmela Camilleri had taken in partnership. She then sent for witness Giuseppa Saliba to question her about the tickets which Carmela Camilleri had bought from her. To her enquiries, Giuseppa Saliba stated that Carmela Camilleri had bought two tickets, one in partnership with her, Maria Cassar, named "Ejja naghmlu ħbieb," and one in partnership with Carmela Borg, named "Suor Concettina." These assurances notwithstanding, Maria Cassar continued to press her claim and, finally, instituted the present action.

10. Witness Antonio Falzon, in an effort to persuade the parties to settle the dispute out of Court, suggested to Camilleri that the prize be shared equally between Maria Cassar, Carmela Camilleri and Carmela Borg, as stated by him in evidence.

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 Judgment, H.M.  
 Court of Appeal  
 —Continued

Carmela Camilleri, however turing down the proposal, stated: "I hold the ticket in partnership with Carmela Borg." It may be assumed that Antonio Falzon would not have made that proposal without first obtaining his sister's consent, considering that, thereby, his sister would have suffered the reduction of her share of the prize claimed by her by more than two thousand pounds — something which, no doubt, she would not have agreed to do, had she been certain of her position.

Having considered:

The foregoing circumstances satisfy the Court that the Ticket bearing the nom-de-plume of "Soru Kungetina," which secured first prize in the Draw of the National Lottery held on 17th June, 1951, was that which Carmela Camilleri and Carmela Borg held in partnership between them; and the Court inclines to the view that Maria Cassar knew ab initio and long before the actual Draw that her own ticket with Carmela Camilleri was that which bore the nom-de-plume of "Ejja naghmlu hbieb." Apart from the evidence of Appellant Camilleri, of Sebastiana Cassar and of Giorgia Scerri, the Court holds itself convinced — and its conviction is rooted in, and strengthened by, Maria Cassar's deportment on the day of the Draw. In fact, had the nom-de-plume of the ticket which she held in partnership with Carmela Camilleri been really and truly unknown to her, why did she, on learning that the successful ticket was that named "Soru Kungetina," and that Carmela Camilleri was the winner, fail to do anything to find out whether she herself was jointly the winner with Carmela Camilleri? Why, instead of having done that did she send her congratulations to Carmela Camilleri and Carmela Borg? Why had she, on being told that Carmela Camilleri had now become rich, merely according to her own evidence exclaimed: "Thank God! She is an orphan and I know what she has gone through!" That attitude of Plaintiff is even more eloquent than her subsequent actions and statements, and the Court cannot but come to the natural and logical conclusions to be drawn therefrom, namely, that Maria Cassar knew that the ticket which she held jointly with Carmela Camilleri was not that bearing the nom-de-plume of "Soru Kungetina", but that bearing the nom-de-plume of "Ejja naghmlu hbieb."

Having considered:

The judgment appealed from touched upon one other point which this Court deems it necessary to weigh — the reasons or motives that may have prompted Carmela Camilleri to affirm

that she had won the prize jointly with Carmela Borg and not with Maria Cassar. The Court below remarked that, so far as that point was concerned, nothing could be said, but then immediately proceeded to cast some doubt as to whether Carmela Camilleri may not have felt drawn more towards Carmela Borg than towards Maria Cassar, with whose son she had quarrelled and with whom she had fallen out. It is to be observed that Carmela Camilleri won a moiety of the prize, a fact which no one has challenged. The dispute is in respect of the other moiety of that prize and that dispute is between Maria Cassar and Co-defendant, Carmela Borg. In the absence of proof to the contrary, therefore, there is no reason or motive why Carmela Camilleri should favour the one to the detriment of the other; and the evidence heard has ruled out rather than substantiated any such reasons or motives. In point of fact, not only has Maria Cassar herself affirmed that she had not fallen out or in any way quarrelled with Carmela Camilleri, but her evidence shows on the contrary that strong ties of friendship existed between her and Defendant: When Carmela Camilleri asked her what name to bestow on the ticket they were to take in partnership, Maria Cassar replied: "Name it what you like — name it after your own heart." Again, when Carmela Camilleri called on her to give her the receipt for the ticket, Maria Cassar showed trust in her and told her: "Keep it yourself — it is the same thing after all." And when she heard that Carmela Camilleri had won first prize, Maria Cassar exclaimed: "Thank God! She is an orphan and I know what she has gone through!" Expressions, these, which denote a degree of affection rather than anything else.

30 Having considered:

It is a fact that the name of Carmela Borg and the address of Carmela Camilleri appear on the ticket bearing the nom-de-plume of "Ejja naghmlu hbieb." An error was therefore incurred, either in the writing out of the surname Borg or address. How that error came to be incurred is difficult to determine, regard being had to the confused and therefore unreliable nature of the evidence tendered by Francis Agius, who had written the particulars and to the fact that a large number of people was present inside the shop of Giuseppa Saliba at the time Francis Agius was filling in the particulars on that ticket. Witness Giuseppe Spiteri, one of those present inside the shop at the time, stated that everyone took up the subject as to how Carmela Camilleri wanted the two tickets to be made out, and that, possibly, when Carmela Camilleri mentioned "Tas-Sikkina", someone or other had coupled the nickname with

No. 48  
Judgment, H.M.  
Court of Appeal  
—Continued

the surname Borg, thus misleading Francis Agius and inducing him to write out that surname instead of the surname Camilleri. That mistake, however, in no way affects the ownership of the winning ticket, which was correctly made out as agreed upon between Carmela Camilleri and Carmela Borg. Further, in the view of this Court, that error of itself does not suffice to overthrow the circumstances above set down, on the basis of which the Court has come to the conclusion that the winning ticket was that held in partnership by Appellants Carmela Camilleri and Carmela Borg.

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Having considered:

It is therefore established that Appellant Carmela Camilleri and Appellant Carmela Borg had agreed to take and share between them a Ticket of the National Lottery of Malta under the nom-de-plume of "Suor Concettina;" that Appellant Carmela Camilleri had undertaken to purchase that ticket; that she duly did so, purchasing Ticket No. 115086, subsequently replaced by Ticket No. 108222 valid for the Draw to be held in June, 1951; and that the last-named Ticket, bearing all the particulars agreed upon by Appellants Carmela Camilleri and Carmela Borg, secured First Prize in the Draw held on 17th June, 1951. Under these circumstances it is to be held that the winning ticket is the property of Appellant Carmela Camilleri in partnership with Appellant Carmela Borg.

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Having considered:

For the reasons stated above, Plaintiffs have failed to uphold, as they should have done to succeed to prove, their claim satisfactorily, and, therefore, the Appeals entered by Defendant and Co-defendants are to be upheld.

On these grounds:

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The Court

Upholds the Appeal entered by Defendant Carmela Camilleri and the Appeal entered by Co-defendants, reversing the judgment appealed against, and, consequently, dismisses the claim advanced in the Writ-of-Summons — with Costs both of the First and of this Second Instance against Plaintiffs Respondents.

(Signed) J. N. CAMILLERI,  
Deputy Registrar.

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**Plaintiffs' Petition for Leave to Appeal to H.M. Privy Council**

In H.M. Court of Appeal

No. 49  
 Plaintiffs'  
 Petition for  
 Leave to Appeal  
 to H.M. Privy  
 Council

Maria, the wife of Salvatore Cassar, acting with her husband's concurrence and consent and, where necessary, the said Salvatore Cassar, in his capacity of head of the community of acquests

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versus

Carmela Camilleri; — and Carmela Borg and her husband Giorgio Borg, joined as parties to the suit by Decrees dated 3rd and 24th October, 1951.

The Petition of Maria Cassar, and her husband, Salvatore Cassar, in his capacity of head of the community of acquests.

Respectfully shew:—

20 By Writ-of-Summons filed in H.M. Civil Court, First Hall, Plaintiffs, premising:— That Plaintiff Maria Cassar and Defendant Carmela Camilleri held between them an equal stake in a Ticket in the National Lottery, Malta; — that, in the respective Draw, which took place on 17th June, 1951, the Ticket so held between them secured First Prize of £13,000; — and that Defendant Carmela Camilleri had refused to acknowledge and had denied that the winning Ticket was that which she held jointly with Plaintiff Maria Cassar; — prayed that; —

30 every necessary ruling being prefaced and any expedient order being given; — it be ruled that Plaintiff Maria Cassar is entitled to a one-half share of the aforesaid prize of £13,000. — Saving her rights in respect of the payment of the sum due, and without prejudice to any other action, civil as well as criminal.

In her Pleadings, Defendant Carmela Camilleri submitted that Plaintiff claims were groundless in that the winning ticket, bearing the nom-de-plume of "Suor Concettina," was held between Defendant and one Carmela Borg — and not between Defendant and Plaintiff, who, in fact, shared another ticket with the Defendant, that bearing the nom-de-plume of "Ejja naghmlu hbieb."

40

In her Pleadings Co-defendant, Carmela Borg, submitted

No. 49  
 Plaintiffs'  
 Petition for  
 Leave to Appeal  
 to H.M. Privy  
 Council  
 —Continued

that the winning ticket was that held between her and Defendant Carmela Camilleri.

H.M. Civil Court, First Hall, by Judgment delivered on 30th July, 1952, allowed the claim advanced in the Writ-of-Summons, with Costs, including those reserved, against Defendant, excepting those of Co-defendants, who were ordered to bear their own Costs.

Defendant Carmela Camilleri, and Co-defendants, Carmela and Giorgio Borg entered Appeal against that judgment, and, in their respective Petitions, prayed that the judgment be reversed and that Plaintiff claims be dismissed with Costs both of the First and Second Instance. 10

H.M. Court of Appeal, by judgment delivered on the 12th January, 1953, upheld the Appeal entered by Defendant Carmela Camilleri and the Appeal entered by Co-defendants, Carmela and Giorgio Borg, reversed the judgment appealed from and, consequently, dismissed the claim advanced in the Writ-of-Summons — with Costs both of the First and of the Second Instance against Plaintiff Respondents.

Petitioners deem themselves aggrieved by the judgment delivered by this Honourable Court on 12th January, 1953 and wish to enter Appeal therefrom to the Judicial Committee of Her Majesty's Privy Council. 20

The amount involved in litigation is £6,500 and therefore exceeds the sum of £500.

Petitioners therefore humbly pray that this Honourable Court may be pleased (1) to grant them leave to appeal to the Judicial Committee of Her Majesty's Privy Council from the judgment delivered on 12th January, 1953, to beg that this judgment be reversed in the merits and the head of costs and that Plaintiff claim be upheld and (2) that an Order be made suspending the execution of the judgment pending that Appeal — subject to all such other directions thereanent as may be deemed opportune. 30

(Signed) TOM. FENECH,  
 Advocate.

„ J.M. GANADO,  
 Advocate.

„ G. GALDES,  
 Legal Procurator. 40

This Sixteenth January, 1953.

Filed by G. Galdes L.P. without Exhibits.

(Signed) J. MICALLEF,  
 Deputy Registrar.



No. 50.

**Decree on Plaintiffs' Petition**No. 50  
Decree on  
Plaintiffs'  
Petition

## HER MAJESTY'S COURT OF APPEAL

The Court,

Upon seeing the Petition whereby the Plaintiffs prayed that they be granted leave to appeal to the Judicial Committee of Her Majesty's Privy Council.

Orders that the Petition be put on the case-list of 26th January, 1953 and that service hereof be made upon the other parties hereto.

This Seventeenth January, 1953.

(Signed) J.N. CAMILLERI,  
Deputy Registrar.

No. 51

**Defendant Responds**No. 51  
Defendant  
Responds

In H.M. Court of Appeal.

Maria Cassar and Another  
versus  
Carmela Camilleri and Others.

20 Defendant Carmela Camilleri Responds to Plaintiff Petition for leave to appeal to H.M. Privy Council.

Respectfully sheweth:—

The claim in the writ-of-summons is for a ruling to the effect that Plaintiffs are entitled to a moiety of the prize won by the Ticket in question.

It is therefore necessary, for the purposes of the law, to determine the value of that ruling — a point in regard to which Defendant will abide by the judgment of this Honourable Court.

30 There are no grounds, however, for suspending the execution of the judgment. In fact, according to section 5 of the Order in Council of 1909: "Where the judgment appealed from requires **Appellant to pay money or perform a duty**, the Court shall

No. 51  
Defendant  
Responds  
—Continued

have power, when granting leave to appeal, either to direct that the said judgment shall be carried into execution, or that the execution thereof shall be suspended.....”

In the case at issue, Appellants are not required to pay money or to perform a duty. The claim is simply for a ruling that they are entitled to a one-half share of the prize. (Vide Collection of Judgments, Vol. XXV, p. 827 — Ullo Xuereb v. Bartolo, Appeal 17th December, 1924).

Defendant therefore resists the application for the suspension of the execution of the judgment.

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(Signed) G. PACE,  
Advocate.  
,, B.H. DINGLI,  
Legal Procurator.

This Twenty-second January, 1953.

Filed by B.H. Dingli L.P. without Exhibits.

(Signed) J. DEBONO,  
Deputy Registrar.

No. 52  
Co-Defendants'  
Respond

No. 52.

Co-Defendants Respond.

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In H.M. Court of Appeal.

Maria Cassar and Another  
versus  
Carmela Camilleri and Others.

Carmela and Giorgio Borg Respond to Plaintiffs Petition for leave to appeal to H.M. Privy Council.

Respectfully shew:—

In the Writ-of-Summons, Plaintiff seeks a ruling to the effect that she is entitled to a one-half share of the winning ticket.

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The value of the claim is therefore uncertain and no Appeal lies where the matter in dispute does not amount to or is of the value of five hundred pounds or upwards.

The ruling sought in the Writ-of-Summons, as such, has no value attached to it, and the question at issue is not one of general importance and involves no point of law.

It is submitted also that no stay of execution may be granted: Appellants are not here required to pay money or to perform a duty as envisaged in section 5 of the Order-in-Council of 1909, published in Government Gazette of 24th December, 1909.

No. 52  
Co-defendant  
Respond  
— Continued

Wherefore the Co-defendants resist Plaintiffs application for leave to appeal to Her Majesty's Privy Council.

With Costs.

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(Signed) G.M. CAMILLERI,  
Advocate.

(Signed) GIOV. BCRG OLIVIER,  
Advocate.

„ C. VASSALLO,  
Legal Procurator.

This Twenty-second January, 1953.

Filed by C. Vassallo L.P. without Exhibits.

(Signed) J. DEBONO,  
Deputy Registrar.

**No. 53**

No. 53  
Plaintiffs'  
Minute

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**Plaintiffs Minute.**

In H.M. Court of Appeal.

Maria Cassar and Another  
versus  
Carmela Camilleri and Others.

Plaintiffs Minute.

Whereby Plaintiffs produce the annexed Schedule of Deposit (No. 165/52) animo ritirandi (Exhibit "A").

(Signed) J. M. GANADO,  
Advocate,

30

The Twenty-sixth January, 1953.

Filed by Dr. J.M. Ganado with one Exhibit.

(Signed) J. MICALLEF,  
Deputy Registrar.

**Decree granting Conditional Leave**

HER MAJESTY'S COURT OF APPEAL

Judges:

His Honour L.A. Camilleri LL.D., President  
The Honourable Mr. Justice A.J. Montanaro Gauci LL.D.  
The Honourable Mr. Justice W. Harding B.Litt., LL.D.

Sitting held on Friday,  
Thirteenth February, 1953.

No. 9

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**Writ-of-Summons No. 547/1951**

Maria, the wife of Salvatore Cassar, acting with her husband's concurrence and consent and, where necessary, the said Salvatore Cassar, in his capacity of head of the community of acquests

versus

Carmela Camilleri; — and Carmela Borg and her husband Giorgio Borg, joined as parties to the suit by Decrees dated 3rd and 24th October, 1951.

20

The Court,

Upon seeing Petition filed by Maria and Salvatore Cassar, praying that they be granted leave to appeal to the Judicial Committee of Her Majesty's Privy Council from the Judgment given by this Court on 12th January, 1953, both in regard to the merits and the head of costs and the upholding of Plaintiff claim — and that an Order be made suspending the execution of that Judgment pending the Appeal.

30

Having seen the Record of the case.

Having heard Counsel for litigants. —

Having considered:

An Appeal lies, as of right, from any final judgment of this Court where the matter in dispute amounts to or is of the value of five hundred pounds sterling or upwards, or where the Appeal involves, directly or indirectly, some claim or question

to or respecting property or some Civil right amounting to or of the value of five hundred pounds sterling or upwards. (Section 2 Order-in-Council 22nd November 1909 as amended by Order in Council 5th November 1942).

No. 54  
Decree granting  
Conditional Leave  
—Continued

It is here beyond doubt that the Judgment is final and that the matter in dispute does exceed five hundred pounds.

It follows therefore that the first part of the Petition rests on good and sufficient grounds.

10 The question as to the suspension of the execution of the Judgment comes under the provisions of section 5 of the Order-in-Council above referred to, wherein it is laid down: "Where the judgment appealed from requires Appellant to pay money or perform a duty, the Court shall have power, when granting leave to appeal, either to direct that the said judgment shall be carried into execution or that the execution thereof shall be suspended pending the Appeal, as to the Court shall seem just....."

20 Therefore, in order that the Court may exercise its discretion in terms of section 5 of the Order-in-Council, an indispensable condition is that the Judgment appealed from shall require Appellant to pay money or perform a duty.

In the case at issue, Appellants, under the Judgment, are not required either to pay money or perform a duty. — They sought a ruling that they were entitled to a moiety of the prize secured by the winning ticket, the Court dismissed their claim, but made no Order directing them to pay money or to perform a duty.

30 There are no grounds for extending the provisions of section 5. Nor is the Order directing Appellants to pay the Costs applicable, not only because section 5, in its context, obviously refers to **the merits**, but also because that section must be read in conjunction with section 2, which speaks of **the matter in dispute**, i.e. the merits.

The eventualities which might arise following the deposit made in virtue of Schedule produced by Plaintiffs by Minute dated 26th January, 1953 cannot alter the terms of section 5, saving any remedies or other safeguards to which Plaintiffs may have recourse **si et quatenus**.

40 On these grounds grants Appellants leave to appeal to the Judicial Committee of Her Majesty's Privy Council from the aforesaid Judgment of this Court, subject to the condition of their entering into good and sufficient security, within one

No. 54  
Decree granting  
Conditional Leave  
— Continued

month, in a sum of Four Hundred Pounds (£400), in terms of section 4 of the Order-in-Council aforesaid, and subject to the condition that they shall take the necessary action to procure, within three months herefrom the preparation and transmission of the Record to the Judicial Committee of the Privy Council. — Costs reserved to the final Order.

And dismisses the Application for the suspension of the execution of the Judgment.

(Signed) J. MICALLEF,  
Deputy Registrar. 10

No. 55  
Surety Bond

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**No. 55.**  
**Surety Bond.**

Third March, 1953.

Joseph Maximilian Ganado, Advocate, son of Judge Edgar Ganado LL.D. and Teresa née Debono, born at Sliema, residing at Lija, appears, and, in terms of and in conformity with the Decree given by Her Majesty's Court of Appeal on 13th February, 1953, in re "Maria Cassar and Another v Carmela Camilleri and Others," hereby stands surety for and up to the sum of Four Hundred Pounds for the due prosecution of the Appeal entered by Plaintiff Appellants — Maria Cassar, the wife of Salvatore Cassar, acting with her husband's concurrence and consent, and the said Salvatore Cassar in his capacity of head of the community of acquests — to Her Majesty's Privy Council from the Judgment given by Her Majesty's Court of Appeal on 12th January, 1953, and for the payment of all such Costs as may become payable to Respondents in the event of Appellants not obtaining an order granting them final leave to appeal, or of the Appeal being dismissed, or of Her Majesty-in-Council ordering Appellants to pay Respondents' Costs of the Appeal. 20 30

(Signed) J.M. GANADO,

Dr. Joseph M. Ganado has affixed his signature hereto in my presence.

(Signed) J. MICALLEF,  
Deputy Registrar.

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**No. 56.****Minute of Litigants****In H.M. Court of Appeal.**

Maria Cassar and Another  
vs.

Carmela Camilleri and Others

Minute of Litigants.

Litigants hereby declare they approve the translation of the Record produced by Appellant Maria Cassar.

10

(Signed) TOM. FENECH,  
Advocate.

„ J.M. GANADO,  
Advocate.

„ G. GALDES,  
Legal Procurator.  
For Plaintiff Appellants.

(Signed) G. PACE,  
Advocate.

20

„ G.M. CAMILLERI,  
Advocate.

For Defendant Respondents.

This thirtieth January, 1954.

Filed by G. Galdes L.P. without exhibits.

(Signed) J. DEBONO,  
Deputy Registrar.

**No. 57****Application for Final Leave.****In H.M. Court of Appeal.**

Maria Cassar and Another  
vs.

Carmela Camilleri and Others

The Application of Maria and Salvatore Cassar.

Respectfully shew:—

Applicants, by Decree delivered by this Honourable Court on 13th February, 1953, were granted conditional leave to appeal to Her Majesty in Her Privy Council from the judgment delivered in this case on 12th January, 1953.

No. 56  
Minute  
of Litigants

No. 57  
Application  
for Final  
Leave

No. 57  
Application  
for Final Leave  
—Continued

A surety bond has been entered in terms of the aforesaid Decree and the translation and the printing of the Record have been completed.

Applicants therefore respectfully pray that this Honourable Court may be pleased to grant them final leave to appeal to Her Majesty in Her Privy Council.

(Signed) J. M. GANADO,  
Advocate.  
" G. GALDES, -  
Legal Procurator.

10

This Sixteenth March, 1954.

Filed by G. Galdes L.P. without exhibits.

(Signed) S. BUGEJA,  
Deputy Registrar.

No. 58  
Minute of  
Litigants.

**No. 58.**

**Minute of Litigants.**

In H.M. Court of Appeal.

Maria Cassar and Another

vs

Carmela Camilleri and Others

20

Minute of Litigants.

Litigants hereby declare that the translation of the Record has been approved by them and that the printing of same has been completed and found correct.

(signed) J.M. GANADO, Advocate,  
For Plaintiff Appellants.

" G. PACE, Advocate  
For Defendant Respondents.

This Eighteenth February, 1955.

Filed by Dr. J. M. Ganado, without exhibits.

30

(signed) J. MICALLEF.  
Deputy Registrar.



**Decree granting Final Leave.**

Her Majesty's Court of Appeal

Judges:—

His Honour Sir Luigi A. Camilleri, Kt., LL.D., President,  
The Hon. Mr. Justice A.J. Montanaro-Gauci, C.B.E., LL.D.,  
The Hon. Mr. Justice Chev. W. Harding, B.Litt., LL.D.,

Sitting held on Friday, 18 February, 1955.

No. 2.

10 Writ-of-Summons No. 547/1951.

Maria, the wife of Salvatore Cassar, acting  
with her husband's concurrence and con-  
sent and, where necessary, the said  
Salvatore Cassar, in his capacity of head of  
the community of acquests.

vs.

Carmela Camilleri:— and Carmela Borg  
and her husband Giorgio Borg joined as  
parties to the suit by Decrees dated 3rd and  
24th October, 1951.

20

The Court,

Having seen the Application of Maria and Salvatore Cassar,  
submitting that the translation and the printing of the Record  
have been completed, and praying that they be granted final  
leave to appeal to Her Majesty in Her Privy Council;

30 Having seen the Decree delivered on 13th February, 1953,  
whereby the said Maria and Salvatore Cassar were granted  
conditional leave to appeal to Her Majesty in Her Privy Council  
from the judgment delivered by this Court on 12th January,  
1953, costs being reserved to the Decree granting final leave to  
appeal as aforesaid;

Having seen the minute filed by Litigants today;

Allows the application of the aforesaid Maria and  
Salvatore Cassar, and grants them final leave to appeal from the  
aforesaid judgment delivered by this Court to the Judicial

No. 59  
Decree granting  
Final Leave.  
—Continued

Committee of Her Majesty's Privy Council. Costs relative to the present decree and to that granting conditional leave, with the exception of those in respect of which a definite order was given on 13th December, 1954, to be borne by the aforesaid Maria and Salvatore Cassar; saving their right of reimbursement of the said costs, or of any part thereof, from Respondents, if and as ordered by the Judicial Committee of Her Majesty's Privy Council.

(sd) J. MICALLEF  
Deputy Registrar. 10

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**E X H I B I T S**

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**PLAINTIFFS' EXHIBITS**

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**No. 115000**  
**MALTA G.C.**  
**EASTER DRAW 1951**  
**ESTRAZZJON-TAL-6MO 1951**

WRITE IN BLACK LETTERS  
DATED BY THE AGENT

OWNER'S NAME AND SURNAME  
GIVEN & REGULAR IN QUANTUM

*CARMENA CAMILLERI*  
*49 St Catherine*  
*Qumri*  
*MALTA.*

OWNER'S ADDRESS-FLANE  
GIVEN BY PLANT TO AGENT

*Sou Kunglin*

**No. 115000**  
**MALTA G.C.**  
**EASTER DRAW 1951**  
**ESTRAZZJON-TAL-6MO 1951**

WRITE IN BLACK LETTERS  
DATED BY THE AGENT

OWNER'S NAME AND SURNAME  
GIVEN & REGULAR IN QUANTUM

*Carmena Borg*  
*49 St Catherine*  
*Sou Kunglin*  
*MALTA.*

OWNER'S ADDRESS-FLANE  
GIVEN BY PLANT TO AGENT

*Sou Kunglin*  
*Malta.*

**No. 115000**  
**MALTA G.C.**  
**EASTER DRAW 1951**  
**ESTRAZZJON-TAL-6MO 1951**

WRITE IN BLACK LETTERS  
DATED BY THE AGENT

OWNER'S NAME AND SURNAME  
GIVEN & REGULAR IN QUANTUM

*Carmena Attard*  
*154 St Charles*  
*MALTA.*  
*Sou Corvettina*

OWNER'S ADDRESS-FLANE  
GIVEN BY PLANT TO AGENT

*Sou Corvettina*

**Exhibit "C"**Plaintiffs'  
Exhibits  
Exhibit "C"**PUBLIC LOTTO DEPARTMENT**74, Old Bakery Street,  
Valetta.

Malta, 17 - 3 - 1951.

Carmena Borg,  
49, St. Catherine Street.

Dear Madam,

10 I am writing to inform you that counterfoil No. 115087 for the Easter 1951 Draw has been deposited at this Office after the closing date (5.00 p.m. on Saturday 10th March, 1951) and the stake referable thereto has been therefore forfeited to the Government.

In accordance with Section 9 (2) of the Government Lotteries Act (Act No. XXVI of 1948) a free ticket for the Eighth Lottery (June 1951) has been issued as per particulars at foot hereof, and is enclosed herein.

The relative Official Receipt will follow in due course.

20 Yours faithfully,  
(Signed) JOHN MIFSUD,  
Director of Public Lotto.

Number of ticket of the June 1951 Draw 108223.

Sixth February, 1952.

Filed together with Ticket No. 108223 for the Lottery Draw of June, 1951 ("A") and one envelope ("B").

(Signed) J.N. CAMILLERI,  
Deputy Registrar.

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Plaintiffs' Exhibits  
Exhibit "A"

**Exhibit "A"**

Regd. No. N.L. 799/51.

PUBLIC LOTTO DEPT.,  
74, Old Bakery Street,  
Valetta, Malta.  
12th November, 1952.

With reference to the sub-poena issued through H.M. Court of Appeal on the 8th November, 1952, in re Maria Cassar & Another vs. Carmela Camilleri & Others, I hereby certify that the Closing Dates and the Dates of the Draw of the National Lottery up to June, 1951, were as hereunder stated:— 10

	<b>Closing Date</b>	<b>Date of Draw</b>	
Lottery I	11th December, 1948	26th December, 1948	
„ II	18th June, 1949	3rd July, 1949	
„ III	14th December, 1949	1st January, 1950	
„ IV	3rd April, 1950	16th April, 1950	
„ V	26th August, 1950	10th September, 1950	
„ VI	9th December, 1950	24th December, 1950	
„ VII	10th March, 1951	25th March, 1951	
„ VIII	2nd June, 1951	17th June, 1951	20

(Signed) JOHN MIFSUD,  
Director of the Public Lotto.

The Seventeenth November, 1952.

Filed by witness Henry Frendo.

(Signed) J.N. CAMILLERI,  
Deputy Registrar.

Plaintiffs' Exhibits  
Exhibit "B"

**Exhibit "B"**

Regd. No. Lotto 766/52

PUBLIC LOTTO DEPT.,  
74, Old Bakery Street,  
Valetta, Malta. 30  
12th November, 1952.

With reference to the sub-poena issued through H.M. Court of Appeal on the 8th November, 1952, in re Maria Cassar & Another vs. Carmela Camilleri & Others, I hereby certify that

Numbers 25 and 10 have never been drawn together as an **ambo** throughout the period between 9th April, 1949 and 30th June, 1951 inclusive. Plaintiffs' Exhibits  
Exhibit "B"  
—Continued

(Signed) JOHN MIFSUD,  
Director of the Public Lotto.

The Seventeenth November, 1952.

Filed by witness Henry Frendo.

(Signed) J.N. CAMILLERI,  
Deputy Registrar.

10

**Exhibit "A"**  
**Schedule of Deposit**

Plaintiffs' Exhibits  
Exhibit "A"  
Schedule of  
Deposit

In H.M. Civil Court, First Hall.

John Mifsud, in his capacity of  
Director of Public Lotto, and the Hon.  
Edgar Cuschieri O.B.E., in his capacity  
of Treasurer to Government  
versus

20

Carmela Camilleri, Maria, the wife  
of Salvatore Cassar, acting with her  
husband's concurrence and consent  
and, where necessary, the said  
Salvatore Cassar in his capacity of  
head of the community of acquests,  
and, in so far as they are or may be  
concerned, Carmela, the wife of  
Giorgio Borg, acting with her hus-  
band's concurrence and consent and,  
where necessary, the said Giorgio  
Borg in his capacity of head of the  
community of acquests.

30

The Schedule of Deposit of John Mifsud and the Hon. Edgar Cuschieri O.B.E. in their aforestated capacity.

Respectfully shew:—

That Appearers were served with a garnishee order against Carmela Camilleri issued by this Court on 19th June, 1951, jointly by Maria, the wife of Salvatore Cassar, and the said Salvatore Cassar in his capacity of head of the community of acquests.



Plaintiffs' Exhibits  
Exhibit "A"  
Schedule of  
Deposit  
—Continued

That, thereby, in order to safeguard a claim on the part of the said Maria and Salvatore Cassar respecting a moiety of the prize of £13,000 won in the National Lottery on 17th June, 1951, by Ticket bearing the nom-de-plume of "Suor Concettina," the present depositors were enjoined to hold and retain in their possession the sum of £6,500, together with Costs of the Order, amounting to £1. 10. 4d.

That, by Judicial Letter dated 26th August, 1952, the said Carmela Camilleri, who won the aforesaid prize, called upon the present depositors to lodge the aforesaid sum of £6,500, together with the sum of £1. 10. 4. Costs, in the Registry of this Court, and to pay to her the balance of £6,498. 9. 8. 10

That, by Judicial Letter dated 6th September, 1952, the present depositors communicated the contents of the Judicial Letter dated 26th August, 1952, to the said Maria and Salvatore Cassar, Carmela Camilleri and Carmela and Giorgio Borg, and informed them that they, the present depositors, could see no reason why they should not comply with the request made to them as above and called upon the said Carmela and Giorgio Borg and the said Maria and Salvatore Cassar to declare, by Judicial Letter, within four days from date of service, whether there was any objection on their part to that end; and the aforesaid parties, duly served with the Judicial Letter, disclosed no such objection on their part. 20

Wherefore the said John Mifsud and the said Hon. Edgar Cuschieri nomine beg leave to deposit, and do hereby deposit, in the Registry of this Honourable Court, the sum of £6,497. 16. 11d. which, together with Costs of the present Schedule, amounting to £3. 13. 5, make up the attached sum of £6,501. 10d. 4 — which sum is to be held at the disposal of and paid out to whomsoever may be adjudged entitled thereto according to law. 30

(Signed) VINC. A. DEPASQUALE,  
Crown Counsel.  
,, A. CATANIA,  
Legal Procurator.

This Sixteenth October, 1952.

Filed by A. Catania L.P. without Exhibits and together with the sum of £6,497. 16. 11.

(Signed) J. DEBONO, 40  
Deputy Registrar.

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**DEFENDANTS' EXHIBITS**

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(1)

133462

GENERAL RECEIPT No. 08882

*George Joseph*

*201 St Catherine St*

*Valletta*

*San Krestina*

*15/11/51*

GENERAL RECEIPT

MALTA L.C.

JUNE 1951

RECEIVED BY: *[Signature]*

IN THE PRESENCE OF: *[Signature]*

7

108302

GENERAL RECEIPT No. 07930

*Giuseppe Sammler*

*109 St Catherine St*

*Valletta*

*San Krestina*

*15/11/51*

GENERAL RECEIPT

MALTA L.C.

JUNE 1951

RECEIVED BY: *[Signature]*

IN THE PRESENCE OF: *[Signature]*

**Exhibit "B"**

Defendants'  
Exhibits  
Exhibit "B"

**"IN MEMORIAM" SUOR MARIA CONCETTA**

**IN MEMORIAM**

IN DEAR REMEMBRANCE OF THE

SAINTLY SOUL

OF

**SUOR CONCETTINA OF THE DIVINE SAVIOUR**

OF SAINT CATHERINE'S CLOISTER

VALETTA

WHO DIED ON THE 25TH MAY, 1950,

AT THE AGE OF 38,

AFTER A WHOLE LIFE SPENT IN PRAYER, SACRIFICE

AND SISTERLY LOVE

*A True Example*

*of Great Religious Perfection*

*In Life and in Death*

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*Jesus, Mary, Joseph.*

*Dear Jesus, grant her Eternal Rest.*

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N.B. Any person, benefitting through the intercession of the departed soul, who wishes to print these commemorative pictures, should apply to the Saint Joseph Institute, Hamrun.

Defendants'  
Exhibits  
Exhibit "A"

**Exhibit "A"**

Regd. No. N.L. 352/51.  
Telegraphic Address  
FORTUNE MALTA

PUBLIC LOTTO DEPT.,  
74, Old Bakery Street,  
Valetta, Malta.  
17.3.1951.

Carmela Camilleri,  
49, St. Catherine Street,  
Qormi.

10

Dear Madam,

I am writing to inform you that counterfoil No. 115086 for the Easter 1951 Draw has been deposited at this Office after the closing date (5.00 p.m. on Saturday the 10th March, 1951) and the stake referable thereto has therefore been forfeited to Government.

In accordance with section 9 (2) of the Government Lotteries Act (Act No. XXVI of 1948), a free Ticket for the Eighth Lottery (June 1951) has been issued as per particulars at foot 20 hereof, and is enclosed herein.

The relative Official Receipt will follow in due course.

Yours faithfully,  
(Signed) JOHN MIFSUD,  
Director of Public Lotto.

Number of Ticket of the June 1951 Draw 108222.

Defendants'  
Exhibits  
Govt. Lot. Act  
S. 8, 14, 15, 16

**Exhibit "A"**

Government Lotteries Act, 1948 — Sections 8, 14, 15 & 16  
**ATC No. XXVI of 1948.**

8 (1) On purchasing a ticket, the staker, or any other 30 person acting for him, shall ascertain that the number on the ticket purchased is identical to the number on the corresponding counterfoil, and shall write on the face of such counterfoil, in ink or in indelible pencil, and in block capital letters, the following particulars:—

- (a) the name and surname of the staker
- (b) his address
- (c) his nom-de-plume, if any;

(2) Immediately after selling a ticket, the seller, or any other person for him, shall write at the back of the corres- 40

ponding counterfoil, in ink or in indelible pencil, and in block capital letters, the following particulars:—

Defendants'  
Exhibits  
Govt. Lott. Act  
S. 8, 14, 15, 16  
—Continued

- (a) the name and surname of the seller
- (b) his address

(3) The seller may use a rubber stamp for the purpose of sub-section (2) of this section.

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10 14 (1) Immediately after the draw, the Collector shall notify by registered letter the person whose name, surname and address are shown on a counterfoil drawn, of the win secured.

(2) A person notified as in sub-section (1) or claiming a prize in respect of a draw shall present, or send through the post at his own risk, to the Collector the winning ticket for verification.

(3) The Collector shall issue a receipt in respect of every ticket received by him for verification.

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15 (1) The person whose name, surname and address are shown on a counterfoil drawn, his representative or assign shall not be entitled to payment of the relative prize:—

20 (a) If the ticket is not presented or delivered by post to the Collector before the lapse of one hundred and twenty days from the date of the relative draw; or

(b) if the ticket does not correspond in all respects to the said counterfoil, or if it is not whole, or if it does not bear a serial number corresponding to the serial number of the counterfoil, or if it contains any alteration, abrasion or erasure of the serial number printed thereon; or

(c) if the Collector states in writing, such statement to be filed in his Office, that the ticket is not genuine.

30 (2) The decision of the Collector with respect to any of the matters dealt with in sub-section (1) shall be final.

(3) Prizes not paid in accordance with the provisions of sub-section (1) shall be forfeited to the Collector.

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16 (1) Every prize shall be paid or remitted to the person only whose name, surname and address are shown on the

respective counterfoil drawn, or in accordance with properly authenticated instructions of or assignment by such person.

Provided that if the winning ticket is presented or sent to the Collector by a person who is neither the person described on the counterfoil drawn nor his representative or assign, and in default of an agreement in writing between those persons as to whom the payment of the prize is to be made, the Collector shall deposit under the authority of the First Hall of His Majesty's Civil Court in Malta the amount of the prize drawn by means of the said counterfoil so to remain until the rightful owner is adjudged as such in an action between the contending parties and in contestation with the Collector:

10

Provided further that if the said action is not commenced before the lapse of two years from the date of the said deposit, the Court, on an application to be filed by the Collector, shall, if it thinks fit, authorize the withdrawal by the latter of the said deposit, notwithstanding any opposition from the contending parties, their creditors or any other third party, and the amount so withdrawn shall thereupon be forfeited to the Collector.

20

(2) If any of the particulars required under paragraphs (a) and (b) of section 8 (1) is not shown on a counterfoil drawn, or is illegible, the Collector shall withhold the payment of the relative prize until the identity of the winner is established to his satisfaction:

Provided that any decision of the Collector refusing the payment of the prize to a claimant of same shall be communicated to that claimant in writing by a registered letter, and provided further that the said claimant may lodge an appeal against any such refusal with His Majesty's Court of Appeal in Malta by means of an application to be filed in the Registry of that Court within thirty days from the date of the said decision if the claimant resided in Malta or within one hundred and twenty days from that date if the claimant resided abroad.

30

(3) For the purpose of, and in connection with, the provisions of sub-section (2), the Collector may administer the oath to any person.

(4) If any of the circumstances set out in sub-section (2) apply and no claim in respect of the counterfoil to which they apply is received by the Collector within one hundred and eighty days from the date of the draw, the prize to which that counterfoil is referable shall be forfeited to the Collector.

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**Exhibit "A"**Defendants'  
Exhibits  
Exhibit "A"

Regd. No. Lotto 766/52.

PUBLIC LOTTO DEPT.,

74, Old Bakery Street,  
Valetta, Malta.

29th November, 1952.

With reference to the sub-poena issued through H.M. Court  
of Appeal in re Maria Cassar & Another vs. Carmela Camilleri  
& Others, I hereby certify that the Lotto numbers drawn on  
10 24th June, 1950, were the following:—

20 25 38 36 43

(Signed) JOHN MIFSUD,  
Director of the Public Lotto.

The Fifth December, 1952.

Filed by witness Henry Frendo.

(Signed) J. N. CAMILLERI,  
Deputy Registrar.

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