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Judgment
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Supreme Court of Ceylon
Nos. 99 -100 (Final) of 1954.

District Court, Colombo,
No. 6303.

IN HER MAJESTY'S PRIVY COUNCIL
ON AN APPEAL FROM
THE SUPREME COURT OF CEYLON

BETWEEN

BEATRICE SUNEETHIRA PERERA of 23/1, Wall's Lane,
Mutwal, Colombo *Plaintiff-Appellant.*

AND

1. N. A. PERERA,
2. Mrs. FLORA PERERA,
3. S. D. JUSTIN PERERA,
4. S. D. AUSTIN PERERA, and
5. S. D. LIONEL PERERA, all of Wall's Street,
Mutwal, Colombo *Defendants-Respondents.*

RECORD
OF PROCEEDINGS

UNIVERSITY OF LONDON
W.C.1.

- 7 FEB 1961

INSTITUTE OF ADVANCED
LEGAL STUDIES

ii

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Supreme Court of Ceylon
Nos. 99—100 (Final) of 1954.

District Court Colombo,
No. 6306.

IN HER MAJESTY'S PRIVY COUNCIL
ON AN APPEAL FROM
THE SUPREME COURT OF CEYLON

BETWEEN

BEATRICE SUNEETHRA PERERA of 23/1, Wall's Lane.
Mutwal, Colombo.....*Plaintiff Appellant.*

AND

1. N. A. PERERA,
2. MRS. FLORA PERERA,
3. S. D. JUSTIN PERERA,
4. S. D. AUSTIN PERERA, and
5. S. D. LIONEL PERERA, all of Wall's Street,
Mutwal, Colombo.....*Defendants-Respondents.*

RECORD OF PROCEEDINGS

PART I

No. 1

No. 1
Journal
Entries.
18-7-51 to
11-7-58

Journal Entries

IN THE DISTRICT COURT OF COLOMBO

No. 6306/P.N.

BEATRICE SUNEETHRA PERERA.....*Plaintiff.*

vs.

N. A. PERERA and four others.....*Defendants.*

Amount : Rs. 10,000/-.

Nature : Partition.

10 Procedure : Regular.

JOURNAL

(1) 18-7-51. Mr. Krishna Pillai Rasanathan, Proctor, files appointment and plaint together with pedigree and abstract of title. Plaint registered under section 7 of the Partition Act No. 16 of 1951.

(Sgd.) L. W. DE SILVA,
A. D. J.

Summons issued with Precept returnable on the.....
day of.....19.....

20 (2) 24-7-51. Proctor for plaintiff with reference to the last order of Court, moves to bring to the notice of this Court that this action is for declaration and not for partition. He therefore moves that this Court be pleased to vacate the order rejecting the plaint as made per incuriam. He also moves for a date to issue summons on the parties defendants.

The error is rejected and the order is vacated.
Issue for 5/9. The correct lettering should
be

30

(Sgd.) L. W. DE SILVA.

(3) 8-8-51. Summons issued on 1-5 defendants.

(Sgd.) Illegibly.

(4) 5-9-51. Mr. K. Rasanathan for plaintiff.
Summons not served on the defendants 1-5.
Re-issue 24-10-51.

(Intd.) L. W. DE SILVA,
A. D. J.

No. 1
Journal
Entries.
18-7-51 to
11-7-56
—continued

- (5) 11-9-51. Summons re issue on 1-5 defendants. (Sgd.) Illegibly.
- (6) 24-10-51. Mr. K. Rasanathan for plaintiff.
Summons on 1 to 5 defendants no return.
Mr. D. J. Weerasinghe files proxies (6a) and (6b) of 1 to 5
defendants.
Answers on 19-12-51.
Deficiency due on proxies Rs. 16/80 on 19/12.
(Intd.) L. W. DE SILVA.
- (7) 19-12-51. Mr. K. Rasanathan for plaintiff. 10
Mr. D. J. Weerasinghe for defendants.
(a) Answers due filed (7a).
(b) Deficiency Rs. 16/80 due from Mr. D. J.
Weerasinghe—stamps to the value of Rs. 16/80
tendered.
Vide proxies (6a) and (6b).
Mention in " C " Court on 15-1-52 to fix trial.
(Sgd.) L. W. DE SILVA.
- (8) 15-1-52. Mr. K. Rasanathan for plaintiff. 20
Mr. D. J. Weerasinghe for defendants.
Vide J.E. (7) case called.
Trial for 12-2-52.
(Sgd.) L. B. DE SILVA.
- (9) 23-1-52. Mr. K. Rasanathan for plaintiff tenders plaintiff's list of
witnesses and documents and moves for summons, with
notice to Proctor for defendants.
File—Issue summons.
(Intd.) L. W. DE SILVA,
A. D. J.
- (10) 28-1-52. Summons issued on 5 witnesses by plaintiff. 30
- (11) 28-1-52. Mr. D. J. Weerasinghe for defendants as the 2nd defendant
is ill, moves that the trial date be postponed.
Proctor for plaintiff takes notice for 1-2-52.
Allowed—Call on 12-2-52.
(Sgd.) L. B. DE SILVA.
- (12) 6-2-52. Mr. K. Rasanathan for plaintiff states that he took notice
on Proctor for defendant's application for 1-2-52 but the
case was not called. He submits that the case should
have been called, on the 1st before the application for a
postponement was allowed. He also states that there 40

is no proof regarding the 2nd defendant's illness. He moves that the defendant's proctor be called upon to submit a medical certificate.

The motion for a postponement was submitted to me in chambers on 1-2-52 sometime after 1-35 p.m., then I had concluded the Court work for the day. The proctors were not present at the time. I have allowed the postponement.

I regret that I am unable now to vary that order.

(Sgd.) L. B. DE SILVA.
6-3-52.

10

- (13) 12-2-52. Mr. K. Rasanathan for plaintiff instructing Mr. Advocate D. M. Weerasinghe and Advocate Arulambalam. Mr. D. J. Weerasinghe for defendants.

Vide J.E. (8)—Trial.

„ *J.E. (11)*—Case called.

Re-fix trial for 12-5-52. Defendant to pay the plaintiff Rs. 52/50 as costs of today and costs of summons Rs. 33/-.

20

(Sgd.) L. B. DE SILVA.

- (14) 6-5-52. Mr. D. J. Weerasinghe for defendants with notice to Proctor for plaintiffs files defendant's list of witnesses and documents and moves for summons.

File—Issue summons except on witness No. 10.

(Intd.) L. W. DE SILVA,
A. D. J.

- (15) 7-5-52. Summons issued on 4 witnesses by plaintiff.

- (16) 7-5-52. Summons issued on three witnesses by defendant.

A. D. J.

- (17) 8-5-52. Mr. D. J. Weerasinghe Proctor for defendants files additional list of witnesses and moves for summons. Proctor for plaintiff received notice.

30

File—Issue summons.

(Intd.) L. W. DE SILVA.

- (17a) 8-5-52. Summons issued on 4 witnesses by defendant. WP.

A. D. J.

- (18) 12-5-52. Mr. K. Rasanathan for plaintiff, instructing Mr. Advocate Weerasinghe.

Mr. D. J. Weerasinghe for defendants, instructing Mr. Advocate E. B. Wickramanayake, Q.C., and Mr. Advocate E. S. Amerasinghe.

40

Vide J.E. (13) trial.

For want of time. Re-fix trial for 6-10-52.

(Intd.) L. B. DE SILVA,

No. 1
Journal
Entries.
18-7-51 to
11-7-58
—continued

- (19) 10-9-52. Mr. D. J. Weerasinghe for defendant moves the Court to re-fix the trial which is fixed for 6th October, 1952, to a further date convenient to Court, as the date fixed is not suitable to the defendant's counsel, Proctor for plaintiff takes notice for 12-9-52.—
Mention on 12-9-52.
(Intd.) L. B. DE SILVA.
- (20) 12-9-52. Case called. Mr. Advocate E. S. Amarasinghe instructed by Mr. Weerasinghe for defendants in support of application.
Mr. Rasanathan for plaintiff has no objection if a short date is given.
Re-fix trial for 6-8-53.
Take off trial roll on 6-10-52.
(Sgd.) L. B. DE SILVA.
- (21) 21-1-53. In view of the fact that the answer of the defendant contains a claim in reconvention and as no mention of the fact was made on the date answer was filed, Mr. K. Rasanathan, Proctor for plaintiff with notice to Proctor for defendants files herewith replication (21a) of the plaintiff thereto and moves that the same be accepted by Court.
Replication accepted. File.
(Sgd.) M. M. I. KARIAPPER,
A. D. J.
- (22) 26-2-53. Mr. D. J. Weerasinghe, Proctor for defendants files additional list of witnesses of the defendants in this case and moves for summons on them. Proctor for plaintiff received notice.
1. File.
2. Issue summons.
(Sgd.) M. C. SANSONI,
A. D. J.
- (23) 26-2-53. Summons issued on 10 witnesses by defendants.
(Sgd.) Illegibly.
- (24) 2-3-53. Mr. K. Rasanathan, Proctor for plaintiff with notice to Proctor for plaintiff moves to file the plaintiff's conditional list of witnesses and moves for summons on them.
1. File.
2. Issue summons.
(Intd.) M. C. SANSONI,
A. D. J.

- No. 1
Journal
Entries.
18-7-51 to
11-7-56
—continued
- (25) 2-3-53. Summons on 5 witnesses by plaintiff.
- (26) 6-3-53. Mr. K. Rasanathan for plaintiff.
Mr. D. J. Weerasinghe for defendants.
Proceedings filed 17/3.
Vide J.E. (20) trial.
Plaintiff files revocation of proxy and connected papers.
Allowed—Mr. W. N. J. Fernando files proxy for plaintiff.
Vide Proceedings—Re-fix trial for 2-6-53.
(Sgd.) L. B. DE SILVA.
- 10 (27) 21-3-53. As the 2nd day of June, 1953, is likely to be a public holiday for coronation celebrations Mr. W. M. J. Fernando, Proctor for plaintiff moves that the Court be pleased to postpone the trial date in this case for another date convenient to Court. Proctor for defendant received notice to call case on 24-3-53.
I can't act on a probability, let the date stand until a holiday is declared.
(Sgd.) M. C. SANSONI.
- 20 (28) 29-4-53. It now transpires that 2-6-53 is a Public Holiday. Trial is re-fixed for 15-7-53. Notice parties accordingly.
Parties noticed accordingly by registered post.
(Sgd.) Illegibly.
5-5-53.
(Sgd.) L. B. DE SILVA.
- (29) 2-5-53. As the 2nd June, 1953, has now been declared a Public Holiday Mr. W. M. J. Fernando, Proctor for plaintiff with notice to Proctor for defendants now moves that this case be put off for hearing for a short date thereafter.
80 *Vide J.E. (28).* Trial has been re-fixed for 15-7-53.
(Sgd.) M. C. SANSONI,
A. D. J.
- (30) 6-7-53. Mr. D. J. Weerasinghe, Proctor for defendants files additional list of witnesses of the defendants in this case and moves for summons on them. A copy of the list was sent under registered cover to Proctor for plaintiff.
Allowed, Issue summons.
A. D. J.

- No. 1
Journal
Entries.
18-7-51 to
11-7-56
—continued
- (81) 6-7-53. Summons on 12 witnesses by defendant.
- (82) 10-7-53. Summons on 4 witnesses by plaintiff.
- (83) 15-7-53. Mr. Fernando for plaintiff instructing Mr. Advocate Weerasinghe and Mr. Advocate Sambandhan.
Mr. D. J. Weerasinghe for defendants, instructing Mr. Advocate E. B. Wickramanayake, Q.C., and Mr. Advocate E. S. Amarasinghe.
Proceedings filed 22/7.
Vide J.E. (28). Trial.
Proceedings. 10
Address for 30-7-53.
(Sgd.) L. B. DE SILVA.
- (84) 27-7-53. The 1st and 2nd defendants move to revoke the proxy granted by them to Mr. Jacob Weerasinghe, Proctor, in the above case.
Mr. Weerasinghe consents.
Signatures identified by Proctor.
Revocation allowed.
(Sgd.) G. M. DE SILVA,
A. D. J. 20
- (85) 30-7-53. Mr. Fernando for plaintiff.
Vide J.E. (33) addresses.
P1 to P6 filed
D1 to D14 filed
Proceedings filed.
Mr. E. L. Gomes files act of revocation and proxy for 1 and 2 defendants.
They are accepted.
Vide Proceedings—Judgment for 25-8-53.
(Sgd.) L. B. DE SILVA. 80
- (86) 25-8-53. Mr. Fernando for plaintiff.
Mr. E. L. Gomes for 1st and 2nd defendants.
Vide J.E. (35). Judgment.
1st and 2nd defendants present—Mr. Gomes for 1st and 2nd defendants is present.
Mr. Rasanathan takes notice on behalf of the proctor for plaintiff.
Judgment delivered. Enter decree accordingly.
(Sgd.) L. B. DE SILVA.
- (87) 26-8-53. Mr. E. L. Gomes, Proctor for 1st and 2nd defendants. 40
Appellants files petition of appeal.
File.
(Intd.) Illegible.
A, D, J,

- (38) 26-8-53. Mr. E. L. Gomes, Proctor for 1st and 2nd defendants-appellants states that the petition of appeal of the 1st and 2nd defendants-appellants against the judgment dated 25-8-53, tendered to Court this day having been accepted, states that the 1st and 2nd defendants-appellants will on 9-9-53 at 10-45 a.m. or sooner if possible tender a sum of Rs. 150/- being security for costs of appeal.

No. 1
Journal
Entries.
18-7-51 to
11-7-56
—continued

10 He also moves for a paying in voucher for Rs. 12/- for appeal briefs.

Proctor for plaintiff-respondent received notice.

Proctor for 3rd, 4th and 5th defendants-respondents received notice and has no cause to show as no relief is claimed against them.

1. Call case on 9-9-53.

2. Issue paying in voucher for Rs. 150/- and Rs. 12/-.

Paying in voucher issued.

(Sgd.) G. M. DE SILVA,
A. D. J.

20

- (39) 7-9-53. Mr. S. M. C. de Soysa, Proctor for plaintiff files revocation (39a) formal motion and minute of consent (39b) and his appointment (39c) as Proctor for plaintiff in this case and moves that the same be accepted in this case.

1. Revocation of Mr. W. M. J. Fernando's proxy allowed.

2. File Mr. de Soysa's proxy of record.

His appointment is accepted.

(Intd.) G. M. DE SILVA,
A. D. J.

30

- (40) 7-9-53. Mr. S. M. de Soysa, Proctor for plaintiff-appellant files petition of appeal.

File.

A. D. J.

- (41) 7-9-53. Mr. S. M. C. de Soysa, Proctor for plaintiff-appellant states that the petition of appeal presented by him in the above action on 7-9-53 against judgment of this Court dated 25-8-53, having been received by this Court, he will on 15-9-53 at 10-45 o'clock of the forenoon or soon thereafter move to tender security in the sum of Rs. 150/- for any costs which may be incurred by him in appeal in the premises and will on the said day deposit in Court a sufficient sum of money to cover the expenses by serving notice of appeal.

40

No. 1
Journal
Entries.
18-7-51 to
11-7-58
—continued

Proctor for 2nd defendants receives notice.
No relief is claimed against the 1st, 3rd, 4th and 5th defendants nor do they get any relief under the said judgment and hence no notice of security is given to them.

1. Call case on 15-9-53.
2. Issue paying in voucher for Rs. 150/-.
(Sgd.) Illegible.
A. D. J.

- (42) 9-9-53. Mr. Fernando for plaintiff. 10
Mr. E. L. Gomes for 1st and 2nd defendants.
Vide J.E. (38). Case called.
Mr. E. L. Gomes for 1st and 2nd defendants gives notice to proctor for plaintiff-respondent, that this case will be called on 9-9-53.
Security of Rs. 150/- taxed. Security accepted. Perfected Bond.
(Sgd.) Illegible.
A. D. J.
- (43) 9-9-53. The security for costs in appeal together with the Kach-20 cheri receipt and perfected bond having been tendered to Court, Mr. E. L. Gomes, Proctor for 1st and 2nd defendants-appellants moves Court to grant a date to issue notice of appeal for service on the plaintiff-respondent's proctor and on the proctor for the 3rd, 4th and 5th respondents in this case. He also tenders a Kachcheri receipt (43a) for Rs. 12/- being amount deposited to the credit of this case for the typewritten brief for the 1st and 2nd defendants-appellants. 30
1. File K.R. of record.
2. Issue notice of appeal for 28-10-53.
(Intd.) L. B. DE SILVA,
A. D. J.
- (43a) 14-9-53. Notice of appeal sent to Fiscal, W.P., to be served on proctor for plaintiff-respondent and 3rd, 4th and 5th defendants-respondents.
- (45) 15-9-53. Mr. S. M. C. de Soysa for plaintiff-appellant. 40
Mr. E. L. Gomes for 1st and 2nd defendants-respondents.
Vide J.E. (41). Case called.
Re-security.
Security accepted. Issue paying in voucher for Rs. 150/-. Perfect Bond.
(Sgd.) Illegible.

- No. 1
Journal
Entries.
18-7-51 to
11-7-50
—continued
- (46) 16-9-53. Mr. S. M. C. de Soysa, Proctor for appellant applies for typewritten copies of the record in this case as per particulars mentioned in the motion and moves for a paying in voucher for the sum of Rs. 15/-.
Issue paying in voucher accordingly.
(Sgd.) Illegible.
Assistant Secretary.
- 10 (47) 16-9-53. Mr. S. M. C. de Soysa, Proctor for appellant files bond to prosecute appeal (47a) Kachcheri receipt for Rs. 150/- (47b) and notice of appeal (47c).
1. Issue notice of appeal for 4-11-53.
2. File bond of record.
(Intd.) Illegible.
A. D. J.
- (48) 17-9-53. Notice of appeal sent to Fiscal, W.P., to be served on proctor for defendants-respondents.
(Sgd.) Illegible.
- (49) 19-9-53. T/10 No. 1590/88708 of 7-9-53 for Rs. 15/- filed.
K.R.
- 20 (50) 28-10-53. Mr. S. M. C. de Soysa for plaintiff-appellant.
Notice of appeal served on proctors for defendants—Mr. J. Weerasinghe and Mr. S. M. C. de Soysa.
Forward appeal.
(Sgd.) G. M. DE SILVA,
A. D. J.
- (51) 5-2-54. The Appeal Branch requests fees to be called from the following:—
Mr. S. M. C. de Soysa ... Rs. 60/-
Mr. E. L. Gomes ... „ 63/-
80 Call for fees by registered post.
(Sgd.) Illegible.
A. D. J.
- Kachcheri Receipt U/10 No. 11968 dated 11-2-54 for Rs. 63/- from Mr. E. L. Gomes.
Kachcheri Receipt U/10 No. 13960 dated 24-2-54 for Rs. 60/- from Mr. S. M. C. de Soysa.
- (52) Decree entered of record.
(Sgd.) Illegible.
Assistant Secretary,

No. 1
Journal
Entries.
18-7-51 to
11-7-56
—continued

- (53) 4-3-54. Record forwarded to Supreme Court.
- (54) 22-2-56. The Registrar, Supreme Court, returns record :
 (1) Appeal of 1st and 2nd defendants allowed.
 (2) Appeal of plaintiff dismissed.
 Call case on 28-3-53 for steps.
 Inform Proctor.
 (Sgd.) Illegible.
A. D. J.
- (55) 24-2-56. The appeal preferred by the 1st and 2nd defendants-appellants having been allowed with costs in both 10 courts, proctor for 1st and 2nd defendants moves to issue an order of payment in favour of the 1st and 2nd defendants-appellants for Rs. 150/- being security for costs in appeal deposited by them.
 Issue requisition for Rs. 150/- in favour of 1st and 2nd defendants-appellants.
 (Sgd.) Illegible.
A. D. J.
- (56) 27-2-56. *Vide J.E. (55).*
 Requisition No. 64 for Rs. 150/- sent to (1) N. A. Perera, 20
 (2) Mrs. F. Perera—1st and 2nd defendants.
 (Sgd) Illegible. *Assistant Secretary.* (Sgd.) Illegible. *Administrative Secretary.*
- (57) 28-3-56. Proctor for 1st and 2nd defendants files Bill of Costs payable by the plaintiff. Proctor for plaintiff received notice and copy for 6-4-56. Tax bill.
 (Sgd.) Illegible.
A. D. J.
- (58) 29-3-56. Mr. S. M. S. de Soysa for plaintiff—absent.
 Mr. E. L. Gomes for 1st and 2nd defendants. 30
Vide J.E. 54—Case called for steps if any—
 Notice plaintiff for 20-6.
 (Sgd.) Illegible.
- (59) 14-5-56. Notice issued on plaintiff.
 (Sgd.) Illegible.
- (60) 4-6-56. In terms of the judgment and decree of the Supreme Court entered on 21-2-56 filed of record proctor for 1st and 2nd defendants submits that no further steps are necessary in so far as the 1st and 2nd defendants are

concerned in terms of the said decree and moves to tax the 1st and 2nd defendant's Bill of Costs notice of which was received by the plaintiff's proctor for 6-4-56.

Vide J.E. (57).
Tax Bill.

No. 1
Journal
Entries.
18-7-51 to
11-7-58
—continued

(Sgd.) Illegible.
A. D. J.

10 (61) 11-7-56. Final appeal to the Privy Council in this case has been allowed. He wants the record and the productions sent to him to enable him to take necessary action.
Forward record and productions to Registrar, Supreme Court.

(Sgd.) Illegible.
A. D. J.

No. 2

Plaint of the Plaintiff

No. 2
Plaint of
the Plaintiff.
18-7-51

IN THE DISTRICT COURT OF COLOMBO

No. 6806/P.

20 BEATRICE SUNEETHRA PERERA of No. 23/1, Wall's Lane,
Mutwal, in Colombo.....*Plaintiff.*

vs.

1. N. A. PERERA,
2. MRS. FLORA PERERA,
3. S. D. JUSTIN PERERA,
4. S. D. AUSTIN PERERA,
5. S. D. LIONEL PERERA, all of Wall's Lane,
Mutwal, Colombo.....*Defendants.*

On this 18th day of July, 1951.

The plaintiff of the plaintiff above-named appearing by K. Rasanathan
30 her proctor states as follows :—

1. The parties to this action reside and the cause of action hereinafter set forth arose at Colombo within the jurisdiction of this court.

2. The land which is the subject matter of this action is situate and the parties reside and the cause of this action hereinafter arose at Colombo aforesaid.

3. At all times material to this action one B. J. Perera was the owner of the lands and premises fully described in the schedule hereto.

4. The right, title and interest of the said B. J. Perera were sold by the Deputy Fiscal, Western Province, Colombo, in Case No. 9041/S of the
40 District Court of Colombo, on or about the 5th day of April, 1950, and

No. 2
Plaint of
the Plaintiff.
18-7-51
—continued

purchased by one N. Thiagarajah of Colombo to whom the Fiscal, Western Province, Colombo, issued Conveyance No. 20200 dated 6th day of February, 1951.

5. Thereafter the said N. Thiagarajah sold and conveyed the said premises to the plaintiff above-named by deed No. 1523 dated the 8th June, 1951, attested by K. Rasanathan of Colombo, Notary Public.

5. Thus the plaintiff and his predecessors in title have been in the undisturbed possession of the said premises.

6. The said land and premises are reasonably worth Rs. 10,000/-.

7. The defendants who have no manner of right or title to the said land and premises are in the unlawful possession thereof.

Wherefore the plaintiff prays :—

- (a) That the plaintiff be declared entitled to the land and premises fully described in the schedule hereto.
- (b) That the defendants be ejected and their servants, agents or any person claiming under the defendant be also ejected from the land and premises and the plaintiff be placed in possession thereof.
- (c) For further damages at Rs. 200/- per month from the 1st day of June, 1951, till the defendants are ejected from the premises.
- (d) For costs of suit and for such other and further relief as to this Court shall seem meet.

Proctor for Plaintiff.

THE SCHEDULE ABOVE REFERRED TO.

All that allotment of land bearing present assessment Nos. 23 (1, 18 and 19-25), situated at Wall's Lane, Mutwal, within the Municipality and District of Colombo, Western Province, and bounded on the North-East by the other portion of this land of Tikiridure Lawrence Silva, South-East by the part of the same garden, South-West by the road, and on the North-West by the other part of the same garden containing in extent one rood and thirteen and twenty upon one hundredth perches and registered in A808/167 together with all the buildings and everything standing thereon, which said premises have recently been surveyed as buildings and premises bearing Assessment Nos. 23, 23/1 3 and 4, and 23/18-24, Wall's Lane, situated at Mutwal, and described as being bounded on the North-East by premises Nos. 23/8-11 and 37/1, Wall's Lane, South-East by premises Nos. 37/2 and 31, Wall's Lane, South-West by Wall's Lane, North-West by premises No. 17 Wall's Lane, and containing in extent one rood and twenty-one decimal two five perches according to Survey Plan No. 289 dated 7-5-51. Made by S. H. Fernando, Surveyor.

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Documents filed with the plaint.

1. Abstract of title marked " A ".
2. Pedigree marked " B ".

(Sgd.) K. RASANATHAN,
Proctor for Plaintiff.

Documents relied on by plaintiff.

Deed No. 1523 dated 8th June, 1951, attested by K. Rasanathan of Colombo, N. P., and Fiscal's conveyance referred to above.

No. 2
Plaint of
the Plaintiff.
18-7-51
—continued

(Sgd.) K. RASANATHAN,
Proctor for Plaintiff.

ABSTRACT OF TITLE MARKED "A".

Deed No.	Nature	Date	Name of Notary	Grantor	Grantee	Name of Land	Share Conveyed
Fiscal's Conveyance 10 No. 20200.	Transfer	0/2/51	Fiscal's Conveyance	B. J. Perera	N. Thiagarajah	23 and others, Walls Lane.	Entirety
1523	Transfer	8-6-51	K. Rasanathan	N. Thiagarajah	B. S. Perera	Nos. 23 and others situated at Wall's Lane, Mutwal.	Entirety

Sgd. K. Rasanathan,
Proctor for Plaintiff.
18-7-51.

PEDIGREE MARKED "B".

B. J. Perera
N. Thiagarajah by Deed No. 1523/8-6-51
Beatrice Suneethra Perera

20

(Sgd.) Illegible.
Proctor for Plaintiff.
18-7-51.

No. 3

Answer of the Defendants

IN THE DISTRICT COURT OF COLOMBO

BEATRICE SUNEETHRA PERERA of 23/1, Wall's Lane,
Mutwal, in Colombo.....*Plaintiff.*

No. 6306/L.

vs.

- | | | |
|---|---|--------------------------|
| <p>30 1. N. A. PERERA
2. MRS. FLORA PERERA
3. S. D. JUSTIN PERERA
4. S. D. AUSTIN PERERA
5. S. D. LIONEL PERERA</p> | } | <i>Defendants.</i> |
|---|---|--------------------------|

On this 19th day of December, 1951.

The answer of the defendants above-named appearing by Don Jacob Weerasinghe, their proctor states as follows :—

1. That the 2nd defendant above-named claims the land and premises described in the schedule to the plaint for herself and that the other defendants are in occupation under the rights of the 2nd defendant.

No. 3
Answer of
the
Defendants.
19-12-51

No. 3
Answer of
the
Defendants.
10-12-51
—continued

2. The 2nd defendant admits the averments contained in paragraphs 1, 2 and 3 of the plaint, save and except that any cause of action has arisen to the plaintiff.

3. The 2nd defendant puts the plaintiff to the proof of the facts averred in paragraphs 4 and 5 of the plaint and therefore denies the same.

4. The 2nd defendant denies all and singular the averments contained in the remaining paragraphs of the plaint.

5. By way of further answer the 2nd defendant states :—

- (a) That B. Julius Perera, the husband of the plaintiff was the owner of the said land and premises described in the schedule to the plaint.
- (b) The said property was subject to the mortgages in sum of Rs. 5,000/-, Rs. 3,000/- and Rs. 2,000/- and hypothecated decrees had been entered against the said Julius Perera on the said three bonds in action Nos. 11256 and 11066, D.C., Colombo.
- (c) Decrees for the payment of money had also been entered against the said Julius Perera in action No. 9041/S and the D.C., Colombo, Nos. 11256 and D.C., Colombo, case No. 11066 and C.R., Colombo, case No. 18141.
- (d) Prior to 17-4-50 the said Julius Perera approached his uncle one M. D. Lewis Perera and requested him to meet his liabilities on the security of the said premises.
- (e) Thereupon the said Julius Perera by Deed No. 1880 of 17-4-50 conveyed the said premises to the said Lewis Perera for the sum of Rs. 16,000/- subject to a right of re-transfer on payment of the said sum within a period of five years.
- (f) That out of the said consideration the said Lewis Perera paid off the debts due on the three mortgages referred to above and the claims of the creditors in D.C. Case Nos. 11256 and 11066.
- (g) That the said B. Julius Perera represented to the said Lewis Perera that the claims of the creditors in D.C. Case No. 9041/S and C.R. Case No. 18141 had been paid and settled and that the said Lewis Perera having believed the said representation paid the balance consideration to the said B. Julius Perera.
- (h) That the said Lewis Perera thereafter entered into possession of the said land and premises and exercised all the rights of ownership ; and
- (i) That the said Lewis Perera died on the 10th day of September, 1950, leaving as his sole heir the 2nd defendant above-named who thereupon became entitled to the said land and premises and entered into possession of the same.

6. Answering specially to paragraphs 4 and 5 of the plaint, the 2nd defendant states :—

- (a) That the said purchaser at the alleged sale was in fact the agent of the said B. Julius Perera and that alleged purchase was made at a price of Rs. 280/- whereas the said land and premises is worth considerably more than Rs. 10,000/-.

(b) That the plaintiff above-named to whom the said Thiagarajah is alleged to have transferred the said land and premises was merely the nominee of the said B. Julius Perera and holds the said land and premises for and on behalf of the said B. Julius Perera and,

No. 3
Answer of
the
Defendants.
10-12-51
—continued

(c) That by reason of the facts averred in paragraph 5 (g) and in paragraph 6 hereof (1) the plaintiff is estopped from denying that the claims of the creditors in D.C. Case No. 9041/5 and C. R. Colombo Case No. 18141 had been paid and settled at the time of the said Deed No. 1880.

10

7. Further answering the 2nd defendant states that in the circumstances hereinbefore set out the plaintiff hold the said land and premises in trust for the 2nd defendant who is still in possession of the said land and premises.

8. In the alternative the plaintiff states that the said Fiscals sale referred to in paragraph 4 of the plaint was not advertised in terms of section 255 of the Civil Procedure Code and the 2nd defendant is therefore entitled to a decree setting aside the said sale.

9. As a further alternative the 2nd defendant states that the said sale was procured by the said Julius Perera through his nominee the plaintiff in collusion with the said Thiagarajah in fraud of the 2nd defendant in order to deprive her of the said premises and that the said sale is therefore void.

For a Claim in Reconvention

10. That in the premises a cause of action has accrued to the 2nd defendant to sue the plaintiff for a declaration of title to the said land and premises and an order on the plaintiff to convey to the 2nd defendant the legal title to the said land and premises vested in her if any.

Wherefore the 2nd defendant prays :—

30 (a) That the 1st and 3rd to 5th defendants be discharged from these proceedings.

(b) For a declaration of title to the premises described in the schedule to this plaint.

In the alternative—

(c) For a declaration that the plaintiff holds the said premises in trust for the 2nd defendant.

(d) For an order on the plaintiff to convey to the 2nd defendant the legal title to the said premises.

40 (e) In default of such conveyance that the court do execute the said conveyance.

(f) For costs, and for such other and further relief as to this court shall seem meet.

(Sgd.) D. J. WEERASINGHE,
Proctor for Defendants.

Settled by :

Messrs. E. B. Wickremanayake and Eric Amarasinghe,
Advocates,

Replication of the Plaintiff

IN THE DISTRICT COURT OF COLOMBO

BEATRICE SUNEETHRA PERERA of No. 23/1, Wall's Lane,
Mutwal, Colombo.....*Plaintiff.*

No. 6806/L. *vs.*

1. N. A. PERERA and others, all of Wall's Lane,
Mutwal, Colombo.....*Defendants.*

On this 19th day of January, 1958.

The replication of the plaintiff above-named appearing by K. Rasana- 10
than her proctor states as follows :—

1. The plaintiff joins issue with the defendants in regard to the several denials contained in the answer of the 2nd defendant.
2. The plaintiff further puts the defendants to the strict proof of all the averments contained in the answer of the 2nd defendant.
3. Replying further the plaintiff states that action No. 9041/S of this court was filed against one D. J. Perera and in execution of the decree in the said case, the land which is the subject matter of this action was duly seized and the seizure was duly registered. The right, title and interest of the said D. J. Perera were sold in the said Case No. 9041/S and duly purchased by the said N. Thiagarajah to whom Fiscal's Conveyance No. 20200 dated 28th May, 1951, was issued by the Fiscal, Western Province, Colombo.
4. That the Deed No. 1880 dated 17th April, 1950, and referred to in the answer of the 2nd defendant and on which the defendants relied is void as against Fiscal's Conveyance No. 20200 dated 28th May, 1951, and Deed No. 1523 dated 2nd June, 1951.

Wherefore the plaintiff prays that defendant's claim in reconvention be dismissed and that judgment be entered for plaintiff as prayed for in the plaint, and for costs of suit, and for such other and further relief as to this court shall seem meet.

(Sgd.) K. RASANATHAN,
Proctor for Plaintiff.

Issues Framed

D.C. No. 6306/L.

6th March, 1953.

Plaintiff and 2nd defendant present.

MR. ADVOCATE D. M. WEERASINGHE instructed by MR. FERNANDO for the plaintiff.

MR. ADVOCATE E. B. WICKRAMANAYAKA, Q.C., with MR. ADVOCATE ERIC AMARASINGHE instructed by MR. DON WEERASINGHE for the defendants.

Mr. Advocate Weerasinghe opens his case and suggests the following
10 issues :—

1. Is the Deed No. 1830 of 17-4-50 void as against the Fiscal's Conveyance No. 20200 of 6-5-51 ?

2. If so, does plaintiff get title to the said premises on Deed No. 1523 of 8-6-51 ?

3. What damages ? (Damages agreed at Rs. 10/- a month).

Mr. Advocate Wickramanayaka accepts these issues and suggests the following :—

4. Were the right, title and interest in the said property of B. J. Perera duly sold by Fiscal in Case No. 9041/S of this court ?

20 5. Was the said property purchased by one Thiagarajah on 5-4-50 ?

6.—(a) Was the Fiscal's Conveyance No. 20200 of 6-5-51 issued to the said Thiagarajah ?

(b) Did the said Thiagarajah by Deed No. 1523 of 8-6-51 convey the said premises to the plaintiff ?

7. Did Julius Perera prior to 17-4-50 request his uncle one Lewis Perera to meet his liabilities on the security of the premises in question ?

8. Did Julius Perera by Deed No. 1830 of 17-4-50 convey the said premises to Lewis Perera for Rs. 16,000/- subject to the right of re-transfer in 5 years on payment of the said sum ?

30 9. Were the debts of Julius Perera, referred to in paragraph 5 (b) and (c) of the answer paid out of the said consideration ?

10. Did the said Julius Perera represent to Lewis Perera that the claims of the creditor in D.C. No. 9041/S had been paid and settled ?

11. Was the purchaser at the sale in execution in D.C. No. 9041/S an agent of the said Julius Perera ?

12. Is the plaintiff, to whom the said purchaser transferred the property a nominee of the said Julius Perera ?

13. If issues 7, 8, 9 and 10 are answered in the affirmative, is the plaintiff estopped from denying that the claim of the creditor in D.C. No. 40 9041/S had been paid and settled at the time of the execution of the Deed No. 1830 ?

No. 5
Issues
Framed
—continued

14. Does the plaintiff hold the said property in trust for the 2nd defendant?

15. Was the Fiscal's sale in execution of the decree in D.C. No. 9041/S bad for the reason that it was not advertised in terms of section 255 of the Civil Procedure Code?

16. If so, is the 2nd defendant entitled to a decree setting aside the said sale?

17. Was the said sale procured by the said Julius Perera in collusion with the purchaser in order to deprive the 2nd defendant of the property?

18. If so, is the said sale void in law? 10

19. Is the 2nd defendant entitled to a conveyance of the legal title from the plaintiff?

Issues accepted.

(Sgd.) L. B. DE SILVA,
A. D. J.
6-3-53.

No. 6
Plaintiff's
Evidence

No. 6

Plaintiff's Evidence

PLAINTIFF'S CASE

MR. ADVOCATE WEERASINGHE calls: 20

K. Rasanathan, affirmed, 41 years, Proctor, Supreme Court, Colombo.

K. Rasanathan
Examination

I attested Deed No. 1523 dated 8-6-51 (P1). I was the proctor for the plaintiff in D.C., Colombo, Case No. 9041/S. I got decree against B. J. Perera the defendant in that case, and I registered the Seizure Prohibitory Notice on 4-10-49 against the said B. J. Perera. I followed it up with the registration of the seizure on 14-10-49. I re-registered the seizure on 5-4-50 and again I re-registered the Prohibitory Notice on 20-2-51. Ultimately the property was sold under that writ and was purchased by N. Thiagarajah. N. Thiagarajah is my father-in-law. I produce a certified copy of the encumbrance sheet P2, in respect of these premises. I also produce a certified copy of the Prohibitory Notice, P3. 30

(Shown P3).

Q. What did you do with this Prohibitory Notice? *A.* I sent it to the Land Registry for registration.

P3 is a certified copy and it indicates the various dates on which it was sent for registration at the Land Registry.

I was present at the sale. I also produce P4, a copy of the Ceylon Government Gazette No. 10199 of the 12-1-51, by which I gave notice that the property, the subject matter of this action, will be sold. It was adver-

tised by the Fiscal, for which the plaintiff in that case paid. The sale was conducted by the Fiscal's Officer by the beat of tom tom in the usual manner. At the sale the property was purchased by my father-in-law for Rs. 200/-.

No. 4
Plaintiff's
Evidence.
K. Rasanathan
Examination
— continued

Q. Why is that you want to register and re-register the Prohibitory Notice? A. Because I was told that money would be paid on that decree and I was asked not to advertise the property for sale. So I gave them enough time and finally it was not settled. On account of what Mr. Villavarayan, Proctor, told me I registered and re-registered the seizure notice. At his request the property was not put up for sale.

The seizure notice was originally registered in October, 1949; until 1951 I did not want to sell the property. I stayed my hand; that was the reason for the re-registration of the seizure notice. I wanted to safeguard the creditor in D.C. No. 9041/S. That is what is usually done.

Before the sale of the property in execution of the decree in D.C. No. 9041/S, no sum of money was paid to me in satisfaction of the decree.

Cross-examination :—I have no interest in this action, except professionally. Originally I filed my proxy in this case. B. J. Perera was the defendant in Case No. D.C. 9041/S. I did not know him, but I came to know him later. This property is situated at Wall's Lane, off Aluthmawatta Road, Mutwal. I live about three-quarter mile away from this property. My father-in-law lives with me. I did search the Land Registry before the Fiscal's sale. I was aware of Deed No. 1830 by which Julius Perera sold the property to Lewis Perera. I did not have a look at that deed; I only saw the encumbrance sheet. I told my father-in-law that there was a sale and that if he is interested he could buy. This property is worth about Rs. 10,000/- or 12,000/-. According to the Deed No. 1830 Julius Perera had paid a consideration of Rs. 16,000/-. I did not know that the Fiscal's valuation is Rs. 32,000/- I was not worried about it. I was the proctor for the plaintiff in that case; I knew that it was worth more than Rs. 1,500/-. The decree was for Rs. 1,000/- and costs. The Fiscal did not tell me what the value was. I do not know whether I saw the journal entries in that case; not even up to date. Once the sale was put through I was not interested. (Shown journal entries in D.C. No. 9041/S) (D1). According to D1 the Fiscal has assessed the value of the property at Rs. 32,000/-. I do not want to say anything about this valuation. I do not think it is worth so much. My father-in-law purchased the property for Rs. 250/-. The sale was held in the premises and there were about 10 or 15 present at the sale. In these premises there are a number of tenements which are occupied by various tenants. Apart from those tenants there were about two or three outsiders present at the sale. This sale was advertised by Gazette notification and by posting posters on the land. I did not see any posters myself; I did not pay attention to it. I did not examine them. I cannot say whether posters were there. If people were aware that this land was to be sold there would have been more bidders; generally people do not attend Fiscal's

K. Rasanathan
Cross-
Examination

No. 6
Plaintiff's
Evidence.
K. Rasi-
nathan
Cross-
Examination
—continued

sales, because the Fiscal does not warrant and defend title. At Fiscal's sales properties fetch small prices. I told my father-in-law that the title was good, because the transfer was without settlement of this seizure. Apart from that the title was good. My father-in-law knew about it. I knew that the seizure had been registered. My father-in-law gets about Rs. 200/- to 250/- by way of rent; he has invested about Rs. 10,000/- to 15,000/-. If he wanted to he would have paid more for this property. About a couple of months later he sold the property because he got a good buyer. He got a good profit and sold it for Rs. 3,000/-. He did not want to have the property; so he sold it. He sold it to the wife of Julius Perera; it was Julius Perera who did not have Rs. 1,000/- to satisfy the creditor.

Plaintiff came to see my father-in-law. I was not present when she came; I did not see her there. My father-in-law asked her to see me and she saw me. I advised my father-in-law to sell the property to the plaintiff. She said that it was her property; she cried and said that her uncle Lewis Perera did not pay the full consideration for the transfer; her uncle promised to give something, but he did not pay that. I did not verify her statement; I was not concerned. Thereafter I did notice that the debts were paid and settled. I was aware that a hypothecary decree was entered against Julius Perera *re* this property. I knew that the property was not sold in execution of those decrees. I did not know whether that was because the debts had been settled. My impression was that the purchaser at the Fiscal's sale will have to pay the mortgage decree. If the land was sold under a mortgage decree that would have wiped off at the Fiscal's sale.

I referred up the record and saw that certain debts had been paid. The property was subject to a hypothecary decree; that is why it fetched a low price. All were aware that the mortgage decree was for Rs. 10,000/-. When my father-in-law purchased the property he thought he was liable to pay a sum of Rs. 10,000/- or 12,000/-. He might have had to pay Rs. 10,000/- or 12,000/-. I discovered that these decrees had been settled after the Fiscal's sale.

(*To Court* :—About a month or two of the Fiscal's sale I found out on verification that the mortgage decree had been settled. I looked up the record).

I did not know that the mortgage decree had been settled long before. Before I advised my father-in-law to buy this property, when I seized this property I saw that the property had been mortgaged and the bond was for Rs. 10,000/-. I did not find out how much was then due on the bond. I did not instruct my father-in-law to buy it. I saw the bond before the seizure, about two or three weeks before when I went to the Land Registry. I am not quite sure whether action was filed at that stage. I did not know the number of the case; it was only from the Land Registry we can take the number of the action,

(Sgd.) L. B. DE SILVA,
A. D. J.
6-8-58,

(At this stage Court adjourns for lunch).

After lunch.

Same appearances.

K. Rasanathan, recalled, affirmed.

Cross-examination (contd.):—At this stage Mr. Wickremanayake moves to suggest a further issue. Allowed.

10. (a) Did the said Lewis Perera, on the representation made by Julius Perera that the claim in D.C. No. 9041/S had been paid and settled pay the balance consideration on Deed No. 1830 of 17-4-50 to him?

10 I accept the further issue suggested.

(Sgd.) L. B. DE SILVA,
A. D. J.
6-3-53.

K. Rasanathan, recalled, affirmed.

Cross-examination (contd.):—I searched the Land Registry and found only the mortgage. I searched the Land Registry for the purposes of seizing the land. It may have been that I searched the Land Registry about two or three weeks before the seizure prohibitory notice was registered.

20 (Shown P2). This shows that on 20-8-49 the *lis pendens* in D.C. No. 2477 had been registered. When I searched the Land Registry the *lis pendens* was not registered. My seizure prohibitory notice was registered on 4-10-49. It is quite possible that the *lis pendens* was not registered on that date although P2 bears the date 20-8-49. If I am allowed to I may illustrate this. When a document is tendered to the Land Registry for registration, it is actually registered about 20 or 30 days after, but actually the date of the registration appears as the date on which the was tendered for registration. That is to say, that the date appearing on the register is the date on which the document is tendered for registration. At the
30 time I searched the Land Registry this *lis pendens* was not registered. When I tendered the document on 4-10-49 it could have been registered later. As soon as a document is tendered at the Land Registry, the clerk puts the seal which gives the date. This document is dated 5-10-49 which is the date on which the document was tendered. It could not have been registered in the same day. The actual registration of a document is done within a range of 20 to 30 days, and sometimes 10 to 15 days; 7 days is the minimum.

40 Q. Is there any book or document to show that a document had been tendered and it awaits registration? A. It can be found out from the day book; the day book is not allowed to be searched.

(To Court:—In case of a seizure it does not matter. If it is a payment of money on a mortgage, we have to verify whether the mortgage is entered and check up the previous entries).

No. 6
Plaintiff's
Evidence.
K. Rasanathan.
Cross-
Examination
—continued

I made only one search before I seized the property. I made the next search after my father-in-law purchased. I advised my father-in-law that the title was good. If I said that I searched the Land Registry before he purchased, it must be correct. If I searched the Registry I would have discovered; I knew that the mortgage bond was only for Rs. 10,000/-. My father-in-law did not mind paying an extra Rs. 10,000/-; he was of the opinion that the property was worth about Rs. 10,000/- to 15,000/-.

I was not aware that the decree in the mortgage bond action D.C. No. 2447 was entered on 30-8-49. (Shown journal entry dated 30-8-49, D2a). I did not think it necessary at that stage to look into this.¹⁰ The sale took place in the premises at about 2 p.m.; I was present myself and two or three outsiders were also present. Nobody present there was known to me. My father-in-law did not go for the sale. He authorised another man to go and buy for him; he authorised one Seduraman who was known to him. Seduraman was also known to me. He was the only person present at the sale, who was known to me. My father-in-law told him to buy the property if it comes at a cheap price. My father-in-law was aware that this property was worth Rs. 10,000/- to 15,000/- and that it was subject to a mortgage. If the mortgage had been paid and settled then it would not have been subject to the mortgage. I did not²⁰ take the trouble to see that the mortgage had been paid and settled. Subsequently I knew that the mortgage bond had been paid and settled. I cannot remember who started the bidding at the Fiscal's sale.

Q. I put it to you that there was nobody else present at the sale?

A. I think, there were two others.

Somebody else started bidding; he must have been under the impression that the land was subject to a mortgage and he started the bid at Rs. 250/-. I went to this property only on the day of the sale. I did not find the income derived from this property. In the deed the extent is 1 rood. I knew it was a block of tenements, but I did not find out who³⁰ were the tenants and how much they were paying as rent. I did not find out the names of the tenants at that time. I am not aware that Julius Perera himself was occupying one of those tenements.

He was staying at Wall's Street; he had other properties. Even now he is staying at Wall's Street. I do not know whether he lived in these premises or not. Julius Perera saw me once in connection with that action. I did not know him; I knew him by sight. I did not see him in these premises on the day of the sale. I knew that he was living in Wall's Street. I did not know in which building he was exactly living. At that time I did not know his wife. Julius Perera's wife saw me once⁴⁰ and I asked her how she found the money to buy the property. I asked her if she was prepared to pay the sum my father-in-law wanted and that she could take the property. I mentioned the amount Rs. 3,000/- to her; that was the figure my father-in-law wanted. He bought it for Rs. 250/- subject to the mortgage. I knew that the property was worth well over Rs. 10,000/-. This lady (plaintiff) came to me and pleaded saying that it was her property and so on, and my father-in-law was asked by me to

sell the property to her ; otherwise he may not have sold. He wanted to sell the property for Rs. 3,000/- ; he wanted a profit. I owed no moral obligation to this lady. This lady cried and my father-in-law felt sorry and kept a small profit and sold the property. Otherwise he would not have sold the property. I was not aware that the property was in the possession of the defendants at that time. I came to know about it when I took writ for delivery of possession. I cannot say when ; I cannot remember. After I obtained the Fiscal's transfer my father-in-law sold this property on P1 to the plaintiff. The consideration was paid by her ; she raised the money on a mortgage and paid the consideration. I attested that mortgage bond in favour of one Allan Silva on this same security. She got the money on this property simultaneously before the purchase by her. P1 is dated June, 1951. I applied for delivery of possession on 11-6-51 ; if it is said so it must be correct. (Shown D1). It is so. On 11th June my father-in-law was not entitled to possession. He applied for a writ of possession at the request of the plaintiff. My father-in-law had not undertaken to warrant and defend title. Plaintiff wanted possession and he did that. The purchaser at the Fiscal's sale is entitled to a writ of possession. It was not necessary on 11-6-51 to address my mind to the question that the purchaser at the Fiscal's sale was not then entitled to possession. I did not think that the person who bought under the Fiscal's conveyance will only be entitled to a writ of possession provided he was entitled to possession. I did not think about that question ; I took no interest in this case, except for filing this action. After the application for writ I did not take any action ; I cannot remember. I took steps to apply for delivery of possession in order to put the vendee in possession. The Fiscal could not deliver possession.

I was not aware of the fact that at the time this application was made, the plaintiff was living in one of these tenements ; I am not aware even now. The caption in this plaint shows the address of the plaintiff ; it is mentioned Wall's Lane. I do not know whether it is one of these tenements. I did not pay attention to the fact that the plaintiff was living in one of these tenements. I did not know that she was living in one of these tenements. (Shown letter dated 28-6-51 D3, addressed to Mr. Rasheek of 28/24, Wall's Lane). On 28-6-51 my father-in-law had parted with all his interest in this property. D3 is after the transfer. I wrote D8. My statement that my father-in-law had no interest at this stage is incorrect. I do not think that I had no right to demand rent from the tenants at the date of D3. I thought Fiscal must have delivered possession under section 324. I did not verify whether the Fiscal had delivered possession under section 324. I did not do anything ; these letters were typed by Mrs. Perera, the plaintiff ; I did not take an active part in the matter. She was trying to take possession. I did not mind. Beatrice Perera mentioned in D3 is the plaintiff ; she was not the collector of my father-in-law. She was the purchaser. I knew that she was living in the premises. When I said that I did not know that she was living in these premises, it is incorrect. Her husband never came to see me. Mrs. Perera came to see me. Her husband came to see me one day.

No. 6
Plaintiff's
Evidence.
K. Rasanathan,
Cross-
Examination
--continued

No. 6
Plaintiff's
Evidence.
K. Rasanathan.
Cross-
Examination
—continued

He introduced himself to me and said that his wife had bought the property ; that was after the transfer. I cannot remember how long after the transfer. I cannot remember ; it must be a month or two after. He came and spoke to me and said that his wife had purchased the property and wanted to take possession. His seeing me was after I made the application for delivery of possession. He must have known that application had been made for delivery of possession. He had no particular motive ; he talked to me as to how possession could be obtained. That was the second time he saw me. This property was advertised for sale twice. Mr. Markar had filed the other action ; I filed my proxy in 1949. 10

(Shown journal entry dated 24-6-49 in D1). This was the day on which I came into this case ; I filed proxy on that day. I do not think that apart from Mr. Markar anybody else had acted in this case. The revocation of Mr. Markar's proxy was filed and I filed my proxy.

On 24-11-49 I made an application for a stay of the sale on payment of all charges by the defendant. The defendant in that case must have seen me before that. On 5-4-50 the sale was stayed again ; it was stayed twice. Julius Perera did not see me the second time. Some other Proctor, Mr. Villavarayan, came and saw me and wanted me to stay the sale. He said that Lewis Perera had bought the property and that he 20 would settle. I am not aware that the plaintiff in this case had some trouble with regard to possession. About this action the plaintiff came to me first about a few weeks before I filed the action. I filed action on 18-7-51. Sale to the plaintiff was on 8-6-51 by P1. As a matter of fact, possession had not been given ; that is why she came to see me. She did not tell me that she had some trouble ; she told me that she could not get possession and I advised her to file an action. At the time I filed this action I did not know whether she was living in these premises. She did not tell me that she had to leave the premises.

Q. I put it to you that in all these matters Julius Perera himself 30 instructed you? A. I deny it.

Q. I put it to you that in all matters Julius Perera himself instructed you? A. I deny it.

Q. I put it to you further that the plaintiff was not aware at any time that the property had been purchased in her name? A. She came personally ; she came by herself. She was present when the transfer deed was signed. Witness Mohamed Nawaz is my clerk and witness Wimalasiri is also my clerk. Julius Perera did not come to see me. My father-in-law had nothing to do. When there are sales I used to tell him. I think the full amount was paid at the time ; the man who came on his 40 behalf deposited the money. I think my father-in-law gave him Rs. 1,000/-. If it came to a figure more than Rs. 1,000/- that man would have just gone. Seduraman was living in Mutwal ; he was known to my father-in-law. I do not know where he is now. I do not know why my father-in-law did not send me personally. I did not want to go. I was the proctor in the case and that is why my father-in-law got Seduraman to go. I do not know the 2nd defendant in this case ; she came to

see me one day. I did not know Lewis Perera. Second defendant wanted to find about the sale and so on. I gave her the information about the Fiscal's sale.

Re-examination :—This property was seized under one other writ in D.C. No. 11066/S. That is one of the debts shown in the attestation of that transfer. That debt is not settled. At the time P1 was executed the mortgage was registered, and P2 shows that.

(Sgd.) L. B. DE SILVA,
A. D. J.
6-3-53.

10

H. D. Deonis, affirmed, 53 years, Fiscal's Officer, presently at Bam-
balapitiya.

I am the officer who seized the property at Wall's Lane under writ issued in D.C., Colombo, case No. 9041/S. I posted notices of seizure and by the beat of tom tom the property was seized. I posted one copy of notice on the premises, one copy at the Fiscal's Office and the third copy in the District Court. I went to the property in question (shown P3). I cannot read English. I did not affix any other notice on the land seized.

(To Court :—In connection with the sale I did not take any steps).

20 The tom tom beater who was employed in connection with this seizure was one Thomas Fernando. After seizing the property I sent in my report to the Fiscal's Office.

Cross-examination :—I did nothing in connection with the sale. After I seized the property in the manner stated by me, I did not do anything in the matter. I had nothing to do. After the sale I went to give over possession. I went with B. J. Perera the agent of the purchaser to give over possession. I did not know who the purchaser was. The name of the purchaser was given in the order, but I cannot remember his name. Before I went to deliver possession I did not get any instructions from
30 any proctor in Hultsdorp. I did not ask Mr. Rasanathan, plaintiff's proctor to find out where the property was. B. J. Perera came and took me along. That B. J. Perera who came and took me along was living on this property in one of the tenements in that property. I do not know the plaintiff in this case, Mrs. B. J. Perera. I have never seen her before this, but I knew Mr. B. J. Perera. Prior to my going to seize the property I knew him. He did not assist me in posting notices of the seizure. I cannot remember whether he was present at the time I posted the notices of seizure. One day I went and posted them; I posted the notice on the fence of zinc sheets. The notice was posted on the outer boundary; I
40 did not go inside the property. I posted the notice on the zinc fence at the entrance to the property. On that day I did not go to meet B. J. Perera; I went alone and posted the notice. I am sure that I did not go to see B. J. Perera. I submitted a report to the Fiscal's Office on that day, together with my affidavit. I did not look for B. J. Perera that day when I went to post the notice.

No. 6
Plaintiff's
Evidence.
K. Rasanathan.
Cross-
Examination
—continued

H. D. Deonis
Examination

H. D. Deonis
Cross-
Examination

No. 6
Plaintiff's
Evidence.
H. D. Deonis
Cross-
Examination
—continued

(To Court :—Before the seizure I demanded payment. I went on a previous occasion to demand payment ; that was before the date of the seizure. I went on a previous occasion to demand payment from the judgment-debtor, B. J. Perera, but I did not meet him).

On one day I went to demand payment and on another day I seized the property. (Shown affidavit of this witness, D4). D4 is dated 10-10-49. The statement in D4 is correct. I attended to both these matters one at the same time.

Q. I am suggesting to you that your evidence now with regard to seizing the property only on a particular day is correct and you never demanded payment from B. J. Perera? A. I have no independent recollection of what happened, but what I have stated in my affidavit is correct.

I went to deliver possession of this property ; on that occasion B. J. Perera came to take possession. I could not deliver possession. On that occasion when I failed to deliver possession of property I did not go for Police protection. I was resisted when I went to deliver possession. B. J. Perera went for Police assistance and he brought Police Officers. Before I went there I did not anticipate that there would be trouble and resistance. After I was resisted I came and told plaintiff's proctor that I could not deliver possession ; I came and told Mr. Rasanathan. B. J. Perera and I both told Mr. Rasanathan that despite Police assistance we could not deliver possession.

H. D. Deonis
Re-
Examination

Re-examination :—I affixed the notice on the zinc fence on this land. On that day tom tom was beaten by a man called Thomas Fernando.

(Sgd.) L. B. DE SILVA,
A. D. J.
6-8-58.

At this stage court adjourns further hearing for 2nd June, 1958.

(Sgd.) L. B. DE SILVA, 30
A. D. J.
6-8-58.

15th July, 1958.

Plaintiff and 1st and 2nd defendants present.

Mr. Advocate D. M. Weerasinghe with Mr. Advocate Senaratne instructed by Mr. K. Rasanathan for the plaintiff.

Mr. Advocate E. B. Wickremanayaka, Q.C., with Mr. E. S. Amarasinghe instructed by Mr.....for the defendants.

Corrections in the last day's proceedings are made with the consent of parties.

40

(Sgd.) L. B. DE SILVA,
A. D. J.

At this stage Mr. Advocate Wickremanayaka moves to suggest the following issue:—

Issue (20). Is the 2nd defendant in any event entitled to a charge on this property to the extent of the amount paid in satisfaction of the mortgage decree in D.C., Colombo, Case No. 2447/M.B.?

No. 6
Plaintiff's
Evidence.
H. D. Deonis
Re-
Examination
—continued

Mr. Advocate Weerasinghe objects to this issue. He states that it might involve a replication and that he is not prepared to meet this issue today.

Mr. Wickremanayaka states that at page 10 of the last day's evidence Mr. Rasanathan admits that the mortgage decree was paid.

ORDER

I will allow the issue. It appears to me that the burden of proving that any money paid by Lewis Perera to Julius Perera as consideration for Deed No. 1830 was utilised for the payment of the mortgage decree is on the defendant. The rest is a matter of law. But, if counsel for the plaintiff, after the defendant's evidence is led in this case considers it necessary to lead further evidence in rebuttal that will be allowed by the court.

(Sgd.) L. B. DE SILVA,
A. D. J.
15-7-53.

20

MR. ADVOCATE WEERASINGHE calls:

H. D. Deonis, recalled, affirmed.

I was the officer who seized this property. After the seizure I sent in my affidavit. I produce a certified copy of my affidavit marked P5.

Cross-examination:—Nil.

(Sgd.) L. B. DE SILVA,
A. D. J.
15-7-53.

30 *E. Samaranayaka*, affirmed, 50 years, Clerk, Fiscal's Office, Colombo.

(Shown Fiscal's Conveyance No. 20200 of 1956, P6). This is a conveyance by the Fiscal to the purchaser of the property described therein. To this Fiscal's Conveyance, P6, is attached a plan of the said property, marked P6 (a). I am a witness to P6. At that time I was working in the Colombo Fiscal's Office under Mr. Toussaint.

E. Samara-
nayaka
Examination

Cross-examination:—I am a witness to this document P6. I do not know who came to remove P6 from the office. I do not know who gave the necessary instructions to draw up this document.

E. Samara-
nayaka
Cross-
Examination

Re-examination:—Nil.

40

(Sgd.) L. B. DE SILVA,
A. D. J.
15-7-53.

No. 6
Plaintiff's
Evidence.
N. Thiaga-
rajah
Examination

N. Thiagarajah, affirmed, 62 years, retired businessman, 49, Madampitiya Road, Colombo.

I remember there was a sale of a property, and a gentleman called K. M. R. Seduraman bought the property for me. He was a friend of mine. He bought the property with my money. I had sent him to buy the property for me. Now he is in India. I by Deed No. 1523 of 1951, P1, transferred the said property to the plaintiff in this case, for a sum of Rs. 3,000/-. She paid that Rs. 3,000/- to me.

Q. It is suggested that you were the nominee of B. J. Perera?

A. It is not so.

10

Q. Did you know B. J. Perera at all? A. No.

Q. How came it that you transferred this property to the plaintiff?

A. Mrs. Perera, the plaintiff, came and saw me at my place at Mutwal and wanted to have the property back and she told me certain things.

I accordingly directed her to my son-in-law Mr. Rasanathan and thereafter I transferred the property to her for Rs. 3,000/-.

N. Thiaga-
rajah
Cross-
Examination

Cross-examination :—I have retired from business and am doing nothing at the moment. I was a piece goods merchant; I was a partner of that business with my father-in-law. That business was called Kadiravel & Raja. About 30 years ago I retired from business and I have been doing nothing from that time. I have property of my own one at Dam Street and one at Ferry Street, Hulstsdorp, and I get an income of about Rs. 300/- per month from them. That Rs. 300/- is just sufficient to maintain me.

I have been to this property in question once; just before the sale. I thought I would make a profit and got interested in the sale.

Q. Who told you about the sale? A. I saw it in the Gazette.

Once a week I used to read the Gazette. I saw this property from outside; just outside. I think the property is worth about Rs. 20,000/- normally. I wanted to buy in order to make a profit. Not as a profit, but as an investment. As it was a Fiscal's sale I asked Seduraman to go up to Rs. 2,000/-. As it was a Fiscal's sale I expected to buy the property for Rs. 2,000/-. I did not go to the sale myself; I was ill. I live with my son-in-law. I consulted him in regard to this matter. I was not aware that he was the proctor in that case. I asked him to look into the title. He did not tell me that he was the proctor for plaintiff in that case. Till I saw the Gazette notification I did not know anything about the sale. I asked my son-in-law to look into the title and he said it was all right. I do not know what steps he took to look into the title. He said that the title was all right. He did not tell me that the property was worth about Rs. 20,000/-. Even after he looked into the title he did not tell me that there was a mortgage on this property; he said it was all right. The maximum I was prepared to pay was Rs. 2,000/-. I instructed Seduraman to go up to Rs. 2,000/-. If it was subject to a mortgage for Rs. 10,000/- I would not have bought the property. If I knew that there was a mortgage for Rs. 10,000/- I would not have asked Seduraman to bid up to Rs. 2,000/-.

(To Court :—Q. Supposing it was subject to a mortgage for Rs. 2,000/- what were you prepared to pay? A. I would not have taken the trouble to bid for this property.

I had gone and seen the property. If I had been told by my son-in-law that the property was worth Rs. 2,000/- I would not have bid).

If the property was mortgaged for Rs. 10,000/- I would not have bid for this property. Seduraman was a friend of mine, who was working as an attorney in a Chetty firm. He is now in India; he went to India about a month ago. Mr. Rasanathan also knows him. As I could not attend
 10 the sale and as he was a trustworthy man I sent him for the sale. I do not know if my son-in-law was present at the sale. I did not ask him to be present at the sale. I was living with him at that time. I did not think of asking my son-in-law to be present at the sale. I got the title examined by him. There was no occasion for me to ask him whether he was attending this sale. I cannot remember if I asked him whether he was going for the sale. He asked me about the sale and I told him that I have entrusted the matter to Seduraman. I asked Seduraman to go for the sale about ten days before the sale. I told him to bid up to Rs. 2,000/-, and I gave him Rs. 1,000/-. The maximum I was prepared to pay for
 20 this property was Rs. 2,000/-. I was ill during that time. When I saw the Gazette notification I was not sick. I saw the Gazette notification about ten days before the sale. I consulted my son-in-law about the title when I saw the notification in the Gazette. I cannot say how long he took to look into the title; about three or four days. After going into the title by my son-in-law, I asked Seduraman to bid at the sale. I met him about ten days before the sale. My son-in-law reported to me about the title and then I asked Seduraman to go and buy. I visited this land after I saw the Gazette notification. It was before I asked Seduraman and after I asked my son-in-law to look into the title. That was about a
 30 week before the sale. I fell ill at that time; at the time of the sale, I was having a chest cold. When I instructed Seduraman I was all right.

Q. When did you ask Seduraman to go and bid? A. I asked him to go and bid on the day previous to the sale.

When I said that I asked Seduraman to go and bid about ten days before the sale, it was not true. I knew Seduraman about four five years prior to the sale. My son-in-law later told me that he was present at the sale. He told me that Seduraman bought the property for Rs. 250/-. I tried my luck at that. I do not know how many persons were present at that sale; I was not there. My son-in-law did not tell me about how many
 40 persons were present at the sale. He might have told me about that. He told me that there were several people present at the sale. He did not tell me the number of people present. I cannot remember whether my son-in-law told me that no one bid for the property.

Q. I put it to you that the story that you instructed Seduraman to bid for you is fictitious? A. No.

Q. Is it not true that you knew nothing about this sale? A. No. I instructed Seduraman to buy for me.

No. 6
 Plaintiff's
 Evidence.
 N. Thiaga-
 rajah
 Cross-
 Examination
 —continued

No. 6
Plaintiff's
Evidence.
N. Thiagn-
rajah
Cross-
Examination
—continued

I could not get into possession of this property. I knew that this property was worth at least Rs. 20,000/-. I was not aware of any mortgages. I sold the property for Rs. 3,000/-. Subsequently I heard that there was a mortgage, and this lady (plaintiff) was anxious to have the property as it was her ancestral property. I wanted to be fair; I was making a small profit.

(To Court :—Subsequent to my purchase I learnt that there was a mortgage over this property for Rs. 10,000/-. I learnt that from my son-in-law Mr. Rasanathan. That was after my purchase. At the time of the Fiscal's sale I did not know about the existence of the mortgage. I sold the property because I had been told that there was a mortgage for Rs. 10,000/-. I learnt that from Mr. Rasanathan after my purchase and before my sale to the plaintiff).

I cannot remember when I sold the property after my purchase. I sold the property to the plaintiff on the 8th June, 1951. Mr. Rasanathan told me that this property was subject to a mortgage a few days after the purchase by me.

(To Court :—I cannot remember whether I asked my son-in-law why he did not tell me for the Fiscal's sale that there was a mortgage over this property for Rs. 10,000/-).

I knew that if the property was subject to a mortgage of Rs. 10,000/- I had to pay the mortgage debt, if I wanted to keep the property. I cannot remember whether Mr. Rasanathan volunteered the information that this property was subject to a mortgage or whether I asked him about it. When I sold this property for Rs. 3,000/- I was still generous even if I knew that there was a mortgage for Rs. 10,000/-. I could not get possession of this property. I got the Fiscal's transfer on 28-5-51. I sold the property on 8-6-51.

I did not know that Julius Perera was in occupation of these premises. I am not living far away from these premises, but I had no occasion to go there. I had no occasion to inquire who were occupying these premises. Plaintiff came and told me that this property was her ancestral property, and I believed her. I asked her to go and see Mr. Rasanathan to deal with the matter. She offered Rs. 3,000/- for the property; so I said you better see Mr. Rasanathan. I asked her to see Mr. Rasanathan to carry out the transaction.

(To Court :—I agreed to convey the property to her for Rs. 3,000/- and asked her to see Mr. Rasanathan in connection with the execution of the transfer to her).

The Gazette notification which I read would have intimated that the property was to be sold in execution of a writ against one Julius Perera, and that it was for a debt of his. I knew that the debt was Rs. 1,000/-. I knew that the lady who came there was Julius Perera's wife. It did not strike me to ask the plaintiff why she would not pay off that debt, if she was prepared to buy the property for Rs. 3,000/-. On the face of the Gazette notification it would be correct that if the amount of the debt as

stated in that notification was paid the sale would not take place. I did not ask the plaintiff why she was prepared to buy the property for Rs. 3,000/- and why not pay the debt of Rs. 1,000/- and save the property.

No. 6
Plaintiff's
Evidence.
N. Thiaga-
rajah
Cross-
Examination
—continued

I bought this property in February, 1951. I got the Fiscal's transfer rather late: in May, 1951. I do not know why I delayed to get the transfer. I did not take any steps to get into possession myself.

I cannot remember when I first came to know the plaintiff. I had not known her before she came and spoke to me. I have not met Julius Perera before that. I have met Julius Perera after the institution of this
10 case.

(To Court:—I cannot remember how long before I sold the property to the plaintiff she came and saw me. She came and saw me in this connection about a month or two after my purchase. I am very doubtful with regard to the dates).

I bought the property in February and sold it in June. Plaintiff came and saw me about April or so. This property is a row of tenements. I did not inform the tenants that I had purchased the property. After my purchase I have not been to the property at all. I was not aware that the 2nd defendant was in occupation of this property. I did not take
20 the trouble to find out that, nor did I take the trouble to find out who the tenants were. I did not know that this property had been transferred by Julius Perera to his uncle Lewis Perera. Mr. Rasanathan did not tell me that at any time nor did Julius Perera's wife tell me that the property had been transferred. She did not tell me who was in possession of the property nor did she tell me who was taking the rents of the property. I have not at any time told the tenants of this property that they have to pay the rents to me. I had no communication with the tenants at all at any time.

(Shown D3). The statements in D3 are correct.

30 Q. Was this letter (D3) written on your instructions? A. Must have been.

Q. Was it or was it not? A. It was written.

Statements contained in D3 were given to Mr. Rasanathan by me. I instructed him to send this letter D3 asking the tenants to pay me the rent.

Q. Is the statement in this letter D3 that the Fiscal delivered possession to you correct? A. I do not know.

I got possession of this property. The Fiscal gave me possession; I cannot remember the date. I cannot give the name of the Fiscal's
40 officer who gave me possession. He went along with me and asked the tenants to pay the rents to me and thereafter he gave me possession. I cannot remember the date. I do not know if I made an application to Court to get possession. I instructed my proctor to make an application to Court for possession. Mr. Rasanathan was my proctor. I asked him to make application to Court to ask for possession before this letter D3 was sent. I say that possession was given to me.

No. 6
Plaintiff's
Evidence.
N. Thinga-
rajah
Cross-
Examination
—continued

(To Court :—Q. What do you mean by saying possession was given to you? A. Fiscal's officer asked the tenants to pay the rents to me, and he asked me to take possession).

The Fiscal's officer went to the premises and asked the tenants to pay me rent; it was before my sale to the plaintiff. I do not know if D3 was written after my sale to the plaintiff. D3 is dated 28-6-51. I sold the property to the plaintiff on 8-6-51.

Q. On 28-6-51 how can you say that you were the owner of this property? A. (No answer).

I got possession before my sale to the plaintiff; that was before 10 8-6-51. After the lady came and saw me about the purchase, I stopped further action in the matter. Mrs. Beatrice Percera referred to in D3 is the plaintiff; she is the lady to whom I sold the property. I was aware that she lived in the same premises.

Q. Why was she collecting rents for you after you sold the premises to her? A. No answer.

(To Court :—Q. After you sold the property to the plaintiff did you take any steps with regard to the collection of rent? A. No).

Q. This letter D3 had been in fact written after you sold the property to the plaintiff, can you explain how this letter came to be written? 20 A. I cannot.

Q. I put it to you that this letter was written by Mr. Rasanathan on his own without instructions from you? A. I would not deny; I cannot say.

(To Court :—My position is that Mr. Rasanathan was acting generally in this matter, and that he was not taking instructions from me from point to point in this matter).

(Shown journal entry of 11th June, D4. Vide Fiscal's report re delivery of possession dated 26-7-51, D4 (a)).

Q. According to the Fiscal's report D4 (a) it was not you who went 30 to take possession, but it was B. J. Perera? A. My statement that I went with the Fiscal's officer to take possession is not correct.

Q. It is incorrect to say that possession was given to you? A. Possession was not given to me.

(To Court :—I was actually not interested in getting possession for the plaintiff. Mr. Rasanathan may have taken some steps to put the plaintiff in possession).

I deny that the only interest I had in this transaction was to lend my name as a purchaser. Julius Perera did not see me prior to the delivery of possession. I cannot remember when he came to see me. 40

Seduraman is now in India; I do not know his address. I met him last about the beginning of June last. I cannot remember whether at any time I tried to find out who was in possession of this property. I did not try to find out who was in possession of this property.

Q. Apart from asking Seduraman to go and bid for the property for you, you did nothing at all; you have taken no interest whatsoever in the property? A. Yes.

Re-examination :—I received Rs. 3,000/- on the sale of the property. I obtained a Fiscal's conveyance.

No. 6
Plaintiff's
Evidence.
N. Thiaga-
rajal
Cross-
Examination
—continued

(Sgd.) L. B. DE SILVA,
A. D. J.
15-7-53.

Mr. Advocate Wccrasinghe closes plaintiff's case, reading in evidence 10 P1 to P6. He reserves his right to lead evidence in rebuttal, if necessary.

(Sgd.) L. B. DE SILVA,
A. D. J.

No. 7

Defendant's Evidence

No. 7
Defendant's
Evidence.

MR. ADVOCATE WICKRAMANAYAKE calls :

T. A. Johar, affirmed, P.C. 411, Modera Police.

I have been asked to produce the information book of the Modera Police Station. I have brought it to Court, in which there is an entry dated 19-7-51; it is a statement made by Mrs. Beatrice Perera. I have 20 got the original document with me. I produce a certified extract from the Information Book of the Modera Police dated 19-7-51, D5.

T. A. Johar.
Examination

I know the plaintiff in this case. I also know the defendant in this case. I also know the plaintiff's husband Julius Perera. On a complaint I went to the spot.

(To Court) :—This statement D5 was recorded by me. I went for inquiry on a complaint made by B. Julius Perera on 19-7-51; I went to this property for inquiry. The statement D5 was made by Mrs. Beatrice Perera at my inquiry, after the furniture was shifted from premises No. 23/1 to premises No. 37/29).

30 I do not know whether Mrs. Beatrice Perera was living in the premises in dispute in this case, before she made her complaint D5.

She had given the number as 23/1 as the premises she vacated.

Cross-examination :—B. Julius Perera, the husband of Beatrice Perera made a complaint. I have got the statement made by Flora Perera to me. She made her statement to me at the inquiry.

T. A. Johar
Cross-
Examination

Re-examination :—Nil.

(Sgd.) L. B. DE SILVA,
A. D. J.
15-7-53.

No. 7
Defendant's
Evidence.
Mrs. Flora
Perera
Examination
—continued

Mrs. Flora Perera, sworn, 30 years, Wall's Lane, Mutwal.

I am the daughter of late Lewis Perera. He died on 28-8-50. He died leaving Last Will No. 1820 dated 12-4-50, D6, according to which this property which is the subject matter of this action had been bequeathed to me. I produce the Probate, D7, issued to Alexander Perera, my husband. He is the 1st defendant in this case.

I know Julius Perera. He is the adopted son of my paternal uncle. He was a son of my father's sister; he was adopted by my father's brother. This property came to Julius Perera from my father's brother. He was the owner of these premises at Wall's Lane; he had mortgaged this property. I was aware of that. Julius Perera had mortgaged this property. I did not know that action had been filed on that mortgage bond. I knew that he was in debt. I knew that this property was under a mortgage. Julius Perera came and spoke to my father about his debts. I was present at that time. I cannot remember the date. I know that this property was bought by my father Lewis. Julius came and saw my father in connection with this transaction about two or three months prior to that. Julius came and asked for some money from my father. He said that he was in trouble and asked for some money; he said that he was in debt and asked for some money. My father said that he could not afford to help him, and asked him to go away without troubling him. Thereafter Julius started troubling me to ask my father to help him. At that time I was not living with my father. I was at Alutmawatta, Mutwal. My father was living at Welisara. My father used to come to Alutmawatta to see me about twice or thrice a week, and he used to stay in my house when he came to see me.

Q. What did Julius Perera tell you?

(Mr. Advocate Weerasinghe objects to the question unless Julius Perera is called.

Mr. Advocate Wickramanayaka states that Julius Perera is the plaintiff's agent.

Order :—I allow the evidence).

Q. What did Julius Perera ask you? A. He wanted me to ask my father to give him some money.

Q. That was to pay off his debts? A. Yes.

I told Julius whether my father would listen to what I say, because he had already refused him.

Thereafter I asked Julius to come to my house at a time when my father was there. So Julius came to my house. On that occasion Julius pulled out a paper from his pocket and made a list of his debts. 40

(Witness takes out this document from her hand bag. Mr. Advocate Wickremnayaka moves to produce it marked D8). Mr. Advocate Weerasinghe objects to the production of this document,

ORDER

No. 1
Defendant's
Evidence.
Mrs. Flom
Perera
Examination
—continued

I rule that the statements of Julius to this witness will be admitted, subject to proof that Julius is plaintiff's agent and subject to proof of fraud and collusion between the plaintiff and Julius independently of statements made by Julius to this witness.

I produce marked D8 the list of debts that Julius made on that occasion. I saw him writing D8. After writing D8 he said he wanted Rs. 16,000/- to settle his debts. At that time my father was at home; this was done in the presence of my father. My father did not give a reply at that time. I told my father that the property belonged to my uncle and that he (my father) should not allow the property to go out, and asked him to help Julius. I wanted my father to pay Julius Rs. 16,000/-. My father looked at this note, D8, and gave it to me. Julius told my father to get a deed executed in respect of this property and take possession. For the Rs. 16,000/- my father was to give Julius, my father was to get the property 23/24, Wall's Lane.

(To Court :—Julius Percera asked my father to take a transfer of the premises No. 23/24 and take possession and give him Rs. 16,000/-).

The property that Julius was going to give my father was premises No. 23/24. It has nine buildings. My father agreed to what Julius said; that is to pay Julius Rs. 16,000/- and get a transfer of the property No. 23/24, Wall's Lane. The Transfer Deed No. 1830 dated 17-4-50, D9, was thereafter written. D9 was attested by Proctor de Saram.

Julius was occupying one of the buildings with his wife, and the others were occupied by tenants. The tenants were paying rent. Plaintiff is the wife of Julius; she was living with her husband in premises No. 23/1. Before the transfer D9 to my father by Julius the rents of the property were paid by the tenants to Julius himself. After the transfer D9 the tenants paid the rent to Julius' wife, who was collecting the rent for my father. She collected rent for my father till my father died. He died in August, 1950. After my father died the plaintiff wanted me to come and collect the rents as it was troublesome for her as she had children.

Till the death of my father the rent receipt book was with the plaintiff. After his death the rent receipt book was handed to me by the plaintiff. (Shown D10). This was the rent receipt book which the plaintiff handed to me. The first receipt in D10 dated May, 1950, is in the handwriting of the plaintiff. The signature on it is my father's signature. All counterfoil receipts up to July, 1950, are in the handwriting of the plaintiff. All receipts up to 10th June, 1950, are signed by my father. When he received the money from the plaintiff my father signed the counterfoil receipts. Two of those counterfoil receipts are signed by the plaintiff herself; they are counterfoils Nos. 12 and 15. After August, 1950, rent receipts were issued by me.

Julius and his wife (plaintiff) continued to stay in the premises No. 23/1 after the transfer D9 to my father. They paid no rent. My father

No. 7
Defendant's
Evidence.
Mrs. Flora
Perera
Examination
—continued

had promised to re-transfer this property to Julius if the consideration paid on D9 was paid back to my father. Julius and his wife left these premises in July, 1951. Prior to that they have been in occupation of these premises for about ten years. I went into occupation of these premises No. 23/24 on 1st July, 1951.

(To Court :—Premises No. 23/24 is a fairly big house and the others are tenements. Plaintiff and Julius were living in No. 23/1. The premises in dispute in this case consist of buildings Nos. 23/1 to 23/4 and 23/19 to 23/25.)

I came into occupation of premises No. 23/24. Julius and his wife¹⁰ were occupying No. 23/1. Before I came to premises No. 23/24 they were in the occupation of one Mr. Baseer.

(Sgd.) L. B. DE SILVA,
A. D. J.
15-7-53.

(At this stage Court adjourns for lunch).

(Trial resumed after the adjournment).

Mrs. Flora Perera, recalled, sworn.

In July, 1951, I went into occupation of premises No. 23/24. Julius and his wife were occupying No. 23/1. The other tenements were occupied²⁰ by tenants. At that time the tenants were paying the rents to me. During that time a Fiscal's Officer came to the property with some tom tom beaters. Julius also came along with them. The Fiscal's Officer said that he had come to give possession of the property to Julius. I told them that the property belonged to me, and I produced the Last Will and the Transfer Deed. Thereafter the Fiscal's Officer went away, and I remained in possession. Still I am in possession of the property. Thereafter Julius brought the Police down and I produced the Last Will and the Deed of Transfer before the Police, and said that the property belonged to me. At that time Julius and his wife continued to stay in the property.³⁰ They were there for about two weeks after that incident. Thereafter they went away, and I took possession of the premises No. 23/1, which were in the occupation of Julius and his wife. Plaintiff gave possession of these premises to me. She left the house in which she was living and gave possession to me.

Q. Did the plaintiff tell you at any time that she had bought this property? A. No.

Cross-examination :—Nil.

(Sgd.) L. B. DE SILVA,
A. D. J. 40
15-7-53.

M. S. M. Facez, affirmed, 28 years, Metal Contractor, 28, Silversmith Street, Colombo.

No. 1
Defendant's
Evidence.
M. S. M.
Facez
Examination
-continued

I was living in premises No. 23/24, Wall's Lane, in 1950; that was from July, 1950. I had taken the premises on rent from the late Mr. Lewis Perera. I know the 2nd defendant. She is the daughter of Lewis Perera. I know the plaintiff in this case. At that time plaintiff was also living in the same property in another house. I continued in occupation of premises No. 23/24 till May, 1951. I left these premises, because I was given a notice to quit by the 2nd defendant. At that time her father was dead. She said she wanted to come into occupation and gave me notice to quit, and I left in May, 1951. I know that thereafter the 2nd defendant came into occupation of premises No. 23/24.

While I was occupying the premises at first I paid the rent to Lewis Perera and thereafter to Mrs. Flora Perera, the 2nd defendant. During the time I was paying rent to Mr. Lewis Perera, we used to send the rent to him.

Mr. Baseer is my brother-in-law. I was in this house in January and February, 1951. After January; that was after the notice to quit was served on us, my brother-in-law asked me to stay at home during the day as he was afraid that a Fiscal's Officer might come and put them out, and also as my sister was expecting a child at that time. During the time I was in these premises I was not aware of any Fiscal's sale in this property; there was no tom tom beating in connection with a Fiscal's sale. Particularly in February, 1951, there was no such sale or intimation by beat of tom tom. Throughout the time I was there there was no trouble with regard to the premises.

Cross-examination :—My brother-in-law was rather afraid that a Fiscal's Officer might serve summons on my sister in a possible ejection case, as we had already been served with notice to quit. I was not asked to stay at home to see whether the Fiscal's sale was going on at the premises. I was staying at home thinking that summons would be served on the household. I do not know what happened to this property during the whole of 1949, I was not there then.

M. S. M.
Facez
Cross-
Examination

Re-examination :—My brother-in-law was employed at that time in the Ceylon Army. He was away from home from about 8-30 a.m. till about 5-30 p.m. When he is normally away my sister is at home with the servant woman. My sister had one child. At that time I was not employed; I had the time to remain at home with my sister.

M. S. M.
Facez
Re-
Examination

(At this stage witness produces from his pocket the notice served on him by the 2nd defendant to quit the premises).

I have been asked to quit the premises by the end of February that year. I was the tenant. I produce the notice to quit dated 3-1-51, D11, addressed to me by the 2nd defendant's proctor.

No. 7
Defendant's
Evidence.
M. S. M.
Facez
Re-
Examination
—continued

Q. What was the fear that you anticipated and you were asked to be at home? A. Notice to quit had been served and we thought that summons would be served. My sister is very sensitive. My sister is a Muslim.

(Sgd.) L. B. DE SILVA,
A. D. J.
15-7-58.

C. De Saram
Examination

C. De Saram, affirmed, 58 years, Proctor, S.C., Colombo.

I am a proctor of this Court. I have been in practice for 28 years. I know the person called Julius Perera. I appeared against him in D.C., 10 Colombo, Case No. 2447/M.B. I appeared for the plaintiff in that case. The defendant was Julius Perera. The plaintiff in that case sued him on a number of mortgages. The total amount of his claim against Julius Perera was Rs. 11,679.22 exclusive of costs and interest. I produce marked D12 the certified copy of the journal entries in that case. According to D12 decree was entered on 30-8-49. On 17-1-50 I filed an application for execution and a commission was issued and the conditions of sale were filed. Thereafter I remember that the defendant made an application to Court for stay of sale. He filed an affidavit.

Mr. Advocate Wickramanayaka moves to produce this affidavit, 20 marked D13.

Mr. Advocate Weerasinghe objects to the contents of the affidavit. He has no objection to the fact that an affidavit was filed. He says he has no objection to the contents being admitted, subject to the ruling given by Court earlier.

Mr. Wickramanayaka states that he is not relying on the contents of the affidavit.

In view of that I allow the affidavit to be produced merely to prove that an affidavit was filed).

As a matter of fact, the sale was stayed. On 5-5-50 claim and costs 30 have been paid in full and I moved to enter satisfaction of decree.

I knew Lewis Perera ; he was the uncle of Julius Perera. I attested Deed No. 1830 of 17-4-50, D9 by Julius Perera in favour of Lewis Perera. D9 is a conditional transfer for a consideration of Rs. 16,000/-. A sum of Rs. 12,304.79 was paid to discharge mortgage bonds Nos. 1643 of 2-12-46, 1694 of 26-6-47 and 1708 of 20-10-48 ; they were all attested by me. Those were the bonds on which action 2447 of this Court had been filed against Julius Perera.

Julius Perera appealed to his uncle Lewis Perera to settle the decree in that mortgage bond action, and he had been given five years time to 40 pay up this Rs. 16,000/- and obtain a re-transfer of the property.

The balance consideration on D9 was also utilised as stated in my attestation. The balance consideration was utilised to pay some other debts ; he had to pay some other claims. That claim was on a memo

submitted to me by the lawyer in a summary procedure case. Julius Perera told me about that claim. The consideration on D9 was utilised in this form on the instructions of Julius Perera, and the purchaser Lewis Perera. Lewis Perera was keen in paying off the debts; he wanted the property free from encumbrances. Lewis Perera gave me cheques to pay off the mortgage bond debts; he gave me separate cheques. To my knowledge Julius Perera did not tell me that any other debt was outstanding.

No. 7
Defendant's
Evidence.
C. De Saran
Examination
... continued

(To Court :—The attestation in the Deed D9 shows how the full
10 consideration was utilised).

Out of the consideration the expenses for the deed have been paid by Julius Perera on his account. I endorsed the cheques in favour of my client in the mortgage bond action and he discharged the bonds in favour of Lewis Perera. I cannot remember if Julius Perera told me that there was any outstanding debt at that time. If there was another Rs. 1,000/- outstanding, I think, Lewis Perera would have paid that amount as well, if Julius Perera said that there was an outstanding debt of Rs. 1,000/-. I was not aware of any other debts of Julius Perera.

I remember Julius Perera's wife coming to see me in connection with
20 the stay of the sale.

Cross-examination :—Julius Perera and his wife came to see me to get time for the sale. I know of two cases 11256 and 11066/S. I did not appear in those cases. I cannot say whether they were cases filed by Lewis Perera against Julius Perera.

C. De Saran
Cross-
Examination

Before the Deed D9 was written I must have searched the encumbrances. I would not have taken the risk of not searching encumbrances even if the client asked me not to make a search.

Re-examination :—In Case No. 11066 I did not appear. I was asked whether it was an action by Lewis Perera, against Julius Perera. I
30 produce the certified copy of the journal entries in D.C., Colombo, Case No. 11066/S, D14. It is an action by Palaniappa Chettiar against Julius Perera.

C. De Saran
Re-
Examination

I must have searched the registers. If there was any registration I would have seen. When I attested D9 I must have searched the Land Registry. It is my practice to search before a deed is attested by me. I do not like to attest a deed, even if dispensation is given, without making a search. I cannot say whether in this case a dispensation was given. If there was any charge on this property I would have explained to Lewis Perera the exact position. In this particular case the uncle was giving
40 the money to the nephew.

To Mr. Weerasinghe with permission of Court :—(Shown P2). In P2 the Deed D9 is registered. That is the transfer to Lewis Perera. If I

No. 7
Defendant's
Evidence.
C. De Saram
Re-
Examination
—continued

referred to the full encumbrances I will see the Prohibitory Notice in D.C. No. 9041 had been registered on 14-10-49. The Prohibitory Notice in respect of that same case has been again registered on 5-4-50.

I remember that these Chettiars who had obtained the decree against Julius Perera came to a settlement and they promised to reduce their claim to a very large extent. The plaintiff in D.C. No. 9041 was a Mohamedan gentleman.

At the time D9 was executed these seizures were still there. I did not write to those proctors to find out what those claims were. As a matter of fact, they brought some chits. I do not have them with me. 10 In this particular case as the parties being uncle and nephew I cannot say whether I did not search the Land Registry; if Lewis Perera asked me not to search I may have not done. There may be the possibility of my not having made a search considering the relations of the parties and Lewis Perera may have asked me not to make a search; otherwise I would have certainly seen these seizures.

To Mr. Wickremanayaka with permission of Court :—There was a talk among the Chettiars to reduce the claim. It was when they came to sign the deed. I was protecting the interests of Lewis Perera. At the time the Deed D9 was executed I got the impression that these were the only 20 outstanding debts of Julius Perera against the property in question.

References of the numbers of these cases were given to me by Julius Perera.

(Sgd.) L. B. DE SILVA,
A. D. J.
15-7-53.

Defendants' case closed reading in evidence D1 to D14.

(Sgd.) L. B. DE SILVA,
A. D. J.

Mr. Advocate Weerasinghe states that he does not desire to call 80 evidence in rebuttal.

Mr. Advocate Wickramanayaka asks for a date to address Court.

I fix the addresses for 30th July, 1953.

(Sgd.) L. B. DE SILVA,
A. D. J.
15-7-53,

Addresses to Court

30th July, 1953.

Parties present.

Same Counsel as before.

Mr. Gomes files proxy of the 2nd defendant.

Corrections in the last date of trial are made with the consent of parties.

(Sgd.) L. B. DE SILVA,
A. D. J.

10

Mr. Advocate Wickramanayaka addresses Court.

He submits that the evidence makes it quite clear that the property has now come back to Julius Perera by the fraud practised by Julius Perera and his wife, the plaintiff. Plaintiff is merely a figurehead; she had no knowledge whatsoever of this purchase. She merely lent her name, and she did not know what the transaction was. Julius Perera holds the property in trust for Beatrice Perera. Second defendant is entitled to a charge on this property to the extent of the money paid for this property. Refers to the 2nd defendant's evidence.

20 Julius Perera was badly indebted; this property was subject to three mortgages. Lewis Perera, uncle of Julius and father of 2nd defendant, agreed to give Rs. 16,000/- on condition that this property was transferred to him with a condition for re-transfer. If Julius Perera made a full disclosure of his debts, Lewis Perera would have given the other Rs. 1,000/- as well. Julius made a list of his debts (D8). Refers to D8. Julius read D8 in the presence of the 2nd defendant and her father Lewis. D8 contains a list of all the debts of Julius outstanding. There is no suggestion by the plaintiff that the debts referred to in D8 were not the entire debts of Julius.

80 He refers to the evidence of Proctor de Saram. This sum of Rs. 16,000/- was utilised to pay the debts of Julius Perera entirely. Once the contract was entered into Julius Perera became a trustee, and it was his duty to protect the interests of Lewis. He did not do so. He now holds the property in trust. All the circumstances go to show that this was a fraud.

The sale in question was not a *bona fide* sale. There were no bidders at the sale; one or two persons the most were present. At the sale the first bid was Rs. 250/-, and Thiagarajah bought the property for Rs. 280/-. It shows that there were no bidders.

40 Refers to the evidence of Mr. Rasanathan. He submits that the evidence of the plaintiff in this case is not reliable.

Refers to D8. D8 was not written on Thiagarajah's instructions. Possession was never delivered to Thiagarajah at any time. At the time D8 was written Thiagarajah was not the owner of the premises. There is

No. 8
Addresses
to Court—
continued

no evidence that the plaintiff at any time asked either Thiagarajah or Rasanathan to get her possession. According to the plaintiff she did not know what had happened. Plaintiff was the nominee of Julius Perera. When plaintiff made her statement to the Police she was not aware that this property was transferred in her name. Julius Perera was the actual purchaser of the property. At the time plaintiff made her statement to the Police she did not know that the property was purchased in her name.

It is difficult to prove fraud and collusion between plaintiff and Julius Perera. Julius Perera holds the property in trust for Lewis Perera. He refers to section 90 of the Trust Ordinance. He cites Underhill on the Law of Trust at page 188.

It was the duty of Julius Perera either to pay this debt or disclose this debt. He has taken advantage of his failure to do so. Neither Julius Perera nor his wife (plaintiff) has given evidence. This is a fraud practised by Julius in breach of trust.

In any event the property is subject to a charge. He cites 15 N.L.R., page 362 at 365. 44 N.L.R., page 499.

Mr. Advocate Weerasinghe is heard in reply. He submits that if Court rejects the evidence of the 2nd defendant as regards the statements made to her by Julius there is no evidence before the Court that there was fraud and collusion between the plaintiff and Julius. Refers to the evidence of the 2nd defendant. There is no evidence that Julius Perera was the plaintiff's agent, if the Court rules out the evidence of defendant as regards the statements made by Julius. He refers to the evidence of Proctor de Saram. Refers to D9.

Re the submission with regard to a charge on this property, he submits that the authorities cited do not apply to this case.

I reserve my judgment for 25-8-53.

(Sgd.) L. B. DE SILVA,
A. D. J. 30
30-7-53.

No. 9
Judgment of
the District
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25-8-53

No. 9

Judgment of the District Court

JUDGMENT

B. Julius Perera was the former owner of the premises described in the schedule to the plaint, presently bearing assessment Nos. 23, 23/1, 3 & 4 & 23/18-24, Wall's Lane, Mutwal.

This property was subject to three mortgage bonds and a mortgage decrec had been entered against him on the said bonds in D.C., Colombo, No. 2447/M.B. for Rs. 11,677.22, interest and costs on 30-8-49 (*vide* 40 Decree D2).

A number of money decrees had also been entered against Julius Perera in D.C., Colombo, No. 9041/S of 15-6-48 (D1) for Rs. 1,000/- interest and costs in favour of Dean, in D.C., Colombo, No. 11066/S of 22-12-49 (D14) in favour of Palaniappa Chettiar for Rs. 981.39, legal interest and costs and in favour of S. D. Lewis Perera in D.C., Colombo, No. 11256/S.

No. 9
Judgment of
the District
Court.
25-8-53
...continued

The journal entries in D.C. 9041/S (D1) and 2447/M.B. (D12) show that Julius Perera had taken time on several occasions to pay the amounts due on these decrees and to stay execution.

Julius was a nephew of Lewis Perera and approached him with a view to settling his debts. Ultimately it was arranged that Julius should transfer the properties in dispute to Lewis for Rs. 16,000/- to settle the mortgage and some of the money decrees, subject to an agreement to reconvey within five years. Accordingly the Deed No. 1830 of 17-4-50 (D9) was executed by Julius Perera in favour of Lewis Perera. The consideration on the deed was utilised to pay Rs. 12,304.79 in settlement of the mortgage decree in D.C. 2447/M.B. (D2 and D12) Rs. 2,989.21 in settlement of the Money Decrees in D.C. 11256/S (*i.e.* in favour of Lewis) and 11066/S (D14), Rs. 350/- in settlement of the costs in D.C. 2447/M.B. (D2 and D12) and the balance Rs. 356/- for the expenses of the deed (D9) —(*vide* the attestation in D9 and the evidence of the Notary who attested this deed—Mr. C. De Saram).

It is to be noted that the amount due under the decree in 9041/S of 15-6-48 (D1) was not settled when D9 was executed. The property in dispute was under seizure on a writ issued in D.C. 9041/S. This seizure was registered on 14-10-49 (*i.e.* prior to the execution of the transfer D9 in favour of Lewis Perera).

The registration of this seizure was duly kept alive by fresh registrations on 5-4-50, 20-9-50 and 20-2-51. (*Vide* Extracts of Encumbrances P2). The property was sold in execution of the decree (D1) on 6-2-51 and the Fiscal's Transfer P6 (No. 20200/1951) dated 28-5-51 was issued in favour of Mr. N. Thiagarajah, after due confirmation of sale.

The Fiscal's Transfer (P6) was registered on 27-6-51 (*vide* P2). Thiagarajah by Deed 1523 of 8-6-51 (P1) conveyed this property to the plaintiff—the wife of Julius Perera.

In view of the provisions of section 238 of the Civil Procedure Code, the conveyance to Lewis on Deed 1830 of 17-4-50 (D9) is void as against the Fiscal's Transfer 20200 of 28-5-51 (P6) as the seizure of the property had been duly registered prior to the execution of D9 and had been duly kept alive till the Fiscal's sale and conveyance (P6).

Lewis Perera died on 28-8-50—Leaving a Last Will 1820 of 12-4-50 (D6). The property in question was bequeathed to his daughter Mrs. Flora Perera (2nd defendant) and Probate (D7) was issued to her husband the 1st defendant.

The position taken up for the defence is that Julius Perera fraudulently and in breach of his duty, failed and neglected to disclose to Lewis Perera that a Money Decree had been entered against him in D.C. Colombo

No. 9
Judgment of
the District
Court.
25-8-53
—continued

9041/S of 15-6-48 (D1). It is alleged that Julius Perera was in the position of a trustee towards Lewis Perera and that the plaintiff is merely a nominee of Julius Perera and that they are acting in fraud and collusion. In these circumstances, it is alleged for the defence, that the plaintiff is a constructive trustee for the 2nd defendant, under the provisions of section 90 of the Trusts Ordinance (Chap. 72, Leg.....), of all advantages gained by her as a result of this transaction.

In the circumstances of this case, I am prepared to consider the plaintiff a nominee for Julius Perera. She is his wife. She invested no money of her own to obtain the transfer (P1). This transfer was executed 10 for a consideration of Rs. 3,000/-, and the full amount was raised on a mortgage executed on the same day by the plaintiff in favour of a third party. This property was worth at least Rs. 20,000/—probably much more. It was valued at Rs. 32,000/- by the Fiscal for the purposes of the sale under the decree in D.C. 9041/S. (*Vide* D1—J.E. dated 22-10-49).

According to Thiagarajah, the plaintiff represented to him that this was her ancestral property and begged him to convey the property to her. Though he was aware that the property was worth about Rs. 20,000/-, he agreed to convey the property to plaintiff for Rs. 3,000/- as he had purchased it only for Rs. 250/- at the Fiscal's sale and was making a fair 20 profit. In fact, this property was never the ancestral property of the plaintiff.

It belonged to Julius Perera and his adopted father before him.

It was Julius Perera who went with the Fiscal to obtain possession of this property as the agent of Thiagarajah when Thiagarajah took out a writ of possession, after his sale to the plaintiff, to obtain possession of this property. (*Vide* D4a).

Normally there is nothing sinister in a husband taking steps to obtain possession of property on behalf of his wife.

In this case, however, considering all the circumstances, I feel satisfied 30 that plaintiff is merely a figure head for Julius Perera as he did not want to take the transfer from Thiagarajah in his own name. He probably feared that suspicions would attach to his conduct if he took this transfer and steps would be taken to avoid such transfer.

The defence relied on a statement made by the plaintiff to P.C. 411 Johar (D5 of 19-7-51) where she stated that she was willing to hand over premises No. 23/1, Wall's Lane to the 2nd defendant (Mrs. Flora Perera) who is the present landlady of the premises. This statement was made after the execution of P1 of 8-6-51. This incident had occurred after the attempt to take possession under the writ (*vide* D4a) on 4-7-51 had failed. 40

It is to be noted that after the transfer to Lewis, the plaintiff was appointed by Lewis to collect the rents and she did so till the death of Lewis—(*Vide* the evidence of the 2nd defendant and the Rent Receipt Book D10).—Up till July, 1950, all the counterfoils of receipts were written by the plaintiff. Till June, 1950, Lewis had signed these receipts and counterfoils;

When the attempt by Julius to obtain possession of the property by writ had failed and there was trouble between these parties, Julius had made a complaint to the Police. At that inquiry, plaintiff made the statement D5. At that time the 2nd defendant was collecting the rents from all the other premises and was in possession of premises No. 23/24.

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continued

This action had been filed on 18-7-51, *i.e.* the day before the Police inquiry. In these circumstances, I cannot attach any importance to plaintiff's reference to 2nd defendant as the "landlady".

The 2nd defendant gave evidence with regard to certain representations made by Julius Perera to her father Lewis Perera in her presence with regard to his debts. She stated that Julius wrote out the list of his debts on the back of D8.

Objection was taken to the admission of this evidence without Julius being called. Mr. Advocate E. B. Wickremanayaka, Q.C., for the defendants took up the position that Julius was plaintiff's agent in the sense that they were acting in fraud and collusion and that plaintiff was merely a nominee for Julius.

This objection was not fully argued and I allowed this evidence subject to the proof that Julius was plaintiff's agent and that they were acting in fraud and collusion. I am satisfied that they are acting in collusion and that the plaintiff is a nominee for Julius Perera. There is no proof of fraud in this case, though plaintiff and Julius Perera may have obtained an unfair advantage over the 2nd defendant as a result of this transaction.

For the purposes of this case, I am allowing this evidence. I have since considered this objection more carefully and I find that the evidence is not hearsay or indirect evidence. The 2nd defendant is giving direct evidence of what Julius Perera said and did in her presence. She is proving the representation made by Julius to her father. She is not relying on the truth of that representation. In fact her position is that this was a misrepresentation as Julius did not disclose the debt of Rs. 1,000/-, etc. under the Decree in D.C. 9041/S (D1).

This evidence is relevant and admissible as evidence of a fact in issue or of a fact so connected with a fact in issue as to form part of the same transaction—(sections 5 and 6 of the Evidence Ordinance). The evidence would also be admissible as an admission made by a predecessor in title of the defendant, when he had an interest in the property in question—(Vide section 18 (2) and section 21 of the Evidence Ordinance).

I accept the evidence of the 2nd defendant that Julius asked her to intervene with her father on his behalf to save these properties from forced sales. I also accept her evidence that Julius made a list of his debts (D8) and wanted Rs. 16,000/- from her father to settle these debts. Her father did not reply and then she too appealed to him not to allow these properties to go out as they belonged to her uncle (*i.e.* the adopted father of Julius).

No. 6
Judgment of
the District
Court.
25-8-53
—continued

Her father then looked at D8 and gave it to her. Julius asked Lewis to take a transfer of the property in question and give him Rs. 16,000/-. Then her father (Lewis) agreed to the proposition.

I feel satisfied that the transfer to Lewis (D9 of 17-4-50) was executed in the circumstances related by the 2nd defendant.

It is to be noted that D8 is a very informal document, giving a rough idea of Julius' liabilities. The figures total Rs. 16,000/-.

No details of the debts are given. Approximate liabilities appear to be given in D8.

The Rs. 12,500/- roughly represents the debt due on the Mortgage Decree. It is not clear to what debts the items of Rs. 2,600/-, 365/- and 400/- apply. At most, D8 can be considered a rough estimate of his pressing claims.

Even if I hold, taking into consideration D8, the attestation in D9 and the evidence of Mr. C. de Saram (the Notary), that Julius did not disclose the debt on the decree in 9041/S (D1), I am unable to conclude that Julius omitted to disclose this debt with a view to defraud Lewis.

If not for the duly registered seizure under the decree (D1), the judgment-creditor in that case could have claimed no interest in this property in priority to Lewis after the execution of D9. 20

If Lewis, as any prudent purchaser had instructed his Notary to examine the Land Registry, the registration of the seizure would have been discovered. There is no evidence to prove that Julius was aware that this seizure was registered—even if he was aware of this seizure.

If Lewis or his successor in title had been normally vigilant, they would have become aware of the intended sale in execution—which had taken place after proper publication and in due course of law. They could then have paid this claim and saved their property, before that sale was held. In any event, Julius could not have anticipated that he or his nominee would be able to purchase this property from the purchaser at the execution sale for a fairly nominal price.

I am not satisfied on the evidence that Julius failed or deliberately omitted to disclose the debt on the decree (D1) with any fraudulent intent. Probably Rs. 16,000/- was about the maximum that Lewis was prepared to pay for this property on a conditional transfer.

Lewis was not too eager to help his nephew out of his difficulties. He only did so after much persuasion and after obtaining a conditional transfer of this property for a price—if anything well below its true value.

The evidence of Mr. C. de Saram, Notary, is not very helpful to this court in deciding the matters in issue. I accept his evidence, supported by his attestation in D9, with regard to the disposal of the consideration on the transfer D9. He was the proctor in the mortgage bond case. He obtained particulars of some other judgment debts of Julius from the proctors in these cases. The Chettiyars accepted a reduced amount in settlement of their money decree. I accept Mr. de Saram's evidence that 40

he was not informed by Julius of the judgment debt in D.C. 9041/S (D1). His surmise that Lewis would have paid off the judgment debt in D1 also, if it was disclosed, is of no evidentiary value. He was not able to give any definite evidence as to whether he searched the Land Registry before he attested D9. His evidence that he almost invariably did so, even when the parties requested him not to do so, was later qualified. It is fairly obvious that in this instance, the Land Registry was not searched before the execution of D9. For otherwise, the seizure under the Decree (D1) would have been disclosed and Lewis and his Notary would have taken some steps about it. For the purposes of this case I hold that Julius did not disclose to Lewis that a decree was entered against him in D.C. 9041/S and that Lewis was not aware of the seizure under that decree at the time of the execution of D9 or thereafter.

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the District
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—continued

A half hearted attempt was made by the defence to establish that a proper Fiscal's sale was not held under the writ in D.C. No. 9041/S.

Faccz a tenant of premises No. 23/24 under the 2nd defendant stated that in January and February, 1951, his brother-in-law asked him to stay at home lest they be ejected from the premises by the Fiscal. He had received the notice to quit (D11) of 3-1-51 from the 2nd defendant's proctor. He stated that the Fiscal's sale took place during that period. He says he was asked to stay at home as his sister and her child were alone in the house during the day with a woman servant. In cross-examination, he stated that his brother-in-law was afraid that summons would be served on his sister in a possible ejection case.

I do not believe this witness when he wants this Court to believe that he stayed at home every day in January and February, 1951. Nor am I prepared to hold on his evidence that no Fiscal's sale took place at the spot during that period.

The Fiscal's sale was duly advertised in the Gazette. (*Vide* P4 of 9-1-51). The property was duly seized in execution. (*Vide* the evidence of the Fiscal's Officer H. D. Dionis, the seizure notice P3 of 5-10-49, the Fiscal's report P5 and D4). I accept Dionis' evidence *re* the seizure. Mr. Rasanathan the proctor for the judgment-creditor in that case attended the sale. I accept his evidence that the sale took place as stated by him. In view of the recitals in the Fiscal's Conveyance P6, I am entitled to presume that the Fiscal's sale duly took place unless this presumption is rebutted. There is no evidence in this case, to justify a rebuttal of this presumption.

Apart from the question of fraud, the defence took up the position that Julius was in a position of trust towards Lewis in view of the conditional sale D9 and that as plaintiff is merely a nominee for Julius, any advantage gained by the plaintiff (and/or Julius) by the subsequent requisition of this property must be held in trust for 2nd defendant (the successor in title of Lewis).

The learned counsel for defendant relied on section 90 of the Trusts Ordinance and page 188 (Relation of Vendor and Purchaser before completion)—Underhill—Law of Trusts and Trustees—9th edition, I am not

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--continued

satisfied in this case that Julius was a person bound in a fiduciary character to protect the interests of Lewis. The reference in Underhill at page 188 is to a person who has entered into a binding agreement to sell his property to another. Pending completion of the conveyance of the property, he occupies a position of trust towards the other party to the agreement. He was a trustee who had a personal and substantial interest in the property, a right to protect it and an active right to assert that interest if anything should be done in derogation of it.

When Julius executed the conditional transfer (D9), he vested Lewis with the legal title to the property subject to his right to call for a re-10 transfer. Lewis was then in a position to legally safeguard his own interests and needed no assistance from Julius for that purpose. I hold that the reference in Underhill, has no application to the facts of this case.

Section 90 of the Trusts Ordinance refers to cases where the trustee, etc., or other person in a fiduciary character by availing himself of that character gains for himself any pecuniary advantage or where any person so bound enters into any dealings under circumstances in which his own interests are or may be, adverse to those of such other persons and thereby gaining for himself a pecuniary advantage.

It cannot be said in this case that Julius or his nominee gained any 20 pecuniary advantage by availing themselves of their fiduciary character (if any). Nor can it be said that they entered into dealings under circumstances in which their own interests are or may be, adverse to those of Lewis and thereby gained an advantage.

There is no doubt that the plaintiff obtained an advantage by purchasing this property from Thiagarajah for Rs. 3,000/- when it was worth very much more.

I have considered if this case can be brought within the provisions of section 92 of the Trusts Ordinance. The plaintiff induced Thiagarajah to convey this property to her for this rather nominal price by imploring 30 him and saying that it was her ancestral property. It was not plaintiff's ancestral property but it belonged to Julius and to his uncle who had adopted him before that.

Unless Thiagarajah's title could be attacked on some ground, he as the purchaser under the Fiscal's sale had a good and lawful title to the property. He was entitled to sell it to any person whom he wished and at any price. Lewis' rights to the property under D9 were not disclosed to him by the plaintiff. But his son-in-law Mr. Rasanathan, Proctor, was no doubt aware of this conditional transfer before the conveyance was given to plaintiff on P1. 40

It cannot be said that the plaintiff (who was the nominee of Julius) obtained this transfer as representing all parties interested in this property. I do not think the principle of the decision of the case reported at 54 N.L.R. at p. 484 can be applied to this case,

It was urged in this case that Thiagarajah was merely a figurehead whose name was lent to the Fiscal's Transfer (P6). Thiagarajah's evidence in this case was not at all satisfactory. He has contradicted himself on many material particulars. He says that he asked his son-in-law Mr. Rasanathan to see if the title to this property was good. Mr. Rasanathan informed him that it was alright. Mr. Rasanathan did not tell him that there was a mortgage over this property. He said that he would not have sent his agent to buy this property if he knew about the mortgage.

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the District
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—continued

10 Mr. Rasanathan however says that he had examined the title and at that time he was aware of the registration of the *lis pendens* of the mortgage action. He stated that all were aware that the mortgage decree was for (about) Rs. 10,000/- and that his father-in-law thought when he purchased the property that he was liable to pay Rs. 10,000/- to 12,000/- on the mortgage decree. He says that he discovered after the Fiscal's sale that this decree (mortgage decree) had been settled (*i.e.* previous to the sale but after the seizure).

I believe that Mr. Rasanathan was fully aware of the true position at the time of the Fiscal's sale, *i.e.* that the mortgage decree had then been
20 settled. If his father-in-law asked him to see about the title and advise him, it is very improbable that Mr. Rasanathan would not have verified the position under the mortgage decree. He had already searched the registers at the time of the registration of the seizure under the decree No. 9041/S (D1). Mr. Rasanathan was the proctor for the judgment-creditor in that case.

Considering the evidence of Mr. Rasanathan and his father-in-law Mr. Thiagarajah, I hold that Mr. Thiagarajah was merely a nominee whose name was inserted in the Fiscal's Transfer (P6) and the sale report D4. Mr. Rasanathan had taken certain steps to place the plaintiff in possession
30 after the transfer P1—by giving notices to the tenants and taking a writ of possession in the name of Mr. Thiagarajah. Mr. Thiagarajah was not aware of these steps—though he gave contradictory evidence on this point. He was merely inventing answers when he was cornered in cross-examination—to get out of the difficulties. Ultimately he said that he had entrusted this matter to Mr. Rasanathan and did not know what steps Mr. Rasanathan took in this matter.

It is however not possible in this case to hold that Mr. Thiagarajah was a nominee for Julius Perera. He says that he did not even know Julius Perera or the plaintiff before this purchase.

40 I am inclined to believe that he was merely a nominee for his son-in-law Mr. Rasanathan—who being the proctor for the judgment-creditor, and finding that the property could be bought for a mere song, Rs. 250/-, got his father-in-law's name inserted as the purchaser. The bid was actually given by one Sittaraman—who is not a witness in this case.

So long as Thiagarajah was not a nominee of Julius Perera, his title to the property on P6 cannot be attacked in this case,

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continued

A further position was taken up by the defence in this case—subsequent to the registration of the seizure under the Decree D1, the property was conveyed by Julius Perera to Lewis Perera on Deed No. 1830 of 17-4-50 and Rs. 12,304.74 out of the consideration for this transfer, was utilized to settle the mortgage decree in D.C. No. 2447/M.B. (*vide* the attestation in D9, the evidence of Mr. de Saram and J.E. dated 5-5-50 in D12). The mortgage decree had priority to the seizure under D.C. No. 9041/S. The 2nd defendant is claiming a charge on the property for this sum.

The transfer D9 was void under section 238 of the Civil Procedure Code as against the sale under the duly registered seizure in D.C. No. 9041/S. But the purchaser under the Fiscal's sale and the plaintiff have derived the benefit of the discharge of the mortgage decree with the money paid by Lewis Perera on D9.

The counsel for defendants relied on the cases reported in 15 N.L.R. 362 and 44 N.L.R. 499.

In the first case, the subsequent deed conveyed no title but the proceeds of that deed were utilized to pay off a mortgage which had priority over the execution sale. In that case the transferee on the subsequent sale was held to be in the position of a *bona fide* possessor who discharged the mortgage after entering into possession.

The present case can be distinguished from the case reported in 15 N.L.R. at 362 in that the sale under the Fiscal's sale was subsequent to the discharge of the mortgage decree.

The case reported in 44 N.L.R. at 499 is more in point. There the owner (3rd defendant) mortgaged certain properties to one K. and thereafter transferred them to the plaintiff who undertook to discharge the existing mortgage and pay a balance sum of money to the 3rd defendant.

On a seizure of the properties against 3rd defendant by 1st and 2nd defendants, it was held that the transfer to plaintiff was in fraud and collusion and was set aside.

Subsequent to the seizure by the 1st and 2nd defendants, the plaintiff discharged the mortgage of Rs. 1,260/-.

In spite of the fraud, the Court held that the properties could be sold by the 1st and 2nd defendants under their seizure but subject to a right of mortgage in favour of the plaintiff to the extent of Rs. 1,260/-.

Hearne J. stated in that case: "If the attempt to defraud the 3rd defendant's creditors had never been made, if P1 had never been executed, the 1st and 2nd defendants could only have seized and sold Iniyawatta (the land) subject to the rights of Kanakkapullai (the mortgagee). As the plaintiff has paid off Kanakkapullai, he must be regarded as standing in his shoes and this is the effect of the Judge's order.

If the 1st and 2nd defendants were permitted to sell the land free of any encumbrance, they would be enriched at the expense of the plaintiff and a civil court would in effect be inflicting a penalty on the latter."

In this present case, there is no question of fraud on the part of Lewis and his successor (the 2nd defendant).

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continued

As the plaintiff has been enriched at the expense of the 2nd defendant's predecessor in title and as Lewis Perera was in the position analogous to that of a *bona fide* possessor who has effected useful improvements on this property, I hold that the 2nd defendant is entitled to compensation for improvements in a sum of Rs. 12,304·79 and to possession of the property till compensation is paid. It is admitted and established in this case that Lewis and the 2nd defendant have been in possession of these premises
10 after the execution of D9.

I answer the issues in this case as follows :—

1. Yes.
2. Yes.
3. Damages are fixed at Rs. 10/- a month as agreed.
(As the 2nd defendant is entitled to a *jus retentionis* till she is compensated, there will be no order for damages).
4. Yes.
5. Yes.
- 6 (a) Yes.
- 20 6 (b) Yes.
7. Julius Perera approached his uncle Lewis Perera with a view to make some arrangements to settle his (Julius') debts. As a result, the conditional transfer (D9) was executed.
8. Yes.
9. Yes—except the debt in D.C. Colombo No. 9041/S and C.R. Colombo No. 18141.

The judgment on the three mortgage bonds referred to was entered in D.C. Colombo No. 2447/M.B. and not in actions D.C. Colombo Nos. 11265 and 11066.

- 30 10. No.
- 10 (a) No.
11. No.
12. Yes.
13. Does not arise.
14. No.
15. No.
16. No.
17. No.
18. Does not arise.
- 40 19. No.

20. The 2nd defendant is entitled to the amount paid in satisfaction of the Mortgage Decree in D.C., Colombo, case No. 2447/M.B. i.e., to Rs. 12,304·79 from the plaintiff as compensation for useful improvements and to a *jus retentionis* till such compensation is paid. She is not entitled to any other charge over this property for this amount.

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—continued

I enter judgment for plaintiff as prayed for in paragraph (a) of the prayer to the plaint. The 2nd defendant is entitled to a sum of Rs. 12,304.79 from the plaintiff as compensation for useful improvements and to a *jus retentionis* of the property in question till such compensation is paid. On payment of the said compensation to the 2nd defendant, the plaintiff is declared entitled to possession of the said property and for ejection of the defendants.

Considering all the circumstances of this case and the fact that the claim to compensation for improvements was only raised on the 2nd date of trial, I order the parties to bear their own costs. 10

(Sgd.) L. B. DE SILVA,
A. D. J.
25-8-58.

No. 10
Decree of the
District
Court.
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No. 10

Decree of the District Court

DECREE

IN THE DISTRICT COURT OF COLOMBO

BEATRICE SUNEETHRA PERERA of No. 23/1, Wall's Lane,
Mutwal, in Colombo.....*Plaintiff.*

vs.

No. 6306/L.

20

1. N. A. PERERA,
2. MRS. FLORA PERERA,
3. S. D. JUSTIN PERERA,
4. S. D. AUSTIN PERERA,
5. S. D. LIONEL PERERA, all of Wall's Lane, Mutwal,
in Colombo.....*Defendants.*

This action coming on for final disposal before L. B. de Silva, Esquire, Additional District Judge, Colombo, on the 25th day of August, 1953, in the presence of Mr. Advocate D. M. Weerasinghe with Mr. Advocate Senaratne, instructed by Mr. K. Rasanathan, Proctor, on the part of the plaintiff and of Mr. Advocate E. B. Wickramanayaka, Q.C., with Mr. Advocate E. S. Amerasinghe, instructed by Mr. D. J. Weerasinghe, Proctor, on the part of the defendants, it is ordered and decreed that the plaintiff be and he is hereby declared entitled to the land described in the schedule hereto.

It is hereby further ordered and decreed that the 2nd defendant be and he is hereby declared entitled to a sum of Rs. 12,304.79 from the plaintiff as compensation for useful improvements and to a *jus retentionis*

of the property described in the schedule hereto till such compensation is paid.

It is hereby further ordered and decreed that on payment of the said compensation to the 2nd defendant the plaintiff is declared entitled to possession of the said property and for ejection of the defendants.

It is further ordered and decreed that the parties bear their own costs.

THE SCHEDULE ABOVE REFERRED TO.

All that allotment of land bearing present assessment Nos. 23 (1, 18 and 19-25), situated at Wall's Lane, Mutwal, within the Municipality and District of Colombo, Western Province, and bounded on the North-East by the other portion of this land of Tikiridura Lawrence Silva, South-East by the part of the same garden, South-West by the road, and on the North-West by the other part of the same garden containing in extent one rood and thirteen and twenty upon one hundredth perches and registered in A308/167 together with all the buildings and everything standing thereon, which said premises bearing assessment Nos. 23, 23/1, 3 and 4 and 23/18-24, Wall's Lane, situated at Mutwal and described as being bounded on the North-East by premises Nos. 23/8-11 and 37/1 by Wall's Lane, South-East by premises Nos. 37/2 and 31, Wall's Lane, South-West by Wall's Lane, North-West by premises No. 17, Wall's Lane, and containing in extent one rood and twenty-one decimal two five perches according to Survey Plan No. 289 dated 7-5-51 made by S. H. Fernando, Surveyor.

This 25th day of August, 1953.

(Sgd.) Illegible.
Additional District Judge.

Drawn by me :
(Sgd.) Illegible.
Proctor for Plaintiff.

No. 11

80 **Petition of Appeal of the 1st and 2nd Defendants to
the Supreme Court**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

No. 6306/Land
D.C. Colombo.

BEATRICE SUNEETHRA PERERA of No. 25/1, Wall's Lane,
Mutwal, Colombo.....

Plaintiff.

vs.

1. N. A. PERERA,

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Decree of the
District
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—continued

No. 11
Petition of
Appeal of
the 1st
and 2nd
Defendants
to the
Supreme
Court.
26-8-53

No. 11
Petition of
Appeal of
the 1st
and 2nd
Defendants
to the
Supreme
Court.
26-8-58
—continued

2. MRS. FLORA PERERA,
3. S. D. JUSTIN PERERA,
4. S. D. AUSTIN PERERA,
5. S. D. LIONEL PERERA of Wall's Lane,
Mutwal, Colombo.....*Defendants-Respondents.*

1. N. A. PERERA,
2. MRS. FLORA PERERA, both of Wall's Lane,
Mutwal, Colombo.....*Defendants-Appellants.*

BEATRICE SUNEETHRA PERERA of No. 25/1, Wall's Lane,
Mutwal, Colombo.....*Plaintiff-Respondent.* 10

3. S. D. JUSTIN PERERA,
4. S. D. AUSTIN PERERA,
5. S. D. LIONEL PERERA, of Wall's Lane,
Mutwal, Colombo.....*Defendants-Respondents.*

TO THE HONOURABLE THE CHIEF JUSTICE AND THE OTHER JUSTICES OF
THE HONOURABLE THE SUPREME COURT OF THE ISLAND OF CEYLON.

On this 26th day of August, 1958.

1. The plaintiff-respondent instituted the above styled action against the 2nd defendant-appellant and her husband and three brothers for a declaration of title to the land and premises described in the schedule 20 to the plaint and for ejection and damages.

2. The plaintiff-respondent pleaded title commencing from one B. J. Perera, her husband against whom a money decree had been entered in D.C. Colombo Case No. 9041/S and she alleged that under writ of execution issued in the said case the said property had been sold by the Fiscal on the 6th day of February, 1951, and purchased by one N. Thiagarajah, for Rs. 250/- who sold the same to her by Deed No. 1523 of 8th June, 1951 (P1).

3. The 2nd defendant-appellant filed answer claiming the property for herself through her father one M. D. Lewis Perera, to whom the afore-⁸⁰ mentioned B. J. Perera had transferred the same upon Deed No. 1830 dated 17th April, 1950 D9 "subject to a right of re-transfer, in the circumstances set out in paragraph 5 of her answer, for a consideration of Rs. 16,000/- and which consideration was utilised for and applied in satisfaction of the hypothecary decree entered against the said B. J. Perera, in respect of the aforesaid property, in action No. 2447/M.B. D.C. as well as certain other debts of the said B. J. Perera. This defendant-appellant further alleged *inter alia* that the plaintiff-respondent was only the nominee of the said B. J. Perera, and that the said N. Thiagarajah was in fact the

agent of the said B. J. Perera, who had procured the alleged sale in execution in fraud of this defendant-appellant, who was in possession of the said premises under and by virtue of the rights vested in her father upon the said Deed D9. "

No. 11
Petition of
Appeal of
the 1st
and 2nd
Defendants
to the
Supreme
Court.
26-8-53
—continued

4. The case went to trial on the following issues :—

1. Is the Deed No. 1830 of 17-4-50 void as against the Fiscal's Conveyance No. 20200 of 6-5-51.
2. If so, does plaintiff get title to the said premises on Deed No. 1523 of 8-6-51.
- 10 3. What damages (damages agreed at Rs. 10/- a month).
4. Were the right title and interest in the said property of B. J. Perera, duly sold by Fiscal in Case No. 9041/S of this Court.
5. Was the said property purchased by one Thiagarajah on 5-4-50.
6. (a) Was the Fiscal's Conveyance No. 20200 of 6-5-51 issued to the said Thiagarajah.
(b) Did the said Thiagarajah, by Deed No. 1523 of 8-6-51 convey the said premises to the plaintiff.
- 20 7. Did Julius Perera prior to 17-4-50 request his uncle one Lewis Perera to meet his liabilities on the security of the premises in question.
8. Did Julius Perera by Deed No. 1830 of 17-4-50 convey the said premises to Lewis Perera for Rs. 16,000/- subject to the right of re-transfer in five years on payment of the said sum.
9. Were the debts of Julius Perera, referred to in para. 5 (b) and (c) of the answer paid out of the said consideration.
10. Did the said Julius Perera, represent to Lewis Perera that the claims of the creditor in D.C. No. 9041/S had been paid and settled.
- 30 11. Was the purchaser at the sale in execution in D.C. No. 9041/S an agent of the said Julius Perera.
12. Is the plaintiff to whom the said purchaser transferred the property a nominee of the said Julius Perera.
13. If issues 7, 8, 9 and 10 are answered in the affirmative is the plaintiff estopped from denying that the claim of the creditor in D.C. No. 9041/S had been paid and settled at the time of the execution of the Deed No. 1830.
14. Does the plaintiff hold the said property in trust for the 2nd defendant.
- 40 15. Was the Fiscal's sale in execution of the decree in D.C. No. 9041/S bad for the reason that it was not advertised in terms of section 255 of the Civil Procedure Code.
16. If so, is the 2nd defendant entitled to a decree setting aside the said sale.

No. 11
Petition of
Appeal of
the 1st
and 2nd
Defendants
to the
Supreme
Court.
26-8-53
—continued

17. Was the said sale procured by the said Julius Perera in collusion with the purchaser in order to deprive the 2nd defendant of the property.
18. If so, is the said sale void in law.
19. Is the 2nd defendant entitled to a conveyance of the legal title from the plaintiff.
20. Is the defendant in any event entitled to a charge on this property to the extent of the amount paid in satisfaction of the mortgage decree in D.C. Colombo case No. 2447/M.B.

And after hearing evidence the Learned Additional District Judge having reserved his judgment delivered same on the 25th day of August, 1953, answering the issues as follows :—

1. Yes.
2. Yes.
3. Damages are fixed at Rs. 10/- a month as agreed. (As the 2nd defendant is entitled to a *jus retentionis* till she is compensated, there would be no order for damages.
4. Yes.
5. Yes.
6. (a) Yes. 20
(b) Yes.
7. Julius Perera approached his uncle Lewis Perera with a view to make some arrangements to settle his (Julius') debts. As a result, the conditional transfer D9 was executed.
8. Yes.
9. Yes, except the debt in D.C. Colombo No. 9041/S and C.R. Colombo case No. 18141.
The judgment in the three mortgage bonds referred to was entered in D.C. Colombo No. 2447/M.B. and not in actions Nos. 11265 and 11066 D.C., Colombo. 30
10. No.
(a) No.
11. No.
12. Yes.
13. Does not arise.
14. No.
15. No.
16. No.
17. No.
18. Does not arise. 40
19. No.

20. The 2nd defendant is entitled to the amount paid in satisfaction of the mortgage decree in D.C. Colombo case No. 2447/M.B., *i.e.* to Rs. 12,304.79 from the plaintiff as compensation for useful improvements and to a *jus retentionis* till such compensation is paid. She is not entitled to any other charge over this property for this amount.

No. 11
Petition of
Appeal of
the 1st
and 2nd
Defendants
to the
Supreme
Court.
26-8-53—
continued

5. Being aggrieved by the said judgment this defendant-appellants beg to appeal therefrom to Your Lordships' Court on the following amongst other grounds that may be urged at the hearing of this appeal :—

- 10 (a) The said judgment is contrary to law and against the weight of evidence led in the case.
- (b) It is submitted that the evidence on record established a strong *prima facie* case of fraud which it was incumbent on the plaintiff and her husband to rebutt ; and that by reason of the failure of either the plaintiff or her husband to give evidence and deny the allegations and giving explanation of the several points raised against them, this defendant-appellant was entitled to succeed on the issue of the fraud.
- 20 (c) It is submitted that it was not open to the Learned Additional District Judge to act on possible explanations of *prima facie* fraudulent and collusive acts in the absence of evidence to support such explanation.
- (d) It is respectfully submitted that the Learned Additional District Judge has misdirected himself on the facts and on the law ; and that on a proper direction as regards the burden and degree of proof and a correct assessment of the evidence led in the case the probabilities were overwhelmingly in support of the case of this defendant-appellant.

Wherefore these defendant-appellants pray :—

- 30 (A) That the said judgment be set aside in so far as it adversely affects this defendant-appellant,
- (B) That the relief prayed for in the answer of the defendants-appellants be granted,
- (C) For costs, and
- (D) For such other and further relief as to Your Lordships' Court shall seem meet.

(Sgd.) E. L. GOMES,
Proctor for 1st and 2nd Defendants-Appellants.

**Petition of Appeal of the Plaintiff to the Supreme Court
IN THE SUPREME COURT OF THE ISLAND OF CEYLON**

No. 6306/L.

BEATRICE SUNEETHRA PERERA of No. 23/1, Wall's Lane,
Mutwal, in Colombo.....*Plaintiff.*

vs.

1. R. A. PERERA,
2. MRS. FLORA PERERA,
3. S. D. JUSTIN PERERA, and 10
4. S. D. AUSTIN PERERA,
5. S. D. LIONEL PERERA, all of Wall's Lane,
Mutwal, Colombo.....*Defendants.*

AND

BEATRICE SUNEETHRA PERERA of No. 23/1, Wall's Lane,
Mutwal, Colombo.....*Plaintiff-Appellant.*

vs.

1. R. A. PERERA,
2. MRS. FLORA PERERA,
3. S. D. JUSTIN PERERA, 20
4. S. D. AUSTIN PERERA, and
5. S. D. LIONEL PERERA, all of Wall's Lane,
Colombo*Defendants-Respondents.*

On this 7th day of September, 1958.

TO THE HONOURABLE THE CHIEF JUSTICE AND OTHER JUDGES OF THE
HONOURABLE THE SUPREME COURT OF THE ISLAND OF CEYLON.

The petition of appeal of the plaintiff-appellant above-named appearing by her Proctor S. M. C. de Soyza states as follows :—

1. The plaintiff sued the defendants for a declaration that she was entitled to the land which is the subject matter of this action and for 30 damages and costs.

2. The defendants filed answer praying for a declaration that the defendants were entitled to the said land or in the alternative that the plaintiff hold the said property in trust for the defendants, but on the 15th July, 1953, the 2nd date of trial the Learned Counsel for the 2nd defendant

suggested another issue No. 20. Is the defendant in any event entitled to a charge in the property to the extent of the amount paid in satisfaction of the mortgage decree in D.C. Colombo case No. 2447/M.B.

No. 12
Petition of
Appeal of
the Plaintiff
to the
Supreme
Court.
7-0-53
—continued

3. The Learned District Judge gave judgment on the 25th August, 1953, declaring the plaintiff entitled to the said property without costs, but directed that the defendants were entitled to recover from the plaintiff the sum of Rs. 12,304·79 and also to a *jus retentionis* until the said sum was paid by plaintiff.

4. Being dissatisfied with the said judgment the plaintiff begs to appeal to Your Lordship's Court on the following among other grounds that may be urged at the hearing of this appeal :—

- (a) That the said judgment is against the weight of evidence and contrary to law.
- (b) The Learned District Judge allowed issue No. 20 to go in although objections were taken that it did not arise on the pleadings.
- (c) The Learned District Judge has misdirected himself in holding that the defendants were entitled to receive from the plaintiff the sum of Rs. 12,304·79 and that the defendants were entitled to a *jus retentionis* until the said sum was paid.

Wherefore the plaintiff-appellant prays that Your Lordships' Court may be pleased to set aside the order for Rs. 12,304·79, payable by the plaintiff-appellant to the 2nd defendant, and for costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) S. M. C. DE SOYZA,
Proctor for Plaintiff-Appellant.

No. 13

Judgment of the Supreme Court

No. 13
Judgment of
the Supreme
Court.
10-2-56

S.C. 99L—100 L/1954 (F).

D.C. Colombo 6306 L.

S.C. 100L.

R. A. PERERA and others.....*Defendants-Appellants.*

vs.

BEATRICE SUNEETHRA PERERA.....*Plaintiff-Respondent.*

S.C. 99L.

BEATRICE SUNEETHRA PERERA.....*Plaintiff-Appellant.*

vs.

R. A. PERERA and others.....*Defendants-Respondents.*

No. 13
Judgment of
the Supreme
Court.
10-2-56
—continued

Present : GRATIAEN, J. and GUNASEKARA, J.

Counsel : SIR LALITHA RAJAPAKSE with T. B. DISSANAYAKE and E. S. AMERASINGHE for the defendants-appellants in S.C. 100L, and the defendants-respondents in S.C. 99L.

H. W. JAYAWARDENE, Q.C., with V. ARULAMBALAM and B. SENARATNE for the plaintiff-respondent in S.C. 100L, and for the plaintiff-appellant in S.C. 99L.

Argued on : 2nd and 8th February, 1956.

Decided on : 10th February, 1956.

GRATIAEN, J.

10

This is a *rei vindicatio* action. The plaintiff's husband, Julius Perera, owned the property until 17th April, 1950. He was in serious financial difficulties towards the end of 1949, and a hypothecary action for the sale of the property had been entered against him in action No. 2447/M.B. of the District Court of Colombo. In addition, it was under seizure in execution proceedings in certain other cases. One such decree (to which I shall later refer) was entered in D.C. Colombo No. 9041/S in favour of S. M. D. Deen for Rs. 1,000/- and interest payable on a promissory note.

In April, 1950, Julius' uncle, Don Lewis Perera Appuhamy (hereafter referred to as "Lewis"), reluctantly agreed to assist him to settle his debts so as to prevent the property, which was then worth about Rs. 30,000/-, from being sold in execution. He received from Julius a document (D8) indicating that Rs. 16,000/- was required to meet his liabilities. An agreement was arrived at, and was implemented on 17th April, 1950, whereby Julius sold the property to Lewis for this amount subject to the vendor's right to re-purchase it for a like amount within five years. The conveyance P9 contains the following warranties and assurances :—

"And I the said vendor for myself and my heirs, executors, administrators and assigns do hereby covenant, promise and declare with and to the said vendor, his heirs, executors, administrators and assigns that the said premises hereby sold and conveyed are free from any encumbrance whatsoever and that I have not at any time heretofore made done or committed or been party or privy to any act, deed, matter or thing whatsoever whereby or by reason the said premises or any part thereof are, is, can, shall or may be impeached or encumbered in title, charge, estate or otherwise howsoever and that I and my aforewritten shall and will at all times hereafter warrant and defend the same or any part thereof unto him and his aforewritten against any person or persons whomsoever and further also shall and will at all times hereafter at the request of the said vendee or his aforewritten do and execute or cause to be done and executed all such further and other acts, deeds, matters, assurances and things whatsoever for the further and more perfectly assuring the said premises hereby sold and conveyed and every part thereof, unto him or his aforewritten as by him or his aforewritten may be reasonably required."

The agreed consideration was paid by a series of cheques made in favour of the judgment-creditors whose names were disclosed by Julius for the purpose. At the same time Lewis was placed in possession of the property as owner, the plaintiff himself acting as his rent-collector in respect of the tenements occupied by Julius' former tenants who attorned to Lewis. Lewis died on 10th September, 1950, and his interests in the property passed to his daughter who is the 2nd defendant. The plaintiff and Julius at that time acknowledged the 2nd defendant as the new owner.

No. 13
Judgment of
the Supreme
Court.
10-2-50
— continued

10 I accept the findings of fact recorded by the learned trial Judge as to the further events which led to the present litigation. When Julius persuaded Lewis in April, 1950, "to save the property from forced sales," he had (perhaps through inadvertence) omitted to mention that the property was still under seizure for the recovery of the undisclosed judgment-debt in D.C. Colombo No. 9041/S and that a notice had been served on him under section 237 (1) of the Civil Procedure Code prohibiting him from transferring or charging the property in any way. Notice of this seizure had been duly registered on 14th October, 1949, and re-registered
20 April, 1950. Lewis was unaware of the seizure when he purchased the property under D9 or at any time thereafter. He assumed, without further investigation, that Julius was no longer in debt.

Registration of the seizure was kept alive by the judgment-creditor's proctor Mr. Rasanathan (certain aspects of whose conduct as a member of the legal profession need not be discussed for the purposes of this appeal) and the property was eventually purchased at a Fiscal's sale on 6th February, 1951, for Rs. 250/- by a man called Thiagarajah (Rasanathan's nominee). The conveyance in favour of Thiagarajah was executed on
30 28th May, 1951, and a few days later Thiagarajah conveyed it for a consideration of Rs. 3,000/- (borrowed under a contemporaneous mortgage) to the plaintiff. She then instituted this action against the 2nd defendant claiming a decree for the ejection of the 2nd defendant from the property on the ground that she (the plaintiff) had acquired a superior title by right of purchase from Thiagarajah.

The action was instituted on the basis that the plaintiff had become the owner of the property in her own right, but the learned District Judge took the view that she was merely Julius' nominee. He ruled, however, that the title acquired under the conveyance P1 prevailed over that of the 2nd defendant by virtue of section 238 of the Civil Procedure Code which
40 made the earlier sale to Lewis pending the registration of the notice of seizure "void as against the purchaser from the Fiscal selling under the writ of execution and as against all persons deriving title under or through the purchaser." At the same time the 2nd defendant was declared entitled to compensation as a *bona fide* improver (and to a *jus retentionis*) on the ground that Rs. 12,304.79 out of the consideration paid by Lewis on the "void" sale had been utilised in freeing the property from mortgage.

No. 13
 Judgment of
 the Supreme
 Court.
 10-2-56
 —continued

The plaintiff and the 2nd defendant have both appealed from the judgment of the lower court. The former complains that the order for compensation and a *jus retentionis* is insupportable. The latter contends that the plaintiff is not entitled in the circumstances of this case to a declaration of title or to a writ of ejectment against her. If the 2nd defendant's appeal succeeds, the correctness of the order for compensation need not be considered.

The main argument addressed to us on behalf of the 2nd defendant was that Julius had from the inception planned to defraud Lewis, and that the execution-purchaser Thiagarajah was also his nominee. I find myself unable to hold that the learned Judge was wrong in rejecting this argument on the evidence before him. It is far more likely that Proctor Rasanathan, having in the first instance procured the Fiscal's conveyance in the name of Thiagarajah for his own personal benefit, was later attracted by the idea of selling it to Julius at a profit (although at a figure substantially less than its true value at the relevant date).

The 2nd defendant had over-stated her defence on this part of the case. She was however entitled in law to resist a decree for ejectment without proof of any express fraud on the part of Julius as alleged in the course of the argument before us. Having regard to the finding that the plaintiff was in truth a nominee of Julius, the obligations imposed on Julius as a vendor under the conveyance D9 dated 17th May, 1950, precluded him from claiming either directly or indirectly, the benefit of section 238 for the purpose of securing the eviction of his former purchaser's successor in title.

Section 238 declares *inter alia* that any sale during the pendency of the registration of a notice of seizure shall be "void" as against an execution purchaser and as against all persons deriving title under or through them. The intention is to "freeze" the judgment-debtor's title in the property under registered seizure so as to prevent him from placing it beyond the reach of a vigilant judgment-creditor. At the same time it protects a *bona fide* execution purchaser from the risk of the property having been alienated or encumbered during the interval between the registration and the judicial sale. The draftsman could hardly have had in contemplation the possibility that a judgment-debtor would purchase his own property at the Fiscal's sale or even re-acquire title to it subsequently from the execution purchaser. Nevertheless, the words "all persons", being words of the utmost generality, are *ex facie* wide enough to include the judgment-debtor himself. But it does not necessarily follow that the superior title acquired by him by virtue of section 238 can be vindicated in violation of his subsisting personal obligations independently undertaken by contract or imposed on him under the general law.

For the purposes of the present contest as to title, Julius himself must be regarded as the person claiming (through a nominee) to avoid his own sale to Lewis under D9. The term "void" in section 238 must be read with some limitation. In a very similar context section 240 of

the Indian Code declared any private alienation of property while under attachment to be "null and void". The Judicial Committee rejected the argument that the words "null and void" were to be taken in the widest possible sense as "null and void against all the world, including even the vendor", *Anund Lall Dass vs. Sharo* (1872) 17 Sutherland's W.R. 313. In my opinion the subsequent acquisition by Julius of superior title by virtue of section 238 did not have the additional effect of automatically destroying the rights and obligations of Lewis and Julius *inter se* under the earlier contract of sale.

No. 13
Judgment of
the Supreme
Court.
10-2-56
—continued

10 Apart from the express undertakings and assurances contained in the contract of sale, an obligation is imposed upon a vendor by the Roman-Dutch Law "not only to guarantee to his purchaser the peaceful possession of the thing sold, but also to give an implied guarantee against every form of molestation *on the part of the vendor himself* and of third parties." *Wessels on Contract*, Vol. 2, sections 4598, 4603 and 4605. This is the foundation of the equitable doctrine *exceptio rei venditae et traditae* which was finally clarified by the Judicial Committee in *Gunatilleke vs. Fernando* (1921) 22 N.L.R. 385.

20 The registration of the prohibitory notice served on Julius had, at the time of the conveyance D9, merely reduced for the time being his powers of voluntary alienation, so that he had in truth only a defeasible title which he could pass to Lewis on 17th April, 1950. Nevertheless, the *exceptio* became available to the 2nd defendant (as the heir of Lewis) as soon as Julius (through a nominee) re-acquired a title free from the earlier defect on 8th June, 1951.

30 "On the confirmation of the right of an alienor which had been defective at the time of the alienation, the original invalid title of his alienee becomes confirmed from the very moment that the first vendor acquired ownership." *Voet* 23 : 1 : 1. The law will not permit Julius to claim the benefit of section 238 in a situation where the proposed eviction of his vendee's successor in title would violate the obligation which the law had imposed on him by virtue of the earlier contract. "One acts dishonestly who tries to evict a thing sold by himself and to stultify his own act: equity dictating that a plaintiff should be all the more liable to be repelled by an equitable plea (*exceptio*) when he is himself liable to be sued on account of the eviction." *Voet* 23 : 1 : 2. The scope of the *exceptio* is not limited to cases where, at the time of the original sale, the vendor had no title at all that he could convey. It applies with equal force if the title conveyed had been defeasible, though not void *ab initio*,
40 at the relevant date.

Section 238, construed in all its generality, certainly vested in Julius (as the real purchaser from Thiagarajah) a title superior to that which he had transferred to Lewis in disobedience of the forgotten prohibitory notice. Nevertheless, his obligations under the earlier contract of sale were not extinguished, so that the superior title which he later acquired served only to "confirm" the title of Lewis which had previously been defeasible. The *exceptio* precludes Julius from relying on his new title in

No. 13
Judgment of
the Supreme
Court.
10-2-56
—continued

order to evict his former purchaser whose continued possession he was under a special legal duty to protect. Mr. Berwick points out in a footnote to his translation of *Voet* 23 : 1 : 2 :—

“ In point of equity, the last person to be allowed successfully to recover a thing which he has himself sold to his own defendant, is the very person who would be liable in damages to the defendant for its eviction from the latter ; though law will allow him to sue, *equity* will allow the defendant to take and succeed upon this plea, if he prefers not to lose the thing rather than to have recourse to his right to damages.”

10

The extent to which the *exceptio* can operate is indicated in *Wessels* (*supra*) sections 4600-4603. Let it be supposed that the vendee had purchased a title which was manifestly doubtful, and was in fact worthless. Let it also be supposed that in these circumstances the vendor had expressly stipulated that he would not hold himself responsible for his vendee's eviction by the true owner. Even then, he could not, by subsequently acquiring a better title, evict the vendee *on his own account*.

The learned Judge's decision (under issue 12) that the plaintiff is the nominee of Julius suffices by itself to preclude her from obtaining a decree for eviction which would not have been open to Julius himself. The 20 remedy cannot be granted to defeat the rights of the very person whose possession Julius was bound to guarantee against “ any form of molestation ” at his own hands. In this view of the matter, it is unnecessary to decide whether, and to what extent, the express assurances and covenants contained in the conveyance P1 afford additional grounds for rejecting the plaintiff's claim. I would allow the appeal and dismiss the plaintiff's action with costs in both Courts.

(Sgd.) E. F. N. GRATIAEN,
Puisne Justice.

GUNASEKARA, J.
I agree.

80

(Sgd.) E. H. T. GUNASEKARA,
Puisne Justice.

No. 14

Decree of the Supreme Court in respect of the Appeal of the 1st and 2nd Defendants

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER OTHER
REALMS AND TERRITORIES, HEAD OF THE COMMONWEALTH

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

D.C. (F) 100L/1954. 40

1. N. A. PERERA,

No. 14
Decree of the
Supreme
Court in
respect of
the appeal of
the 1st
and 2nd
Defendants.
10-2-56

2. MRS. FLORA PERERA, both of Wall's Lane,
Mutwal, Colombo.....*Defendants-Appellants.*

vs.

BEATRICE SUNEETHRA PERERA of No. 25/1, Wall's Lane,
Mutwal, Colombo.....*Plaintiff-Respondent.*

S. D. JUSTIN PERERA of Wall's Lane, Mutwal, Colombo,
and others.....*Defendants-Respondents.*

Action No. 6306/L.

District Court of Colombo.

This cause coming on for hearing and determination on the 2nd, 8th
10 and 10th days of February, 1956, and on this day, upon an appeal pre-
ferred by the defendants-appellants before the Hon. E. F. N. Gratiaen,
Q.C., Puisne Justice, and the Hon. E. H. T. Gunasekara, Puisne Justice,
of this Court, in the presence of Counsel for the appellants and plaintiff-
respondent.

It is considered and adjudged that this appeal be and the same is
hereby allowed and the plaintiff's action is dismissed with costs in both
Courts.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at
Colombo, the twenty-first day of February, in the year One thousand
20 Nine hundred and Fifty-six and of Our Reign the Fifth.

(Sgd.) W. G. WOUTERSZ,
Deputy Registrar, S.C.

No. 15

**Decree of the Supreme Court in respect of the Appeal
of the Plaintiff**

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER OTHER
REALMS AND TERRITORIES, HEAD OF THE COMMONWEALTH

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

D.C. (F) 99L/1954.

30 BEATRICE SUNEETHRA PERERA of No. 25/1, Wall's Lane,
Mutwal, Colombo.....*Plaintiff-Appellant.*

against

1. R. A. PERERA of Wall's Lane, Mutwal, Colombo,
and others.....*Defendants-Respondents.*

Action No. 6306/L.

District Court of Colombo.

This cause coming on for hearing and determination on the 2nd, 8th
and 10th days of February, 1956, and on this day, upon an appeal pre-
ferred by the plaintiff-appellant before the Hon. E. F. N. Gratiaen, Q.C.,
Puisne Justice, and the Hon. E. H. T. Gunasekara, Puisne Justice of this
40 Court, in the presence of Counsel for the appellant and respondents.

It is considered and adjudged that this appeal be and the same is
hereby dismissed.

No. 14
Decree of the
Supreme
Court in
respect of
the appeal of
the 1st
and 2nd
Defendants.
10-2-56—
continued

No. 15
Decree of the
Supreme
Court in
respect of
the appeal
of the
Plaintiff.
10-2-56

No. 15
Decree of the
Supreme
Court in
respect of
the appeal
of the
Plaintiff.
16-2-56
—continued

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the twenty-first day of February, in the year One thousand Nine hundred and Fifty-six and of Our Reign the Fifth.

(Sgd.) W. G. WOUTERSZ,
Deputy Registrar, S.C.

No. 16

Application for Conditional Leave to Appeal to the
Privy Council

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

No. 16
Application
for Condi-
tional Leave
to appeal to
the Privy
Council.
8-3-56—

In the matter of an application for Conditional Leave to Appeal under the 10 provisions of the Appeals (Privy Council) Ordinance (Chapter 85).

No. S.C. 99 and
No. S.C. 100.

BEATRICE SUNEETHRA PERERA of No. 23/1, Wall's Lane,
Mutwal, in Colombo.....*Petitioner (Plaintiff-Appellant)*

D.C. Colombo No. 6306/L. *vs.*

1. N. A. PERERA,
2. MRS. FLORA PERERA,
3. S. D. JUSTIN PERERA,
4. S. D. AUSTIN PERERA, and 20
5. S. D. LIONEL PERERA, all of Wall's Street, Mutwal,
Colombo.....*Respondents (Defendant-Respondents)*

TO THE HONOURABLE THE CHIEF JUSTICE AND THE OTHER JUDGES OF
THE HONOURABLE THE SUPREME COURT OF THE ISLAND OF CEYLON.

On this 8th day of March, 1956.

The petition of the petitioner (plaintiff-appellant) above-named appearing by C. D. Thillaivasam her proctor states as follows :—

1. That feeling aggrieved by the judgment and decree of Your Lordship's Court pronounced on the 10th day of February, 1956, the said petitioner is desirous of appealing therefrom to Her Majesty The Queen in Council under Rule 1 of the Schedule to the Privy Council Appeals Ordinance (Chapter 85) of the Legislative Enactments of Ceylon.

2. The said judgment is a final judgment and the matter in dispute on the appeal is far in excess of the value of Rupees Five Thousand (Rs. 5,000/-) and the appeal involves directly or indirectly some claim, or question to or respecting property or some civil right far in excess of the value of Rupees Five Thousand (Rs. 5,000/-). The question involved in the appeal is one which by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty The Queen in Council for decision. 40

3. The notices of the intended application for leave to appeal were given to the respondents in terms of Rule 2 of the Schedule to the said Privy Council Appeal Ordinance.

(a) By registered post,

- (b) By ordinary post,
 (c) By personal service, and
 (d) By post with certificate of posting from the Postal Authorities.
 (Proofs whereof are annexed hereto).

No. 16
 Application
 for Condi-
 tional Leave
 to appeal to
 the Privy
 Council.
 8-3-56
 —continued

The petitioner (plaintiff-appellant) pray that Your Lordship's Court be pleased to grant her Conditional Leave to Appeal to Her Majesty The Queen in Council against the said judgment and decree of this Court dated the 10th day of February, 1956, and for such other and further relief as to Your Lordship's Court shall seem meet.

10

(Sgd.) C. D. THILLAIVASAM,
Proctor for Petitioner
(Plaintiff-Appellant).

No. 17

**Decree Granting Conditional Leave to Appeal to the
 Privy Council**

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER OTHER
 REALMS AND TERRITORIES, HEAD OF THE COMMONWEALTH

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application dated 8th March, 1956, for Conditional
 20 Leave to Appeal to the Privy Council by the plaintiff-appellant
 against the decree dated 10th February, 1956.

BEATRICE SUNEETHRA PERERA of No. 28/1, Wall's Lane,
 Mutwal, in Colombo.....*Petitioner (Plaintiff-Appellant)*

against

N. A. PERERA and others, all of Wall's Street, Mutwal,
 Colombo*Respondents (Defendants-Respondents)*

Action No. 6806/L (S.C. 99 and 100-Final)

District Court of Colombo.

This cause coming on for hearing and determination on the 27th day
 30 of April, 1956, before the Hon. K. D. de Silva, Puisne Justice, and the
 Hon. M. C. Sansoni, Puisne Justice of this Court, in the presence of Counsel
 for the petitioner and respondents.

It is considered and adjudged that this application be and the same
 is hereby allowed upon the condition that the applicant do within one
 month from this date :—

1. Deposit with the Registrar of the Supreme Court a sum of
 Rs. 3,000/- and hypothecate the same by bond or such other security as
 the Court in terms of section 7 (1) of the Appellate Procedure (Privy
 Council) Order shall on application made after due notice to the other side
 40 approve.

2. Deposit in terms of provisions of section 8 (a) of the Appellate
 Procedure (Privy Council) Order with the Registrar a sum of Rs. 300/- in
 respect of fees mentioned in section 4 (b) and (c) of Ordinance No. 31 of
 1909 (Chapter 85).

No. 17
Decree
Granting
Conditional
Leave to
Appeal to
the Privy
Council.
27-4-56—
continued

Provided that the applicant may apply in writing to the said Registrar stating whether he intends to print the record or any part thereof in Ceylon, for an estimate of such amounts and fees and thereafter deposit the estimated sum with the said Registrar.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the 15th day of May, in the year One thousand Nine hundred and Fifty-six and of Our Reign the Fifth.

(Sgd.) W. G. WOUTERSZ,
Deputy Registrar, S.C.

No. 18
Application
for Final
Leave to
Appeal to
the Privy
Council.
29-5-56—

No. 18

10

**Application for Final Leave to Appeal to the
Privy Council**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Final Leave to Appeal under the provisions of the Appeals (Privy Council) Ordinance (Chapter 85).

BEATRICE SUNEETHRA PERERA of No. 23/1, Wall's Lane, Mutwal,
in Colombo.....*Petitioner (Plaintiff-Appellant).*

No. S.C. 99 and 100
D.C. Colombo
No. 6806/Land.

vs.

20

1. N. A. PERERA,
2. MRS. FLORA PERERA,
3. S. D. JUSTIN PERERA,
4. S. D. AUSTIN PERERA, and
5. S. D. LIONEL PERERA, all of Wall's Street, Mutwal,
Colombo*Respondents (Defendant-Respondents).*

**TO THE CHIEF JUSTICE AND THE OTHER JUSTICE OF THE SUPREME COURT
OF THE ISLAND OF CEYLON.**

On this 29th day of May, 1956.

The humble petition of Beatrice Suneethra Perera the plaintiff-30
appellant above-named appearing by her Proctor Canapathipillai Dharmakiri Thillaiwasam showeth as follows:—

1. The petitioner above-named obtained conditional leave on the 27th day of April, 1956, to appeal to Her Majesty The Queen in Council from the judgment of this Court dated 10th day of February, 1956.

2. The petitioner has in compliance with the conditions on which leave was granted deposited a sum of Rupees Three Thousand (Rs. 3,000/-) with the Registrar of this Court being security for costs on the 22nd day of May, 1956, and mortgaged and hypothecated the said sum of Rupees

Three Thousand (Rs. 3,000/-) with the said Registrar on the 22nd day of May, 1956. The petitioner has further deposited with the Registrar of this Court a sum of Rupees Three Hundred (Rs. 300/-) in respect of the amounts and fees mentioned in section 4 (2) (b) and (c) of the Privy Council Ordinance on the 22nd day of May, 1956.

No. 18
Application
for Final
Leave to
Appeal to
the Privy
Council.
29-5-56
—continued

3. The petitioner has given notice of the Conditional Leave application and also notice of this application by letters under a certificate of posting which is annexed hereto marked "X" to the respondents above-named.

10 Wherefore the petitioner prays that she be granted final leave to appeal against the said judgment and decree dated the 10th day of February, 1956, to Her Majesty The Queen in Council for costs, and for such other and further relief as to your Lordship's Court shall seem meet.

(Sgd.) C. D. THILLAIWASAM,
Proctor for Plaintiff-Appellant.

No. 19

**Decree Granting Final Leave to Appeal to the
Privy Council**

No. 19
Decree
Granting
Final Leave
to Appeal to
the Privy
Council.
20-6-50

20 ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER OTHER
REALMS AND TERRITORIES, HEAD OF THE COMMONWEALTH

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application dated 29th May, 1956, for Final Leave to appeal to the Privy Council by the plaintiff-appellant against the decree dated 10th February, 1956.

BEATRICE SUNEETHRA PERERA of No. 23/1, Wall's Lane, Mutwal,
in Colombo.....*Petitioner (Plaintiff-Appellant).*

against

N. A. PERERA and others, all of Wall's Street, Mutwal,
Colombo.....*Respondents (Defendants-Respondents).*

30 Action No. 6306/L (S.C. 99 and 100-Final).

District Court of Colombo.

This cause coming on for hearing and determination on the 20th day of June, 1956, before the Hon. K. D. de Silva, Puisne Justice, and the Hon. M. C. Sansoni, Puisne Justice of this Court, in the presence of Counsel for the applicant.

No. 10
Decree
Granting
Final Leave
to Appeal to
the Privy
Council.
20-8-56
—continued

The applicant has complied with the conditions imposed on him by the order of this Court dated 27th April, 1956, granting Conditional Leave to Appeal.

It is considered and adjudged that the applicant's application for Final Leave to appeal to Her Majesty The Queen in Council be and the same is hereby allowed.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice, at Colombo, the third day of July, in the year One thousand Nine hundred and Fifty-six and of Our Reign the Fifth.

(Sgd.) W. G. WOUTERSZ, 10
Deputy Registrar, S.C.

PART II

EXHIBITS

D 1

Proceedings in D.C. Colombo Case No. 9041

IN THE DISTRICT COURT OF COLOMBO

No. 9041.

Class : 1.

Amount : Rs. 1,000/-.

Nature : Pro-note.

10 Procedure : Summary.

S. D. M. DEEN.....Plaintiff.

vs.

B. J. PERERA.....Defendant.

JOURNAL

- (1) 11-3-48. Mr. A. M. Markar, Proctor, files appointment and plaint together with documents marked " A " cheque, bill of costs, affidavit.
- (2) 8-4-48. Summons issued on defendant with precept returnable W.P.
- 20 (3) 20-11-48. Mr. S. A. Villavarayan files proxy (8a) of defendant moves for a date to file affidavit to pay claim by monthly instalments.
 1. File.
 2. Call on 3-5.
 (Intd.) N. S.,
 A. D. J.
- (4) 8-5-48. Mr. A. M. Markar for plaintiff.
 Mr. S. A. Villavarayan for defendant.
 Case called *vide* (3) affidavit filed.
 30 Inquiry 21-5.
 (Intd.) N. S.,
 A. D. J.
- (5) 21-5-48. Mr. A. M. Markar for plaintiff.
 Mr. S. A. Villavarayan for defendant.
 Inquiry *vide* (4).
Vide Proceedings, call case 7-6-48.
 (Intd.) N. S.,
 A. D. J.,

Exhibits
 —
 D1.
 Proceedings
 in D.C.
 Colombo
 Case
 No. 9041
 1948 to 1951
 —continued

- (6) 7-6-48. Mr. A. M. Markar for plaintiff | Present.
 Mr. S. A. Villavarayan for defendant
 Case called *vide* (5).
 Bond ready, call 15-6. (Intd.) N. S.,
 A. D. J.
- (7) 15-6-48. Mr. A. M. Markar for plaintiff.
 Mr. S. A. Villavarayan for defendant.
 Case called *vide* (6) for bond filed, *vide* proceedings
 I enter it for plaintiff as prayed for. (Intd.) N. S., 10
 A. D. J.
- (8) Decree entered.
- (9) 24-6-49. Proctor for plaintiff files proxy (9a) of plaintiff minute of
 consent to revocation of proxy (9b) revocation of
 proxy (9c).
 File. (Intd.) N. S.,
 A. D. J.
- (10) 19-7-49. Proctor for plaintiff files application for writ to recover 20
 Rs. 1,000/- interest and costs against defendant. Copy
 decree (10a) filed. One year has elapsed apply under
 section 347 C.P.C. (Intd.) N. S.,
 A. D. J.
- (11) 22-7-49. With reference to order at (10) proctor for plaintiff moves
 for a date to notice defendant.
 Allowed 26-9-49. (Intd.) N. S.,
 A. D. J. 30
- (12) 28-7-49. Notice of writ issued on defendant W.P.
- (13) 26-9-49. Mr. A. M. Markar for plaintiff.
 Notice of writ served on defendant, defendant absent.
 Issue writ. (Intd.) N. S.,
 A. D. J.
- (14) 30-9-49. Writ issued on defendant W.P. returnable 25-9-50.
- (15) 22-10-49. The Deputy Fiscal, Colombo, reports that immovable
 property seized under the writ in this case has been
 valued at Rs. 32,000/-. 40

- (16) 24-11-49. Proctor for plaintiff moves to direct Fiscal to stay sale on payment of all charges by defendant, seizure to remain. Exhibits
 1. Fiscal to stay sale on prepayment of all charges by defendant. D1.
 2. Seizure to remain. Proceedings in D.C. Colombo Case No. 0041, 1048 to 1051
 (Intd.) N. S., A. D. J. —continued
- 10 (17) 5-4-50. Proctor for plaintiff moves that the Court be pleased to direct the Fiscal, W.P., to stay the sale fixed for 5-5-50 on payment of all charges by the defendant.
 Allowed.
 (Intd.) N. S., A. D. J.
- (18) 26-9-50. The Deputy Fiscal, Colombo, returns writ and reports that the sale was stayed at the request of the proctor for plaintiff.
- 20 (19) 20-10-50. Mr. K. Rasanathan, Proctor for plaintiff files application for execution of decree together with copy decree (19a) and moves to re-issue writ against defendant.
 Issue notice on defendant for 4-12-50.
 (Intd.) N. S., A. D. J.
- (20) 8-11-50. Notice of writ issued on defendant W.P.
- (21) 4-12-50. Mr. K. Rasanathan for plaintiff.
 Mr. S. A. Villavarayan for defendant.
 Notice of writ served on defendant.
 He is present. He has no cause to show. Issue writ.
 (Intd.) N. S., A. D. J.
- 30 (22) 12-12-50. Writ issued on defendant W.P. Returnable 4-12-51.
- (23) 26-2-51. Deputy Fiscal, Colombo, forwards a sale report which states that on 10-10-50 he caused to seize the property enumerated in the hereto annexed list marked 23a was seized and sold on 6-2-51 and the balance deposited in the Colombo Kachcheri on 8-2-51. A sum of Rs. 3/- which has been recovered as poundage also was deposited in the Colombo Kachcheri on 8-2-51 vide K.R. No, 18043 annexed hereto marked 23b,

Exhibits
 D1.
 Proceedings
 in D.C.
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 Case
 No. 9041
 1948 to 1951
 —continued

- (24) 28-3-51. Mr. K. Rasanathan, Proctor for plaintiff moves that the sale be confirmed and the Fiscal, W.P., be directed to execute a conveyance, in favour of the purchaser as thirty days had elapsed since the receipt of the sale in this case and no objections had been filed to set aside the sale.

1. Sale is confirmed.
2. Note seizure of property also under D.C. Colombo No. 66/S.

(Intd.) V. M., 10
 A. D. J.

- (25) Order confirming sale of land entered.

- (26) 30-4-51. Mr. K. Rasanathan for plaintiff with reference to the sum of Rs. 250/- realised in this case moves to issue orders of payment according to the distribution given in the motion. Plaintiff in this case plaintiff in D.C. Colombo case No. 11066/S and defendant have consented. Their respective signatures have also been identified.

Issue orders of payment accordingly.

(Intd.) V. M., 20
 A. D. J.

- (27) 17-5-51. Payment orders No. A.70202 for Rs. 150/- in favour of Mr. K. Rasanathan, Proctor for plaintiff and No. A.70203 for Rs. 100/- in favour of P. R. P. L. Palaniappa Chettiar issued *vide* (26).

(Intd.) C. F. A. P.,
 Secretary.

(Intd.) H. F.,
 Administrative Secretary.

- (28) 11-6-51. Mr. K. Rasanathan, Proctor for plaintiff files Fiscal's 30 Conveyance No. 20200/1951 (28a) issued to the purchaser by Fiscal, W.P., and moves for an order for delivery of possession of the premises sold under the decree to the purchaser.

File affidavit and move.

(Intd.) V. M.,
 A, D, J,

- (29) 19-6-51. Mr. K. Rasanathan for plaintiff files affidavit, from the purchaser as per last order of Court and moves that order for delivery of possession be issued to Fiscal, W.P. Fiscal, W.P., directed accordingly. Issue order for delivery of possession. (Intd.) M. C. S.,
A. D. J.
- (30) 21-6-51. Mr. K. Rasanathan moves to have out of record Fiscal's Conveyance filed of record for purposes of registration as order for delivery of possession has been issued. Allowed. (Intd.) M. C. S.,
A. D. J.
- (31) 25-6-51. Order of delivery of possession issued to W.P. Returnable 20-6-52.
- (32) 30-7-51. Deputy Fiscal, Colombo, reports that he caused his officer to repair to Wall's Lane, Mutwal, to deliver possession of the premises fully described in the order for delivery of possession in terms of section 288 of the Civil Procedure Code to the purchaser but the possession thereof could not be delivered for the reasons stated overleaf marked (32a).
- (33) 4-12-51. Deputy Fiscal, Colombo, returns writ quoting reference to his sale report dated 23-2-51.
- 21-5-48. Mr. Advocate Rafil for the plaintiff.
Mr. S. A. Villavarayan for the defendant.
Of consent if the defendant gives a secondary mortgage of the Wall's Lane property already mortgaged for about Rs. 25,000/- within two weeks of today, that is, before the 4th of June, 1948, the defendant is to be allowed to pay in instalments of Rs. 75/- a month commencing from the 10th of June, 1948. If security is not given on the 4th June, judgment is to be entered for plaintiff as prayed for. (Sgd.) N. SINNETHAMBY,
A. D. J.
- 15-6-46. D.C. 9041/S.
Mr. Markar for the plaintiff.
Mr. S. A. Villavarayan for the defendant is absent. So is the defendant.
Mr. Markar submits that the bond has not been executed in terms of the consent order. He has a bond which he says is not a secondary mortgage. The bond says that the property is subject to a primary, secondary and tertiary mortgage. Mr. Markar states that the first

Exhibits
DI.
Proceedings
in D.C.
Colombo
Case
No. 9041.
1948 to 1951
—continued

Exhibits
 D1.
 Proceedings
 in D.C.
 Colombo
 Case
 No. 9041
 1948 to 1951
 —continued

three bonds are less than Rs. 25,000/- and in those circumstances he would not have pressed for judgment although the express terms of the consent decree has not been complied with. But he further states that the first instalment of Rs. 75/- due to be paid on the 10th of June has not been paid. In view of that he asks that judgment be entered and writ issued.

Order : The order of the 21st May is a consent order. Even if the bond that has been given is held to be satisfactory the defendant should have paid the instalment of 10 Rs. 75/- on the 10th June. He has failed to do so. Further more defendant and his proctor are absent today though this case was due to be called in connection with this bond on this date.

I enter judgment for plaintiff as prayed for.
 Mr. Markar files the bond No. 565.

(Sgd.) N. SINNETHAMBY,
 A. D. J.

Decree

Class : No. 9041/S. 20
 IN THE DISTRICT COURT OF COLOMBO

S. D. M. DEEN carrying on business under the name style and firm of British Paint Company at premises No. 270/2, Main Street, Colombo.....*Plaintiff.*

against

B. J. PERERA of Mutwal, Colombo.....*Defendant.*

This action coming on for final disposal before N. Sinnethamby, Esquire, Additional District Judge of Colombo, on the 15th day of June, 1948, in the presence of proctor on the part of the plaintiff and the defendant not either in person or by proctor, it is ordered and decreed that the 30 defendant do pay to the plaintiff the sum of Rs. 1,000/- with legal interest thereon at 5% per annum from 11th March, 1948, till payment in full and costs of suit.

(Sgd.) N. SINNETHAMBY,
 A. D. J.

15th June, 1948.

Sale Report

No. 9041/S.

By virtue of the writ of execution No. 9041/S from the District Court of Colombo I have caused to be seized on the 10th day of October, 1949, and sold after due publication, at the premises, on the 6th day of February, 40 1951, the property enumerated in the annexed list as will appear from the hereto annexed affidavit my officer marked B and C dated 23rd February, 1951.

Proceeds were applied as follows :—

Total realized	Rs. 280·39
Credit to plaintiff recovered	„ 280·39
Amount of Fiscal's fees	Rs. 5·00
„ Tom Tom hire	„ 5·00
„ Advertisement charges	„ 20·39
„ Other expenses	„ 30·39
Balance	<u>Rs. 250·00</u>

Exhibits
—
D1.
Proceedings
in D.C.
Colombo
Case
No. 9041,
1948 to 1951
—continued

10 Balance deposited in the Colombo Kachcheri on the 8th day of February, 1951. A sum of Rs. 8/- was also recovered as poundage and deposited in the Colombo Kachcheri on 8th February, 1951, *vide* receipt No. 18043 attached.

(Sgd.) Illegible.
D. F.

Fiscal's Office,
Colombo, 23rd February, 1951.

Description of Property

20 All that allotment of land bearing present assessment Nos. 23 (1-18 and 19-25), situated at Wall's Lane, Mutwal, within the Municipality and District of Colombo, Western Province, bounded on the North-East by the other portion of this land of Tikiridura Lawrenti Silva, South-East by part of the same garden, South-West by the road, and on the North-West by the other part of the same garden, containing in extent 1 rood and 13 20/100 perches and registered in A.308/167, together with all the buildings and everything standing thereon.

Amount realized : Rs. 250/-.

Name of Purchaser : K. R. Setharaman for and on behalf of N. Thiagarajah.

30 Remarks : This property has also been seized under the writ in D.C. Colombo No. 11066/S.

P 3

Prohibitory Notice

PROHIBITORY NOTICE IN CASE OF IMMOVABLE PROPERTY
UNDER SECTION 237 OF CIVIL PROCEDURE CODE

To B. J. Perera of No. 111, Mutwal Street, Mutwal, Colombo.

Whereas you have failed to satisfy a decree passed against you on the 15th day of June, 1948, in D.C. Colombo case No. 9041/S in favour of S. D. M. Deen carrying on business under the name style and firm of British

P8.
Prohibitory
Notice.
5-10-49

Exhibits
 P8.
 Prohibitory
 Notice.
 5-10-49
 —continued

Paint Company, at No. 270/2, Main Street, Colombo, for Rs. 1,000/- with legal interest thereon from 11-3-48 till payment in full and costs of suit.

I hereby give you notice that you the said Defendant are hereby prohibited and restrained until the further order of the Court from which execution in the said action issued, from in any way transferring, alienating, or charging the property specified in the Schedule hereto annexed, and that all persons are prohibited from receiving the same or any part thereof by purchase, gift, or otherwise.

The 5th day of October, 1949.

(Sgd.) T. THIYAGARAJAH,
 Deputy Fiscal, Colombo. 10

THE SCHEDULE

The right title and interest of the defendant in and to the following property to wit :—

All that allotment of land bearing present assessment Nos. 23 (1-18 and 19-25), situated at Wall's Lane, Mutwal, within the Municipality and District of Colombo, Western Province, and bounded on the North-East by the other portion of this land of Tikiridure Lawrenti Silva, South-East by part of the same garden, South-West by the road, and on the North-West by the other part of the same garden containing in extent one rood and thirteen and twenty upon one hundred perches and registered in A.308/167 20 together with all the buildings and everything standing thereon.

Registered A.321/21.

(Sgd.) Illegible.

Colombo, 14th October, 1949.

P 5

Fiscal Officer's Report

LIST OF SEIZED PROPERTY

IN THE DISTRICT COURT OF COLOMBO

No. 9041/S.

S. D. M. DEEN.....*Plaintiff.*

vs.

80

B. J. PERERA.....*Defendant.*

I, H. D. Deonis, do hereby certify that I visited the residence of the defendant at No. 111 in Mutwal Street on the 10th day of October, 1949, and duly seized the property described in the annexed list as it was pointed out for seizure by a letter by the plaintiff's proctor, as the defendant was not there.

Written by initials.
 Compared by initials,

(Sgd.) H. D. DEONIS,
 Fiscal Officer,

	Seized Property	Its Value Rs. cts.	Remarks	Exhibits P 5 Fiscal Officers' Report 5-10-49 — continued
10	The rights and interests of the defendant in the premises to wit : The allotment of land presently bearing assessment No. 23 (1), 18, 19, situated at Vos Lane in the Mutwal within the town of Colombo in Colombo District of Western Province, along with the buildings thereon ; bounded on the north-east by another portion of this land of Tikiridura Lavananthi Silva, south-east by a portion of this land, south-west by road, north-west by another portion of this land, and within these containing one rood thirteen perches and twenty one hundredth (10. n1. r13 20/100) in extent. This is registered in A. 308/167.		This property was written and seized according to sections 236, 237 and 240 of the Civil Procedure Code, as the letter of the plaintiff's proctor, on the 10th day of October, 1949. The tenant was in possession.	
			(Sgd.) H. D. Deonis. 10-10-49.	
	Rupees Thirty-two thousand	Rs. ...	<u>32,000</u>	

True copy of Fiscal Officer's Prohibitory Notice dated 10-10-49 in D.C. Colombo Case No. 9041/S.

20 (Sgd.) S. K. SADA SHIVAM,
for *Fiscal, W.P.*
9-7-53.

To the Fiscal's Officer H. D. Deonis.
No. of writ 9041/S D.C. Colombo.

The execution of the above writ should be carried out as stated below and reported before the 12th instant of this month.

Demand payment in default seize property described in the Prohibitory Notice annexed.

80 (Sgd.) T. THIAGARAJAH,
Deputy Fiscal, Colombo.
5-10-49.

Valuated for fifteen years, as it seemed to produce a monthly income of one hundred and eighty rupees.

Written by initials. (Sgd.) H. D. DEONIS.
Compared by initials. 10-10-49.

True copy of report dated 5-10-49 demanding payment in D.C. Colombo Case No. 9041/S.

40 Re. 1/- Stamp. (Sgd.) S. K. SADA SHIVAM,
Translated by for *Fiscal, W.P.*
(Sgd.) Illegible. 9-7-53.
S.T.D.C., Colombo.
13-7-53.

Exhibits

P4
 Gazette
 Notification
 of Sale.
 9-1-51

P 4

Gazette Notification of Sale

EXTRACT FROM THE " CEYLON GOVERNMENT GAZETTE "
 No. 10,199 OF 12TH JANUARY, 1951.

IN THE DISTRICT COURT OF COLOMBO

S. D. M. DEEN carrying on business under the name, style and
 firm of British Paint Company at No. 270/2, Main Street,
 Colombo *Plaintiff.*

No. 9041/S. vs.

B. J. PERERA of No. 111, Mutwal Street, Mutwal, Colombo.....*Defendant.* 10

Notice is hereby given that on Tuesday, 6th February, 1951, at
 2-30 p.m. will be sold by public auction at the premises the right, title and
 interest of the said defendant in the following property for the recovery
 of the sum of Rs. 1,000/- with legal interest thereon from 11th March,
 1948, till payment in full and costs of suit, viz. :

All that allotment of land bearing present assessment Nos. 23 (1-18
 and 19-25), situated at Wall's Lane, Mutwal, within the Municipality and
 District of Colombo, Western Province ; bounded on the North-East by
 the other portion of this land of Tikiridure Lawrenti Silva, South-East by
 part of the same garden, South-West by the road, and on the North-West 20
 by the other part of the same garden ; containing in extent 1 rood and
 13 20/100 perches ; and registered in A.808/167 together with all the
 buildings and everything standing thereon.

(Sgd.) T. THIAGARAJAH,
Deputy Fiscal.

Colombo, 9th January, 1951.

 D 4

Affidavit of Fiscal's Officer filed in D.C. Colombo
 Case No. 9041

AFFIDAVIT OF FISCAL'S OFFICER EXECUTING WRIT

Affidavit " B " referred to

30

Name of Officer : I. H. D. Deonis.

Fiscal's Officer, solemnly sincerely declare and affirm that on the 10th
 day of October, 1949, I repaired to the dwelling house of B. J. Perera,
 judgment-debtor under Writ of Execution No. 9041/S of the District
 Court of Colombo at No. 111, Mutwal Street, Mutwal, to demand payment

D 4.
 Affidavit of
 Fiscal's
 Officer filed
 in D.C.
 Colombo
 Case
 No. 9041
 28-2-51.

but the judgment-creditor was not present. I seized on 10th October, 1949, the property described in my seizure report dated 10th October, 1949 (a copy of which is hereto annexed) which said property was described in letter dated 1st October, 1949, from the plaintiff's proctor as belonging to the debtor for seizure and sale.

(Sgd.) Illegible.
Fiscal's Officer.

Exhibits
D 4.
Affidavit of
Fiscal's
Officer filed
in D.C.
Colombo
Case
No. 9041.
23-2-51—
continued

The foregoing affidavit was duly read over and truly interpreted to the declarant in Sinhalese his own language, and he appearing to understand the contents thereof, wrote his signature thereto at Colombo this 23rd day of February, 1951.

Before me.

(Sgd.) Illegible.
Deputy Fiscal.

Affidavit " C " referred to

I, M. B. C. Fernando, Fiscal's Auctioneer, solemnly sincerely declare and affirm that on the 6th day of February, 1951, I duly sold the property described in the Fiscal's sale report dated 10th October, 1949, under the Writ of Execution No. 9041/S of the District Court of Colombo.

20

(Sgd.) M. B. C. FERNANDO,
Fiscal's Auctioneer.

Affirmed to before me at Colombo this 23rd day of February, 1951.

(Sgd.) Illegible.
Deputy Fiscal.

Fiscal's Report to Writ

By virtue of the hereto annexed Order for delivery of possession marked " A " issued in Case No. 9041/S of the District Court of Colombo, I have caused my Officer H. D. Deonis to repair to Wall's Lane, Mutwal, to deliver possession of the premises fully described in the said Order for delivery of possession in terms of section 288 of the Civil Procedure Code to the purchaser but possession thereof could not be delivered for the reasons stated overleaf, as will appear from the affidavit of the said officer, marked " B " dated 26th July, 1951.

Fiscal's Office,
Colombo, 26th July, 1951,

(Sgd.) M. C. FERNANDO,
Deputy Fiscal, Colombo.

Exhibits
 P 6.
 Fiscal's
 Conveyance
 to Purchaser
 28-5-51

Fiscal's Conveyance to Purchaser

No. 20200/1951

FISCAL'S CONVEYANCE TO PURCHASER AFTER CONFIRMATION OF SALE

TO WHOM THESE PRESENTS SHALL COME :

GREETING :

Whereas by virtue of a Writ of Execution issued from the District Court of Colombo in action No. 9041/S bearing date the 27th/30th day of September, 1949, directed to the Fiscal of the Western Province whereby he was directed to levy and make of the houses, lands, goods, debts and 10 credits of B. J. Perera of No. 111, Mutwal Street, Mutwal, Colombo, the defendant in the above case, by seizure, and if necessary, by sale thereof Rupees One thousand with legal interest thereon from 11th March, 1948, till payment in full and costs of suit (bill not taxed yet).

And whereas the Deputy Fiscal of the said District of Colombo, Western Province, did cause to be seized and taken the property herein after described in the schedule hereto, which after due notice was exposed to the public sale on the 6th day of February, 1951, at the premises by Mr. Bennet C. Fernando, Fiscal's Auctioneer, acting under the authority of the said Deputy Fiscal and sold to K. R. Seduraman for and on behalf 20 of N. Thiagarajah of Mutwal herein after called the purchaser as the highest bidder at the said sale for the sum of Rupees Two hundred and Fifty (Rs. 250/-).

And whereas the said purchaser has duly paid to the said Deputy Fiscal the whole of the said purchase money, and thus become entitled to all the right, title and interest of the said B. J. Perera, the defendant in the said case.

in the said property described in the schedule hereto.

And whereas the said Court by an Order dated the 28th day of March, 1951, copy of which is annexed to the original hereof has duly confirmed so the said sale.

FREDRICK FRANCIS NELL TOUSSAINT, Esquire.

Now these present witness that the said Deputy Fiscal of the said District of Colombo in consideration of the sum of Rupees Two hundred and Fifty (Rs. 250/-) so paid by the said purchaser as aforesaid, the receipt whereof the said Deputy Fiscal doth hereby acknowledge, hath sold and

assigned, and by these presents doth sell and assign, unto the said purchaser his heirs, executors, administrators, and assigns, all the right, title and interest of the said B. J. Perera the defendant in the said case.

Exhibits
P 6.
Fiscal's
Conveyance
to Purchaser.
28-5-51
—continued

in the said property, described in the schedule hereto.

ORDER CONFIRMING SALE OF LAND

Class : 1.

No. 0041/S.

S. D. M. DEEN carrying on business under the name, style of
“ British Paint Company ” at premises No. 270/2, Main
Street, Colombo..... *Plaintiff.*

10

against

B. J. PERERA of Mutwal, Colombo..... *Defendant.*

Whereas the under-mentioned property was on the 6th day of February, 1951, sold by the Deputy Fiscal, Colombo, in execution of the decree in the above-named action ; and whereas thirty days have elapsed since the receipt of the said Fiscal's report of the said sale, and no application has been made to set aside the same.

It is ordered that the said sale be and the same is hereby confirmed.

28th March, 1951.

(Sgd.) M. C. SANSONI,
A. D. J.

20

SCHEDULE

All that allotment of land bearing present assessment Nos. 23 (1-18 and 19-25), situated at Wall's Lane, Mutwal, within the Municipality and District of Colombo, Western Province ; bounded on the North-East by the other portion of this land to Tikiridure Lawrenti Silva, South-East by a part of the same garden, South-West by the road, and on the North-West by the other part of the same garden, containing in extent 1 rood

Exhibits
P 6.
Fiscal's
Conveyance
to Purchaser.
28-5-51—
continued

and 13 20/100 perches and registered in A.308/167, together with all the buildings and everything standing thereon.

Name of Purchaser : K. R. Seduraman for and on behalf of N. Thiagarajah.
Amount realised : Rs. 250/-.

28th March, 1951.
Typed by :
Compared by :

(Sgd.) M. C. SANSONI,
Additional District Judge.

True copy of Order confirming sale of land entered and filed in D.C. 10 Colombo Case No. 9041/S.
District Court,
Colombo, 9th April, 1951.

(Sgd.) Illegible.
Secretary.

To have and to hold the said premises, with their and every of their appurtenances to him the said purchaser, his heirs, executors, administrators and assigns forever.

In witness whereof the said Deputy Fiscal hath hereunto subscribed his name at Colombo this 28th day of May, 1951.

(Sgd.) Illegible.
Deputy Fiscal, Colombo. 20

SCHEDULE REFERRED TO

The right, title and interest of the defendant in the following property, to wit :—

All that allotment of land bearing present assessment Nos. 23 (1-18 and 19-25), situated at Wall's Lane, Mutwal, within the Municipality and the District of Colombo, Western Province; bounded on the North-East by the other portion of this land of Tikiridure Lawrenti Silva, South-East by a part of the same garden, South-West by the road, and on the North-West by the other part of the same garden; containing in extent one rood and thirteen and twenty upon one hundredth perches; and registered in A.308/167, together with all the buildings and everything standing thereon, which said premises have recently been surveyed as buildings and premises bearing assessment Nos. 23, $\frac{23}{1,3 \& 4}$ and $\frac{23}{18-24}$ Wall's Lane, Mutwal, situated at Mutwal and described as being bounded on the North-East by premises bearing assessment Nos. $\frac{29}{8-11}$ & $\frac{37}{1}$ Wall's Lane, South-East by premises bearing assessment Nos. $\frac{87}{2}$ & 31, Wall's Lane, South-West by

Wall's Lane, North-West by premises bearing assessment No. 17, Wall's Lane, and containing in extent one rood and twenty-one decimal two five perches (A0. R1. P21.25) according to the Survey Plan No. 280 dated 7th May, 1951, made by S. H. Fernando, Fiscal's Licensed Surveyor, marked "A" and annexed to the original hereof.

Exhibits
P. 0.
Fiscal's
Conveyance.
to Purchaser
28-5-51—
continued

Witnesses :

1. (Sgd.) Illegible.
2. (Sgd.) Illegible.

(Sgd.) Illegible.
Deputy Fiscal, Colombo.

10

Registered A. 832/140.
Colombo, 27th June, 1951.

(Seal)

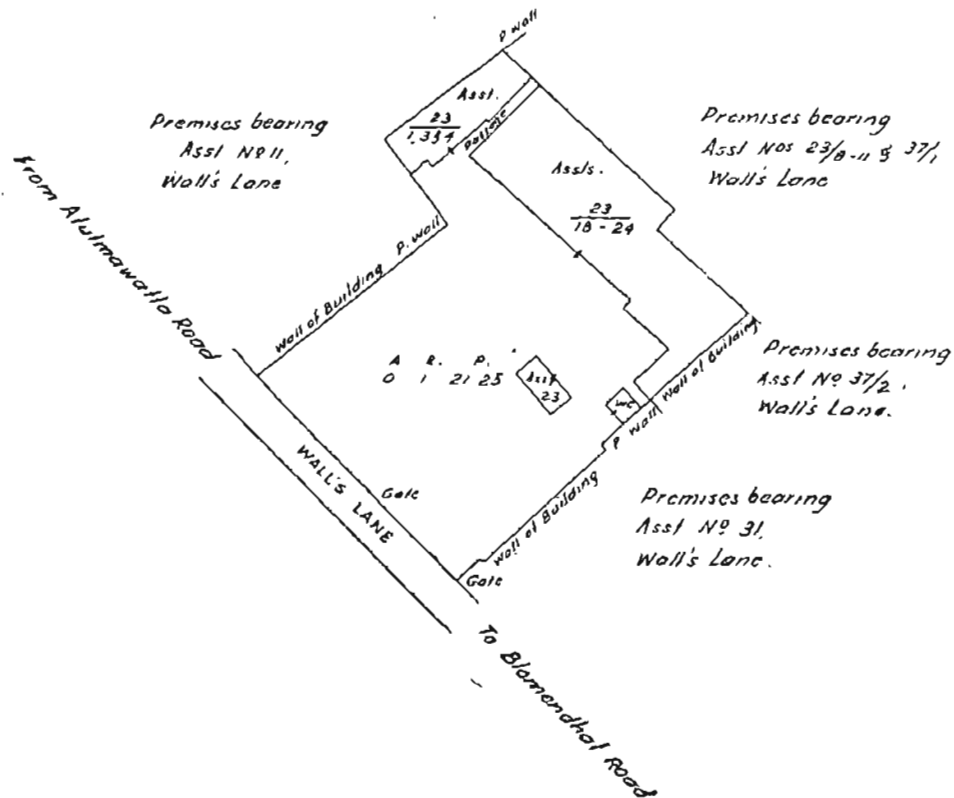
(Sgd.) Illegible.
Registered Leveller.

Exhibits
P 6A
Plan

P 6A
Plan

C. C. Cumarasamy
Licensed Surveyor, Leveller &
Commissioner for Court Surveys

PLAN No. 280
Case No. 3011/S
C. Colombo.



Scale of 1 Chain to an inch

Plan

of buildings & premises bearing Assessment Nos. 23, 23/1, 3 & 4,
& 23/18-24, Wall's Lane, Mutwal, Situated at Mutwal,
Within the Municipality & District of

**COLOMBO
WESTERN PROVINCE**

Bounded as follows :

North-East by Premises bearing Asst. Nos. 23/8-11 & 37/1, Wall's Lane.
South-East by Premises bearing Asst. Nos. 37/2 & 31, Wall's Lane.
South-West by Wall's Lane.
North-West by Premises bearing Asst. No. 17, Wall's Lane.

Containing in Extent—A. 0. R. 1. P. 21-25.

Boundaries pointed out by H. D. Dionis, Fiscal's Officer

Sgd: H. D. Dionis

I certify that this is a
TRUE COPY
C. C. Cumarasamy
Licensed Surveyor & Leveller
282/0, Dam Street,
Colombo, 5th April, 1957.

Colombo, 7th May, 1951

Sgd: S. H. Fernando.
Licensed Surveyor, Leveller &
Registered Fiscal's Officer
385, Dam Street, Colombo.

D 4A

**Affidavit of Fiscal's Officer filed in D.C. Colombo
Case No. 9041**

Exhibits
—
D4 A,
Affidavit of
Fiscal's
Officer filed
in D.C.
Colombo
Case
No. 9041,
20-7-51

I, H. D. Deonis, Fiscal's Officer, truly declare and affirm that I repaired on the dwelling house of the 4th July, 1951, to Wall's Lane, Mutwal, accompanied by B. J. Perera the agent of the purchaser and tom tom beater S. Thomas Fernando to deliver possession of the premises fully described in the hereto annexed order for delivery of possession in terms of section 288 of the Civil Procedure Code by affixing notices in English and Sinhalese and proclaiming to the occupants by beat of tom tom. I found the persons named N. A. Perera and Mrs. N. A. Perera at the entrance to the garden and they stated that they would not allow me to enter the garden. I explained the Court Order to them and went to the gate to enter the garden then the said two persons came forward and pushed me out.

Thereafter the agent of the said purchaser went to the Modera Police Station and returned with Police Sergeant No. 1322 and Police Constable No. 5058 to the spot. The Police Sergeant requested the said N. A. Perera and Mrs. N. A. Perera to allow me to execute the Court Order, when I again tried to gain entrance to the garden by the gate they did not allow me to do so and pushed me out. There was a large crowd at the spot then the Police Sergeant requested me to stay execution fearing a breach of peace. Then I went to the Modera Police Station and made a complaint there.

The foregoing affidavit was duly read over and truly interpreted to the declarant in Sinhalese, his own language, and he appearing to the declarant in thereof, wrote his signature and was affirmed thereto at Colombo, this 26th day of 1951.

Before me,

(Sgd.) Illegible.
Deputy Fiscal, Colombo.

Order for Delivery of Possession

IN THE DISTRICT COURT OF COLOMBO

Exhibits
D 4A.
Affidavit of
Fiscal's
Officer filed
in D.C.
Colombo
Case
No. 9041.
26-7-51
—continued

S. D. M. Deen of Pettah in Colombo.....*Plaintiff.*

vs.

B. J. PERERA of Mutwal in Colombo.....*Defendant.*

and

N. THIAGARAJAH of No. 49, Madampitiya Road, Mutwal, in
Colombo *Purchaser.*

TO THE DEPUTY FISCAL, WESTERN PROVINCE, COLOMBO OR HIS
OFFICER. 10

Whereas N. Thiagarajah of Mutwal in Colombo has become the purchaser of the premises bearing Nos. 23 (1-18 and 19-25), situated at Wall's Lane, Mutwal in Colombo, fully described in the schedule hereto at a sale in execution of the decree in the above-named action and whereas the said land is in possession of the defendant (B. J. Perera) above-named. You are hereby ordered to put the said purchaser into possession of the said premises Nos. 23 (1-18 and 19-25), Wall's Lane, Mutwal in Colombo, and if need be, to remove any person bound by the decree who may refuse to vacate the same returnable on or before the 20th day of June, 1952.

(Sgd.) M. C. SANSONI, 20
A. D. J.

21st June, 1951.

THE SCHEDULE ABOVE REFERRED TO

All that allotment of land bearing present assessment Nos. 23 (1-18 and 19-25), situated at Wall's Lane, Mutwal, within the Municipality and District of Colombo, Western Province; bounded on the North-East by the other portion of this land of Tikiridura Lawrenti Silva, South-East by part of the same garden, South-West by the road, and on the North-West by the other part of the same garden; containing in extent one rood and thirteen and twenty upon one hundredth perches, and registered in A.803/167 together with all the buildings and everything standing thereon, 30 which said premises have recently been surveyed as buildings and premises bearing assessment No. 23 23/1, 3 and 4 and 23/18-24, Wall's Lane, Mutwal, situated at Mutwal, and described as being bounded on the North-East by premises bearing assessment Nos. 23/8-11 and 37/1, Wall's Lane, South-East by premises bearing assessment Nos. 37/2 and 31, Wall's Lane, South-West by Wall's Lane, North-West by premises bearing assessment No. 17, Wall's Lane, and containing in extent one rood and twenty-one decimal two five perches (A0. R1. P21.25) according to the Survey Plan No. 289 dated 7th May, 1951, made by S. H. Fernando, Fiscal's Licensed Surveyor, 40

This is a true copy of the journal entries, Orders dated 21-5-48 and 15-6-48, Decree, Fiscal's Report, Affidavit Fiscal's Report to writ, and Order for delivery of possession in D.C. Colombo Case No. 9041/S.

Exhibits
D 4A.
Affidavit of
Fiscal's
Officer filed
in D.C.
Colombo
Case
No. 9041.
20-7-51—
continued

District Court,
Colombo, 7th May, 1952.

(Sgd.) Illegible.
Assistant Secretary.

DECREE

IN THE DISTRICT COURT OF COLOMBO

No. 11256/S.

S. DON LEWIS PERERA of Weligampitiya, Ja-ela.....Plaintiff.

10

against

B. J. PERERA of Mutwal in Colombo.....Defendant.

This action coming on for final disposal before N. Sinnathamby, Esquire, Additional District Judge, Colombo, on the 24th day of March, 1950, in the presence of proctor on the part of the plaintiff and the defendant not appearing although he was served with summons, it is ordered and decreed that the defendant do pay to the plaintiff the sum of Rs. 2,483.83 with legal interest thereon at 5% per annum till payment in full and costs of suit.

2024th March, 1950.

(Sgd.) N. SINNATHAMBY,
A. D. J.

True copy of Decree in D.C. Colombo Case No. 11256/S.

District Court,
Colombo, 7th May, 1952.

(Sgd.) Illegible.
Assistant Secretary.

D 6

Last Will of S. M. D. L. P. Appuhamy bearing No. 1829

D 6.
Last Will of
S. M. D. L.
P. Appu-
hamy
bearing
No. 1829
12-4-50

This is the Last Will and Testament of Seneviratne Mudalige Don Lewis Perera Appuhamy residing at premises No. 52, Weligampitiya, Ja-ela.

I Seneviratne Mudalige Don Lewis Perera Appuhamy of sound mind,
30 memory and understanding do hereby revoke and cancel all acts or writings that will be deemed as my Last Will and Testament if any, heretofore made by me and declare this to be my Last Will and Testament.

Exhibits
 D 6.
 Last Will of
 S. M. D. L.
 P. Appu-
 hamy
 bearing
 No. 1829.
 12-4-50
 —continued

I give and bequeath all my property movable and immovable goods chattels lands wherever situated and of whatsoever nature to my daughter Seneviratne Mudalige Dona Flora Perera and my son-in-law Nallaperumam Nawaratne Aratchige Alexander Perera (wife and husband respectively) both of premises No. 385, Alutmawatte Road, Mutwal.

I hereby declare and appoint the said Nallaperumam Nawaratne Aratchige Alexander Perera to be the executor of this my Last Will and Testament.

In witness whereof I the said Seneviratne Mudalige Don Lewis Perera Appuhamy do hereunto and to another of the same tenor and date 10 as these presents set my hand at Hultsdorp, Colombo, on the twelfth day of April, One thousand Nine hundred and Fifty (1950).

Witnesses :

Who declare that they are personally acquainted with the said Seneviratne Mudalige Don Lewis Perera Appuhamy who appeared to be of sound mind, memory understanding at whose request we are personally present and witness to his signature to this his Last Will and Testament. } (Sgd.) S. DON LEWIS PERERA

1. (Sgd.) D. A. SAMARASINGHE.
2. (Sgd.) M. SIRIPALAN.

20

(Sgd.) C. DE SARAM,
Notary Public.

I, Christopher de Saram of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the within named executant who is known to me in the presence of Don Anthony Samarasinghe of St. Lucia's Street, Kotahena, and of Mamundy Siripalan of Forbes Road, Colombo, the two subscribing witnesses hereto both of whom are also known to me and who have signed hereto as D. A. Samarasinghe and M. 30 Siripalan respectively, the same was signed by the said executant and by the said witnesses and by me the said Notary all being present at the same time in my presence and in the presence of each other at Hultsdorp in Colombo, on this twelfth (12) day of April, One thousand Nine hundred and Fifty (1950).

And I further certify and attest that in the original mind memory in the declaration clause of the witnesses and in page 1 line 9 bequeath were typed over erasures before the foregoing was read, explained and signed as aforesaid.

Colombo, 12th April, 1950.

(Sgd.) C. DE SARAM, 40
Notary Public.

(Seal)

True copy of the Last Will and Testament filed of record in D.C.,
Colombo, Case No. 14386/N.T.

District Court,
Colombo, 5th September, 1951.

(Sgd.) Illegible.
Assistant Secretary.

Exhibits
D 6.
Last Will of
S. M. D. L.
P. Appu-
hamy
bearing
No. 1829
12-4-50
—continued

D 9

Deed No. 1830

D 9.
Deed
No. 1830.
17-4-50

Registered A.324/153.

10 Colombo, 19th April, 1950.
Prior registration : A.308/167.

(Sgd.) Illegible.
Registrar of Lands.

No. 1830.

Rs. 10,000/-.

TRANSFER

Lands : 1.

Know all men by these presents that I, Bope Aratchige Julius Perera of premises No. 23/24, Wall's Lane, Mutwal (hereinafter called and referred to as the vendor) for and in consideration of the sum of Rupees Sixteen thousand (Rs. 16,000/-) of lawful money of Ceylon well and truly paid to me by Seneviratne Mudalige Don Lewis Perera Appuhamy (herein-
20 after called and referred to as the vendee) the receipt whereof I do hereby admit and acknowledge have granted, bargained, sold, assigned, transferred set over, and assured and do by these presents, grant, bargain, sell, assign, transfer, set over and assure unto the said vendee, his heirs, executors, administrators and assigns the premises in the schedule hereto fully described together with all and singular rights, ways, easements, advantages, servitudes and appurtenances whatsoever thereto belonging or in any wise appertaining or usually held, occupied, used, or enjoyed therewith or reputed or known as part and parcel thereof together with all the
30 estate, right, title, interest, property, claim and demand whatsoever of the said vendor into upon or out of the said premises, and every part thereof together with all the title deeds, vouchers and other writings therewith held or relating thereto, which said premises have been held and possessed by the said vendor in the manner hereinafter mentioned.

To have and to hold the said premises hereby sold and conveyed with the rights and appurtenances thereto belonging unto the said vendee and his aforewritten absolutely for ever. Subject however to the condition that if the said vendor pays the within-named consideration to the said vendee within five years from date hereof then the said vendee agrees to re-transfer the said land and premises to the said vendor. The benefit of
40 these presents shall accrue to the said vendor and his heirs, executors and administrators,

Exhibits
 D 9.
 Deed
 No. 1830.
 17-4-50
 —continued

And I the said vendor for myself and my heirs, executors and administrators and assigns do hereby covenant, promise and declare with and to the said vendee, his heirs, executors, administrators and assigns that the said premises hereby sold and conveyed are free from any encumbrance whatsoever and that I have not at any time heretofore made, done or committed or been party or privy to any act, deed, matter or thing whatsoever whereby or by reason whereof the said premises or any part thereof are, is, can, shall or may be impeached or encumbered in title, charge, estate or otherwise howsoever and that I and my aforewritten shall and will at all times hereafter warrant and defend the same or any part thereof unto him and his aforewritten against any person or persons whomsoever and further also shall and will at all times hereafter at the request and cost of the said vendee or his aforewritten do and execute or cause to be done and executed all such further and other acts, deeds, matters, assurances, and things whatsoever for the further and more perfectly assuring the said premises hereby sold and conveyed and every part thereof, unto or his aforewritten as by him or his aforewritten may be reasonably required.

In witness whereof the said vendor do hereunto and to two others of the same tenor and date as these presents set my hand at Colombo on this seventeenth (17th) day of April, One thousand Nine hundred and Fifty (1950).

THE SCHEDULE ABOVE REFERRED TO

All that North-Western portion of the garden together with the buildings standing thereon bearing formerly assessment No. 2 and subsequently No. 23 (1 to 4) and 23 (19 to 25), situated at Aluthmawatte now called Wall's Lane within the Municipality and District of Colombo, Western Province; bounded on the North-East by the portion of this land belonging to Tikiridura Lawrenti Silva, on the South-East by part of the same garden, on the South-West by the road (Wall's Lane), and on the North-West by the other part of the same garden, containing in extent according to survey plan dated 12th December, 1900, made by T. H. Krickenbeck, Licensed Surveyor, one rood and thirteen and 20/100 square perch (A0. R1. P13 20/100).

Witnesses :

Signed and delivered in the presence of us }
 and we declare that we are well acquainted with the executant and know his proper name, occupation and residence. }

1. (Sgd.) B. J. PERERA.
2. (Sgd.) M. SIRIPALAN.

(Sgd.) C. DE SARAM,
Notary Public. 40

I, Christopher de Saram of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the said vendor who is known to me and who has signed hereto as B. J. Perera

somewhat illegibly in the presence of Piyadasa Balasuriya of Petiyagoda, Kelaniya, and of Mamundy Siripalan of Forbes Road, Colombo, and who have signed hereto as P. Balasuriya and M. Siripalan respectively, the subscribing witnesses hereto both of whom are known to me the same was signed by the said executant and also by the said witnesses and by me the said Notary in my presence and in the presence of one another all being present at the same time at Colombo aforesaid on this seventeenth (17th) day of April, One thousand Nine hundred and Fifty (1950).

Exhibits
D O.
Deed
No. 1830.
17-4-50
—continued

And I further certify and attest that the within-named consideration was paid as follows : Rs. 12,304·79 cts. in settlement and discharge of the Mortgage Bonds No. 1643 dated 2nd December, 1946, No. 1694 dated 26th June, 1947, and No. 1708 dated 20th October, 1947, all attested by me and filed in suit in D.C. Colombo, No. 2447/M.B. Rs. 300/- in settlement with interests in D.C. Colombo No. 2447/M.B. Rs. 2,989·21 cts. in settlement of cases Nos. 11256/S and 11066/S of the District Court of Colombo and Rs. 356/- for expenses of this deed and before the foregoing was read and explained and signed as aforesaid in the original and duplicate page 2, lines 5 and 6 " Subject " and " to the conditions " were typed over erasures and page 2, line 32 of the same " forty " was deleted and in the original page 2, line 8 " agrees " typed over an erasure, the original bears a Rupee Stamp, that the duplicate of this instrument bears stamps of the value of Rs. 255/- which I attest. (Seal).

Date of attestation :
This 17th day of April, 1950.

(Sgd.) C. DE SARAM,
Notary Public.

D 12

Journal Entries in D.C. Colombo Case No. 2447

IN THE DISTRICT COURT OF COLOMBO

MAHASENA RAJAPAKSA PATHIRANE of Kandy.....*Plaintiff.*

vs.

BOPE ARATCHIGE JULIUS PERERA of premises No. 23/24, Wall's Lane, Mutwal.....*Defendant.*

No. 2447/M.B.
Class : V.
Amount : Rs. 11,677·22.
Nature : Mortgage Bond.
Procedure : Regular.

JOURNAL

(1) 11-8-49. Mr. C. de Saram, Proctor, files appointment and plaint together with Mortgage Bonds Nos. 1643, 1694 and 1708 and Conditions of Sale.

D 12.
Journal
Entries in
D.C.
Colombo
Case
No. 2447.
11-8-49 to
10-5-50

Exhibits
 D 12.
 Journal
 Entries in
 D.C.
 Colombo
 Case
 No. 2447.
 11-8-49 to
 10-5-50—
continued

He also files Warrant of Attorney to confess judgment together with minute of consent of Mr. H. Weliwitigoda, Proctor, consenting to judgment being entered against the defendant and moves that Decree be entered as prayed for with costs.

(Sgd.) L. W. DE SILVA,
District Judge.

- (2) 17-8-49. Let this be supported on the Bench.
 (Sgd.) H. A. DE SILVA,
*District Judge.*¹⁰
- (3) 30-8-49. Mr. C. de Saram, Proctor, for petitioner moves to enter judgment in favour of the plaintiff as prayed for with costs. The Order to sell not to issue for four months from 29-8-49.
 The defendant consents.
 Enter decree accordingly.
 (Intd.) N. S.,
A. D. J.
- (4) 11-1-50. Decree entered.
- (5) 17-1-50. Mr. C. de Saram, Proctor, for plaintiff files copy Decree²⁰ and applies for execution of decree by issue of commission to Mr. D. A. Samarasinghe, Auctioneer, to sell the mortgaged property for the recovery of Rs. 11,677·22, interest and costs.
 Allowed.
 (Intd.) N. S.,
A. D. J.
- (6) 28-1-50. Commission issued to Mr. Samarasinghe returnable 20-1-51.
- (7) 24-1-50. Mr. D. A. Samarasinghe, Auctioneer, files Conditions of³⁰ Sale for approval.
 He values the property at Rs. 18,000/-.
 Approved subject to confirmation of sale by Court.
 (Intd.) N. S.,
A. D. J.

- (8) 18-2-50. Mr. C. de Saram, Proctor for plaintiff moves that the Auctioneer be directed to allow the plaintiff or his agent to bid for and purchase the property at the sale fixed for 22-2-50.
- Exhibits
D 12.
Journal
Entries in
D.C.
Colombo
Case
No. 2447.
11-8-40 to
10-5-50
—continued
- Allowed provided the plaintiff's bid is at or above the appraised value and if there be no bidders, the plaintiff to purchase the property at his claim and costs.

(Intd.) N. S.,
A. D. J.

10

- (9) 20-2-50. Mr. D. S. A. Jayalath, Proctor, files proxy of the defendant together with petition and affidavit and for reasons stated he moves :—
- (1) That the sale fixed for 22-2-50 be stayed for about two months and
- (2) That the Auctioneer be directed to do so on payment of the Auctioneer's charges by depositing the charges in Court.

Mr. C. de Saram, Proctor for plaintiff receives notice for 21-2-50.

20

Call case on 21-2-50.

(Intd.) N. S.,
A. D. J.

- (10) 21-2-50. Mr. C. de Saram for plaintiff.
Mr. D. S. A. Jayalath for defendant.
Case called *vide* (9) application to stay sale.
Vide motion filed.
Enter order accordingly.

(Intd.) N. S.,
A. D. J.

30

- (11) 5-5-50. The plaintiff's claim and costs having been paid and settled in full Mr. C. de Saram, Proctor for plaintiff moves to enter satisfaction of decree.
Enter satisfaction of decree.

(Intd.) N. S.,
A. D. J.

- (12) 10-5-50. Commission and copy decree returned.

True copy of journal entries in D.C. Case No. 2447/M.B.

40 Colombo, 15th July, 1958,

(Sgd.) Illegible.
Assistant Secretary.

Exhibits
 D 2.
 Decree
 of the
 District
 Court
 in D.C.
 Colombo
 Case
 No. 2447.
 80-8-49

Decree of the District Court in D.C. Colombo
 Case No. 2447

IN THE DISTRICT COURT OF COLOMBO

MAHASENA RAJAPAKSE PATHIRANE of Kandy.....*Plaintiff.*

No. 2447/M.B. *vs.*

BOPE ARATCHIGE JULIUS PERERA of premises No. 23/24, Wall's
 Lane, Mutwal.....*Defendant.*

This action coming on for final disposal before N. Sinnathamby, Esquire, Additional District Judge of Colombo, on the 30th day of August, 1949, in the presence of Mr. C. de Saram, Proctor, on the part of the plaintiff and the defendant consenting to judgment provided order to sell the mortgaged property not to issue within four months from the said date, viz., 29th August, 1949.

It is ordered and decreed that the defendant do pay to the plaintiff the sum of Rs. 11,677.22 with interest (1) on Rs. 5,000/- at the rate of 10 per centum per annum from the 11th July, 1949, to date hereof, (2) on Rs. 3,000/- at the rate of 10 per centum per annum from 11th July, 1949, to date hereof, and (3) on Rs. 2,000/- at the rate of 10 per centum per annum from 11th July, 1949, to date hereof and thereafter on the aggregate 20 amount of decree at the rate of 5 per centum per annum till payment in full and costs of suit.

That the property described in the schedule hereto be and the same is hereby declared specially bound and executable for the payment of the said sum, interest and costs on the footing of (1) Mortgage Bond No. 1643 dated 2nd December, 1946, attested by C. de Saram, Notary Public, (2) Mortgage Bond No. 1694 dated 26th June, 1947, attested by C. de Saram, Notary Public, and (3) Mortgage Bond No. 1708 dated 20th October, 1947, attested by C. de Saram, Notary Public.

That in default of payment of the said sum interest and costs as afore-30 said, the said property declared specially bound and executable as afore-said be sold by public auction by D. A. Samarasinghe, Auctioneer, or by some other licensed auctioneer named by Court, after such advertisement as the said auctioneer may consider sufficient upon conditions of sale approved by Court, the said auctioneer being hereby directed and authorised to allow the plaintiff or any one else on his behalf to bid for and purchase the said property at such sale, and to do so upon such special terms as the Court may impose, if the Court impose any, and, in the event of the plaintiff becoming the purchaser thereof, to allow him credit to the extent of the claim and costs,

That the secretary of the Court do execute the necessary conveyance in due form of law in favour of the purchaser or purchasers at such sale on his or their complying with the said conditions of sale, and on being satisfied, if the purchaser be the plaintiff, that he has been allowed credit, and in the event of the purchaser being a third party or parties that the purchase money has been deposited in Court.

Exhibits
D 2.
Decree
of the
District
Court
in D.C.
Colombo
Case
No. 2447.
30-8-49
—continued

That the proceeds of such sale be applied in and towards the payment in full of the said sum, interest and costs, that if such proceeds shall not be sufficient for the payment in full of the sum, interest and costs, the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at the rate of 5 per centum per annum until realization.

THE SCHEDULE ABOVE REFERRED TO

All the North-Western portion of the garden together with the buildings standing thereon bearing formerly assessment No. 2 and subsequently No. 23 (1-4) and 23 (19-25), situated at Aluthmawatte now called Wall's Lane, within the Municipality and District of Colombo, Western Province; bounded on the North-East by the portion of this land belonging to Tikiridura Lawrenti Silva, on the South-East by part of the same garden, on the South-West by the road (Wall's Lane), and on the North-West by the other part of the same garden; containing in extent according to Survey Plan dated 12th December, 1900, made by T. H. Krickenbeck, Licensed Surveyor, one rood and thirteen and 20/100 square perches (A0. R1. P13 20/100) and registered under reference A.308/167.

Colombo, 30th August, 1949.

Drawn by:

(Sgd.) C. DE SARAM,
Proctor for Plaintiff.

(Sgd.) N. SINNETHAMBY,
A. D. J.

30

True copy of Final Decree in D.C. Colombo Mortgage Bond Case No. 2447.

(Sgd.) Illegible.
Assistant Secretary.
6-3-53.

D 13

**Affidavit of B. Julius Perera filed in D.C. Colombo
Case No. 2447**

IN THE DISTRICT COURT OF COLOMBO

40 M. R. PATHIRANE of Kandy.....*Plaintiff.*

vs.

B. JULIUS PERERA of Wall's Lane, Mutwal, Colombo.....*Defendant.*

D 13.
Affidavit of
B. Julius
Perera filed
in D.C.
Colombo
Case
No. 2447.
20-2-50

Exhibits

D 18.
Affidavit of
B. Julius
Perera filed
in D.C.
Colombo
Case
No. 2447.
20-2-50
—continued

B. JULIUS PERERA of Wall's Lane, Mutwal, Colombo.....*Defendant-Petitioner.*

vs.

M. R. PATHIRANE of Kandy.....*Plaintiff-Respondent.*

I, Bope Aratchige Julius Perera of No. 23/1, Wall's Lane, Mutwal, Colombo, do hereby make oath and state as follows :—

1. I am the defendant-petitioner above-named.

2. The above action was instituted by the plaintiff above-named on a mortgage bond hypothecating immovable property belonging to me of the value of over Rs. 30,000/- consisting of a house installed with electric lights and about eleven tenements in the heart of Colombo within its Municipality bringing in a monthly rental of about Rs. 200/-.

3. The amount due to the plaintiff is Rs. 11,677.22 with further interest and costs of suit.

I was given four month's time to settle the above claim and I forwarded my title deeds to a number of proctors who, unfortunately for me could not raise the money owing to the influence of one of my close relations who is out to buy the said property at its auction in this case for a song.

4. Order to sell this property has issued from Court and it is fixed for sale by Mr. D. A. Samarasinghe, Auctioneer of Hultsdorp Street, 20 Colombo, for the 22nd instant at 5-30 p.m.

5. I am a familed man with five children and wife and other dependants and have recently secured a job in the Co-operative Department at Ratnapura after being out of business over a year or so during which time I could not pay the interest on plaintiff's Bonds.

6. The plaintiff has absolute security for his principal, interest and costs and the delay of but two months which I beg of Court will not jeopardise his ability to realise his amount.

7. If I am granted the indulgence of Court for but two months from date hereof I can raise the money for the once on a mortgage to settle the plaintiff's claim and thereafter raise the money from the State Mortgage Bank to redeem it within 20 or 25 years.

8. If this property is allowed to be sold by public auction at this juncture my said close relation who has immense influence in the area will certainly buy it up for a song in my present plight thus depriving me of a chance of redeeming this property for my children,

9. Sale of this property at this inopportune moment will cause me irreparable loss and damage.

Exhibits

The foregoing affidavit having been duly read over by the deponent and he appearing to understand the nature, contents and purport thereof the same was signed and sworn to at Colombo on this 20th day of February, 1950.

(Sgd.) B. J. PERERA

D 13.
Affidavit of
B. Julius
Perera filed
in D. C.
Colombo
Case
No. 2447.
20-2-50.
—continued

Before me.

(Sgd.) JAYASINGHE,

C. O.

20-2-50.

10

True copy of the affidavit filed of record in D.C. Colombo Case No. 2447/M.B.

(Sgd.) J. H. FORBES,

6-8-58.

D 11

Letter from J. P. Perera, Proctor, to M. S. M. Faez

J. P. PERERA,
Proctor, S.C.

161/52, Hultsdorp Street,
Colombo 12.

3rd January, 1951.

20

M. S. M. FAEZ, Esq.,
No. 23/24, Wall's Lane, Mutwal.

D 11.
Letter from
J. P. Perera,
Proctor, to
M. S. M.
Faez.
3-1-51

PREMISES No. 23/24, WALL'S LANE, MUTWAL.

Dear Sir,

I am instructed by my client Mrs. Flora Perera of Aluthmawatte Road, Colombo, to request you to quit and deliver to her peaceful possession of the above premises on the 28th day of February, 1951, as the said premises are required for her own use and occupation as a place of residence for herself and her family.

30

Should you fail to comply with this request, my client will be compelled to go to Court to have you ejected therefrom.

Yours faithfully,

(Sgd.) J. P. PERERA.

Deed No. 1523

Exhibits
 P 1.
 Decd
 No. 1523.
 8-6-51

K. RASANATHAN,
 Proctor and Notary,
 Colombo.

PRIOR REGISTRATION A.308/167, 13TH JUNE, 1951.
 No. 1525.

Know all men by these present that I, Naraenanpillai Thiagarajah of Mutwal, in Colombo (hereinafter called and referred to as the "said vendor") for and in consideration of the sum of Rupees Three thousand 10 (Rs. 3,000/-) of lawful money of Ceylon well and truly paid to me the said vendor by Beatrice Suneethra Perera of No. 23/1, Wall's Lane, Mutwal, Colombo (the receipt whereof I do hereby expressly admit and acknowledge) do hereby sell, grant, convey, assign, transfer, set over and assure unto the said (hereinafter called and referred to as the said vendee), her heirs, executors, administrators, and assign the land and premises fully described in the schedule hereto together with all the buildings, trees, plantations and everything standing thereon and all and singular the rights, ways, easements, servitudes, appurtenances and advantages whatsoever to the said land and premises belonging or in any wise appertaining 20 or usually held, occupied, used or enjoyed therewith or reputed or known as part parcel or member or appurtenant thereto or to any part thereof and all the estate, right, title, interest, claim and demand whatsoever or me the said vendor it to upon or out of the said land and premises which have been held and possessed by the said vendor under and virtue of Fiscal's Conveyance No. 20200 dated 28th day of May, 1951, attested by the Deputy Fiscal, Western Province, Colombo, Notary Public.

To have and to hold the said land and premises hereby sold and conveyed or expressed so to be together with the buildings, trees, plantations and everything standing thereon with all rights and appurtenances 30 thereunto belonging or appertaining unto the said vendee, her heirs, executors, administrators and assigns absolutely and for ever.

And I the said vendor for myself and my heirs, executors and administrators do hereby covenant, promise and declare to and with the said vendee, her heirs, executors, administrators and assigns that the said land and premises hereby sold and conveyed are free from any encumbrance, mortgage, lien, Fiscal's seizure or other charge whatsoever and that the said vendor has not at any time heretofore made, done or committed or been party or privy to any act, deed, matter or thing whatsoever whereby or by means whereof the said land and premises or any part 40 thereof are is can shall or may be impeached imperilled or encumbered in title, charge, estate or otherwise howsoever and further shall and will at all times hereafter at the request and cost and expense of the said vendee or her aforewritten do and execute or cause to be done and executed all

such further and other acts deeds matters and things and assurances whatsoever for the further and more perfectly and effectually assuring and vesting the said land and premises hereby sold and conveyed and every part thereof upon the said vendee and her aforewritten as may be reasonably required. That the said vendor shall not warrant and defend the title to the said land and premises.

Exhibits
P 1.
Deed
No. 1523.
8-0-51
—continued

In witness whereof I the said vendor do hereunto and to two others of the same tenor and date as these presents set my hand at Colombo on this eighth day of June, One thousand Nine hundred and Fifty-one.

10

THE SCHEDULE ABOVE REFERRED TO

All that allotment of land bearing present assessment Nos. 23 (1-18 and 19-25), situated at Wall's Lane, Mutwal, within the Municipality and District of Colombo, Western Province; bounded on the North-East by the other portion of this land of Tikiridura Lawrenti Silva, South-East by part of the same garden, South-West by the road, and on the North-West by the other part of the same garden; containing in extent one rood and thirteen and twenty upon one hundredth perches; and registered in A.808/167, together with all the buildings and everything standing thereon, which said premises have recently been surveyed as buildings and premises bearing assessment Nos. 23, 23/1, 3 and 4, and 23/18-24, Wall's Lane, Mutwal, situated at Mutwal and described as being bounded on the North-East by premises bearing assessment Nos. 23/8-11, and 37/1, Wall's Lane, South-East by premises Wall's Lane, North-West by premises bearing assessment No. 17, Wall's Lane, and containing in extent one rood and twenty-one decimal two five perches (A0. R1. P21.25) according to the Survey Plan No. 289 dated 7th May, 1951, made by S. H. Fernando, Fiscal's Licensed Surveyor.

Witnesses :

1. (Sgd.) A. D. WIMALASIRI.
2. (Sgd.) M. S. M. NAVAZ.

(Sgd.) N. THIAGARAJAH.

(Sgd.) K. RASANATHAN,
Notary Public.

I, Krishnapillai Rasanathan of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the within-named executant who is known to me, and who has signed in English as "N. Thiagarajah" respectively, in the presence of Attalage Don Wimalasiri and Mohamed Saheed Mohamed Navaz both of Hultsdorf, in Colombo, the subscribing witnesses hereto both of whom are also known to me, and who have signed in English as "A. D. Wimalasiri" and "M. S. M. Navaz" respectively, the same was signed by the said executant and by the said witnesses and also by me the said Notary in my presence

Exhibits
P 1.
 Deed
 No. 1523.
 8-6-51
 —continued

and in the presence of one another all being present at the same time at Colombo on this eighth day of June in the year One thousand Nine hundred and Fifty-one.

I further certify and attest that the duplicate hereof bears six stamps to the value of Rs. 47/- ; while the original bears a stamp of Re. 1/- ; all of which were duly supplied by me : That the consideration mentioned herein was paid in cash in my presence : That both in the original and duplicate of page 2, line 24, the following words were struck off after the " howsoever ", " and that the said vendor and aforewritten " : And lines 25 and 26 were completely struck off : And line 27, the words " afore-10 written against any person whomsoever " were also struck off before the foregoing instrument was signed as aforesaid.

WHICH I ATTEST.

Date of attestation :
 8th day of June, 1951.

(Sgd.) K. RASANATHAN,
Notary Public.

103

P 2

Encumbrance Sheet

Exhibits
P 2.
Encum-
brance
Sheet
81-1-52.

Boundaries :—

Application No. R. 278.

A. $\frac{308}{107}$ A. $\frac{321}{21}$ A. $\frac{324}{153}$ A. $\frac{332}{46}$ A. $\frac{302}{140}$

Extent :

No. & Date of Deed	Name of Notary, Judge, etc.	Regn. Stamp Duty	Signature of Registrar	Remarks
-----------------------	--------------------------------	---------------------	------------------------	---------

Exhibits Division : A.

Volume : 808

P 2
Encum-
brance
Sheet
81-1-52
—continued

Folio : 187.

Brought forward from

Volume. Folio.
A.281 288

Name of Land :

T.P. No.
Lot No.
Assessment No.

Situation

Village or Town and Street : Alutmawatte.

Pattu : —
District : Colombo.

Korale : —
Province : Western.

Date of Registry (Day Book Number and Date)	Grantors (Names in full and residence)	Grantees (Names in full and residence)	Nature and Particulars of Alienations and Incumbrances (to be concisely and clearly stated)
28852 20th August, 1949	Mahnsena Rajapakse Pathirana of Kandy <i>Plaintiff.</i> <i>vs.</i> Bope Aratchige Julius Perera, premises No. 23/24, Wall's Lane, Mutwal <i>Defendant.</i>	—	Action affecting the above with buildings thereon.
34389 4th October, 1949	S. D. M. Deen of 270/2, Main Street, Colombo <i>Plaintiff.</i> <i>vs.</i> B. G. Perera of Wall's Lane, Colombo <i>Defendant.</i>	—	Seizure priority notice regd. under writ of exe- cution in D.C. Colombo Case No. 9041/S. affect- ing the above is in force up to 15th November, 1949.

Boundaries :—

N.-E. Other portion of this land of Tikiriduraya Lawrenti Silva.
 S.-E. Part of the same Garden.
 S.-W. Road.
 N.-W. Other part of the same Garden.

Extent : A0. R1. 113.20

No. & Date of Deed	Name of Notary, Judge, &c.	Regn. Stamp Duty	Signature of Registrar	Remarks
D.C. Colombo Case No. 2447/M.B.	C. de Saram, Proctor for Plaintiff	5/-	(Sgd.) M. S. Fernando	Assessment Nos. 28 (1-4) & 23 (19-25) situation Wall's Lane
D.C. Colombo Case No. 9041/S 15th June, 1948	K. Rasanathan, Proctor for Plaintiff	2/50	(Sgd.) N. A. Cooray	Claim Rs. 1,000/- and interest and etc. assessment No. 128 (1-4 & 10-25), Wall's Lane, appl. dated 1-10-49
			Carried over to	Volume A. 821

Exhibits Division : A. Volume : 821
 P 2
 Encumbrance Sheet 31-1-52 —continued
 Folio : 21. Brought forward from Volume A. 308 Folio 187
 Name of Land :

T.P. No.	SITUATION {	Village or Town and Street : Alutmawatte.
Lot No.		Gravets.
Assessment No.		Pattu : — District : Colombo. ... Province : Western.

Date of Registry (Day Book Number and Date)	Grantors (Names in full and residence)	Grantees (Names in full and residence)	Nature and particulars of Alienations and Incumbrances (to be concisely and clearly stated)
85876 14th October, 1949	S. D. M. Deen, carrying on business under the name, style and firm of British Paint Co. at No. 270/2, Main Street, Colombo <i>Plaintiff.</i> us. B. J. Perera of Mutwal Street, No. 111, Mutwal, Colombo <i>Defendant.</i>	—	Prohibitory Notice under section 237 of C. P. C. affecting the right, title and interest of the defen- dant in and to the above with the buildings there- on.
48047 5th December, 1949	Sinnakaruppan Chettiar son of Sockalingam Chettiar and another <i>Plaintiff.</i> us. B. J. Perera of 23, Wall's Lane, Alutmawatte, Mutwal, Colombo	—	Prohibitory Notice under section 237 of C.P.C. affecting the right, title and interest of the defen- dant in and to the above with buildings thereon.
18868 5th April, 1950	S. D. M. Deen carrying on business under the name, style and firm of British Paint Co. at 270/2, Main Street, Colombo <i>Plaintiff.</i> us. B. J. Perera of No. 111, Alutmawatte, Mutwal, Colombo <i>Defendant.</i>	—	Prohibitory Notice under section 237 of C.P.C. affecting the right, title and interest of the defen- dant in and to the above with the buildings there- on.

Boundaries:—

N.-E. Other portion of this land of Tikiriduraya Lawrenti Silva.
 S.-E. Part of the same Garden.
 S.-W. Road.
 N.-W. Other part of the same Garden.

P 2
 Encum-
 brance
 Sheet
 31-1-52
 —continued

Extent: 10. 11. 118.20

No. & Date of Deed	Name of Notary, Judge, &c.	Regn. Stamp Duty	Signature of Registrar	Remarks
D.C. Colombo Case No. 9041/S 15th June, 1948	(Sgd.) T. Thiyagarajah, Deputy Fiscal, Colombo	-/50 cts.	(Sgd.) N. A. Cooray	Claim Rs. 1,000/- with interest and costs of suit. P.N. dated 5th day of October, 1949, presently bearing asst. No. 23 (1-18 & 19 to 25), situation, Wall's Lane, Mutwal.
C.R. Colombo Case No. 18141 2nd June, 1949	G. M. Chinnatamby, Deputy Fiscal, Colombo	-/50 cts.	(Sgd.) M. S. Fernando	Claim Rs. 335.75 with interest on Rs. 300/- at 5% p.a. from 31-1-49 to 2-0-49 thereafter legal interest on the aggregate amount till payment less Rs. 40. Presently bearing No. 23 (1-18). Situation: Wall's Lane, Mutwal. P.N. dated 19th November 1949
D.C. Colombo Case No. 9041/S 15th June, 1948	(Sgd.) T. Thiyagarajah, Deputy Fiscal, Colombo	-/50 cts.	(Sgd.) M. S. Fernando	Claim Rs. 1,000/- with interest at cost of suit P.N. dated 5th October, 1949. Presently bearing asst. No. 23 (1-18-19 to 25), situation, Wall's Lane, Mutwal.

Carried over to

Volume
A. 324

Exhibits Division : A

Volume : 324.

P 2
Encum-
brance
Sheet
31-1-52
—continued

Folio : 158.		Brought forward from		Volume	Folio
				A. 321	21
Name of Land :					
T.P. No.	SITU- ATION	Village or Town and Street : Alutmawatte.		Gravets :	—
Lot No.		Pattu : —		Korale :	—
Assessment No.		District : Colombo.		Province :	Western.
Date of Registry (Day Book Number and Date)	Grantors (Names in full and residence)	Grantees (Names in full and residence)	Nature and Particulars of Alienations and Incumbrances (to be concisely and clearly stated)		
14697 10th April, 1950	Bope Aratchige Julius Perera of premises No. 23/24, Wall's Lane, Mutwal	Seneviratne Mudalige Dankiris Perera	Transfer of the above with buildings thereon. Cost Rs. 16,000/-.		
19322 27th May, 1950	Sinna Karuppan Chettiar son of Sockalingam Chettiar and another <i>Plaintiff.</i> vs. B. J. Perera of 23, Wall's Lane, Alutmawatte, Mutwal <i>Defendant.</i>	—	Prohibitory Notice under section 237 of the C.P.C. affecting the defendant's right, title and interest in and to the above and to the buildings thereon.		
33680 20th September, 1950	S. D. M. Deen carrying on business under the name, style and firm of British Paint Co. at No. 270/2, Main Street, Colombo <i>Plaintiff.</i> vs. B. J. Perera of No. 111, Mutwal Street, Mutwal, Colombo. S. D. M. Deen carrying on business under the name, style and firm of British Paint Co. at No. 270/2, Main Street, Colombo <i>Plaintiff.</i> vs. B. J. Perera of No. 111, Mutwal Street, Mutwal, Colombo <i>Defendant.</i>	—	Prohibitory Notice under section 237 of the C.P.C. affecting the defendant's right, title and interest in and to the above with the buildings thereon.		

Boundaries :—

N.-E. Other portion of this land of Tikriduraya Lawrenti Silva.
S.-E. Part of this Garden.
S.-W. Road.
N.-W. Other part of the same land.

Extent : A0. R1. P13.20.

No. & Date of Deed	Name of Notary, Judge, etc.	Regn. Stamp Duty	Signature of Registrar	Remarks
No. 1830 17th April, 1950	C. de Saram, Notary Public	—	(Sgd.) M. S. Fernando	Subject to re-transfer within five years. Asst. Nos. 23 (1-4) & 23 19-25, Wall's Lane.
C.R. Colombo Case No. 18141 of 2nd June, 1940	G. M. Chinnatamby, Deputy Fiscal	-.50 cts.	(Sgd.) S. Wijesinghe	Asst. Nos. 23 (1-18 & 19 to 25), Wall's Lane. Date of seizure : 20th November, 1940. Claim Rs. 325-73 cts.
D.C. Colombo Case No. 9041/S of 15th June, 1948	T. Thiagarajah, Deputy Fiscal, Colombo	-.50 cts.	(Sgd.) P. H. de Soysa	Date of seizure : 5th October, 1940. Asst. No. 23 (1-18 to 19-25). Situation : Wall's Lane Mutwal.
D.C. Colombo Case No. 9041/S of 15th June, 1948	T. Thiagarajah, Deputy Fiscal, Colombo	-.50 cts.	(Sgd.) P. H. de Soysa	Remarks regarding land and situation as per above D.B. No. 10322. Date of seizure : 5th October, 1940. Claim Rs. 100/-, etc.

Carried over to

Volume Folio
A. 332 46

Exhibits Division : A.

Volume : 382.

P 2
Encum-
brance
Sheet
31-1-52
—continued

Folio : 46.		Brought forward from		Volume A. 324	Folio 153
Name of Land :					
T.P. No.	}	Village or Town and Street : Alutmawatte.			
Lot No.		Gravets.			
Assessment No.		Korale : —			
		Pattu : —	District : Colombo.		
			Province : Western.		
Date of Registry (Day Book Number and Date)	Grantors (Names in full and residence)	Grantees (Names in full and residence)	Nature and Particulars of Alienations and Incumbrances (to be clearly and concisely stated)		
20823 18th June, 1951	Narayanapillai Thiagara- jah of Mutwal in Colombo	Beatrice Suncethra Perera, of No. 23/1, Wall's Lane, Mutwal, Colombo	Transfer of the above with the buildings thereon. Cons. Rs. 3,000/-.		
20824 18th June, 1951	Beatrice Suncethra Perera of No. 23/1, Wall's Lane, Mutwal, Colombo	(1) Hathimuni Ellen Silva of Daniels Road, Colombo, and (2) Attalage Don Wimala- siri of No. 16, Clifton Lane, Dermatagoda in Colombo	Mortgage of the above with the buildings thereon for Rs. 3,000/- (Rs. 2,000/- and Rs. 1,000/- by 1st and 2nd grantees respec- tively) with interest at 15% p.a. payable month- ly, if paid regularly at 12%.		
20825 13th June, 1951	The address of the 1st Mortgagee in the above registered Mortgage Bond No. 1524 is Hathimuni Ellen Silva of Daniels Road, Colombo.				
20825 18th June, 1951	The address of the 2nd Mortgagee in the above registered Mortgage Bond No. 1524 is Attalage Don Wimalasiri of No. 16, Clifton Lane, Dermatagoda in Colombo.				

Boundaries: —

N.-E. Other portion of this land of Tikiriduraya Lawrenti Silva,
 S.-E. Part of this Garden,
 S.-W. Road.
 N.-W. Other part of the same land.

Extent: A0. n1. P13.20.

No. & Date of Deed	Name of Notary, Judge, etc.	Regn. Stamp Duty	Signature of Registrar	Remarks
No. 1523 8th June, 1951	K. Rasanathan, Notary Public	—	(Sgd.) P. H. de Soysa	Land: allotment of land bearing Asst. No. 23 (1-18 & 19-25) Situation: Wall's Lane, Mutwal. According to recent survey the land is described as follows: Land Asst. No. 23, 23/1 3 & 4 & 23/18-24, Wall's Lane, Mutwal. N.-E. premises No. 23/6-11 & 37/1. S.-E. premises No. 37/2 & 31. S.-W. Wall's Lane. N.-W. premises No. 17. Extent A0. n1. P21. 25.
No. 1524 8th June	K. Rasanathan, Notary Public	—	(Sgd.) P. H. de Soysa	Differences and other-wise description as per Deed No. 1523.
	Application dated 8-6-51	Re. 1/-	(Sgd.) P. H. de Soysa	
	Application dated 8-6-51	Re. 1/-	(Sgd.) P. H. de Soysa	

Carried over to

Volume — Folio 140

Exhibits Division : A.

Volume : 332.

P 2
Encum-
brance
Sheet
31-1-52
—continued

Folio : 140.		Name of Land :		Brought forward from	Volume —	Folio 46
T.P. No.		{ Village or Town and Street : Alutmawatte. Gravets. Pattu : — District : Colombo.		Korale : —		
Lot No.				Province : Western.		
Assessment No.						
Date of Registry (Day Book Number and Date)	Grantors (Names in full and residence)	Grantees (Names in full and residence)	Nature and Particulars of Alienation and Incumbrances			
22928 27th June, 1951	Deputy Fiscal, Colombo	K. R. Sedaraman for and on behalf of N. Thiaga- jarah of Mutwal	Transfer of the right, title and interest of the defen- dant in and to the above with buildings thereon. Cons. Rs. 250/-.			
24798 18th July, 1951	Caveat of Nallaperuma Navaratne Aratchige Alexander Perera of 23/24, Wall's Lane, Mutwal, is in force for a period of six months from 18th July, 1951, until 18th January, 1952.					
28984 28th July, 1951	Beatrice Suneethra Perera of No. 23/1, Wall's Lane, Mutwal, Colombo Plaintiff.	—	Action affecting the above.			
	vs. (1) N. A. Perera, (2) Mrs. Flora Perera, (3) S. D. Justin Perera, (4) S. D. Austin Perera, (5) S. D. Lionel Perera, all of Wall's Lane, Mutwal in Colombo Defendants.					

Boundaries :—

N.-E. Other portion of this land of Tikiriduraya Lawrence Silva.
S.-E. Part of this Garden.
S.-W. Road.
N.-W. Other part of the same land.
Extent : A0. n1. P13.20.

No. & Date of Deed	Name of Notary, Judge, etc.	Regn. Stamp Duty	Signature of Registrar	Remarks
No. 2020 of 1951 28th May, 1951	F. F. N. Toussaint, Deputy Fiscal, Colombo	—	(Sgd.) M. S. Fernando	The right, title and interest of the defendant in Colombo D. C. Case No. 9041/S of 27/30-0-49 is hereby sold. Land : Allotment of land bearing assessment No. 23 (1-18 & 19-25). Situation : Wall's Lane, Mutwal—according to a recent survey land is described as follows : Buildings and premises bearing assessment No. 28/1, 3, 4 and 28/18-25, Wall's Lane, Mutwal, N.-E. by premises bearing assessment No. 23/8-11 & 87/1, Wall's Lane, S.-E. premises bearing assessment No. 87/2 & 31, Wall's Lane, N.-W. premises bearing assessment No. 17, Wall's Lane, S.-W. Wall's Lane. Extent : A0. n1. P21.25.
Caveat dated 12th July, 1951		Rs. 12.50	(Sgd.) P. H. de Soysa	Assessment No. 23, Wall's Lane. (Sgd.) P. H. de Soysa, Registrar of Lands.
Colombo D.C. Case No. 8306/Land	K. Rasanathan, Proctor for Plaintiff	Rs. 5/-	(Sgd.) P. H. de Soysa	Application dated 27-7-51. Land and description as per Deed No. 2020 registered above caveat notified on 22-10-51.

I, M. S. Fernando, Additional Registrar of Lands, Colombo, hereby certify that the foregoing is a true copy of the registration entries appearing in the Land Registers A.308/167, A.321/21, A.324/13, A.332/46, A.332/140 of this office up to and including the 15-1-52 and the same is granted on the application of Mr. T. J. G. de Saram.

Land Registry,
Colombo, January 31, 1952.

(Sgd.) M. S. FERNANDO,
Registrar of Lands.

Exhibits

D 3

D 3.
Letter from
K. Rasanathan, Proctor,
to Rasheed.
28-6-51
—continued

Letter from K. Rasanathan, Proctor, to Rasheed

MR. RASHEED,
No. 23/24, Wall's Lane,
Mutwal, Colombo.

161/61, Hultsdorp,
Colombo, 28th June, 1951.

Sir,

Re PREMISES NO. 23, WALL'S LANE, MUTWAL, COLOMBO.

Under instructions from my client Mr. N. Thiagarajah of Mutwal, Colombo, who purchased the above premises at the sale held under the writ issued in case No. 9041/S D.C. Colombo, and to whom the Fiscal¹⁰ delivered possession of the above premises, I hereby give you notice that all rents as from 1st June should be paid to my client, Mr. N. Thiagarajah, who is the owner. My client's collector is Mrs. Beatrice Perera who lives in the same premises and will call for the rent.

Kindly acknowledge receipt.

Yours faithfully,
(Sgd.) K. RASANATHAN.

D 5

D 5.
Extract
from the
Information
Book of the
Modera
Police
Station.
19-7-51

Extract from the Information Book of the Modera
Police Station

20

Extract from the Complaint I.B. of
Police Station, Modera

Date: 19-7-51.
Time: 11-30 a.m.
Page: 196.
Para: 253.

P.C. 411 IN REPORT.

Mrs. Beatrice Sumaris Perera w/o B. J. Perera, age 28 years, residing at No. 37/29, Wall's Lane, present and states: I have no complaints *re* my husband's furniture. All the things were found correct. I am willing to hand over the premises No. 23/1, Wall's Lane, to Mrs. Flora Perera who is the present landlady of the premises.

My witnesses No. 1 Ethige Winifrieda Silva of No. 37/44, Wall's Lane, 2. Hettiaratchige Lily Nona of No. 37/44, Wall's Lane, Modera. This is all I have got to say.

B. S. PERERA.

(Sgd.) In English.

True copy typed out by me:

(Sgd.) P. C. 2967 MUNISAMY.

Correct:

(Sgd) Illegible.
I.P., Modera.

40

Probate Issued in D.C. Colombo Case No. 14386

PROBATE

Nett Value of Estate : Rs. 33,093/-,
Estate Duty : Rs. 992.79.

IN THE DISTRICT COURT OF COLOMBO

Testamentary Jurisdiction No. 14386.

In the matter of the estate of the late Seneviratne Mudalige Don Lewis Perera Appuhamy *alias* Seneviratne Mudalige Don Lewis Perera, deceased of No. 52, Weligampitiya.

Be it known to all men that on the 30th day of April, 1951, the Last Will and Testament of Seneviratne Mudalige Don Lewis Perera Appuhamy *alias* Seneviratne Mudalige Don Lewis Perera, deceased, a copy of which is hereunto annexed, was exhibited, read, and proved before this Court, and administration of all the property and estate rights and credits of the deceased was and hereby committed to Nallaperumam Nawaratne Aratchige Alexander Perera of No. 385, Aluthmawatte Road in Colombo, the executor in the said Last Will and Testament named; the said Nallaperumam Nawaratne Aratchige Alexander Perera being first sworn faithfully to execute the said Will by paying the debts and legacies of the deceased testator as far as the property will extend and the law will bind, and also to exhibit into this Court a true, full and perfect inventory of the said property on or before the 20th day of March, 1952, and to file a true and just account of his executorship on or before the 5th day of June, 1952.

And it is hereby certified that the declaration and statement of property under the Estate Duty Ordinance have been delivered, and that the value of the said estate on which estate duty is payable, as assessed by the Commissioner of Estate Duty amounts to Rs. 33,093/-.

And it is further certified that it appears by a certificate granted by the Commissioner of Estate Duty and dated the 8th day of August, 1951, that Rs. 992.79 on account of estate duty (and interest on such duty) has been paid.

Given under my hand and the seal of the Court this 11th day of September, 1951.

(Sgd.) M. C. SANSONI,
Additional District Judge.

Exhibits
D 7.
Probate
issued in
D.C.
Colombo
Case
No. 14386
11-0-51

116

Exhibits

D 8.
Rough
Statement
of Account.

D 8

Rough Statement of Account

12,500

2,600

15,100

365

15,600

400

16,000

D 14

10

D 14
Journal
Entries,
Affidavit of
Fiscal's
Officer, and
Sale Report
in D.C.
Colombo
Case
No. 11066.
1049 to 1951

**Journal Entries, Affidavit of Fiscal's Officer, and Sale
Report in D.C. Colombo Case No. 11066**

IN THE DISTRICT COURT OF COLOMBO

P. R. P. L. PALANIAPPA CHETTIAR.....*Plaintiff.*

vs.

B. J. PERERA.....*Defendant.*

No. 11066.

Class: 1.

Amount: Rs. 981.29.

Nature: Pro-note.

Procedure: Summary.

20

JOURNAL

(1) 22-11-49. Mr. S. A. Villavarayan, Proctor, files appointment (1b) and plaint (1) together with document marked "B" pro-note, affidavit (1a), bill of costs (1c).

File affidavit of plaintiff and move.

(Sgd.) N. S.,
A. D. J.

Summons issued with precept returnable on the.....
day of.....19.....

80

- (2) 5-12-49. Proctor for plaintiff files affidavit (2a) of plaintiff and moves for a date to issue summons on defendant. Exhibits D 14.
I allow this plaint to be filed and order summons to issue under Chapter 53 of the C.P.C. Costs Rs. 33-50. Defendants to appear within 7 days from the date of service. Summons returnable 27-2-50. Affidavit of Fiscal's Officer, and Sale Report in D.C. Colombo Case No. 11060. 1949 to 1951 —continued
- (Sgd.) N. S.,
A. D. J.
- 10 (3) 8-12-49. Summons issued on defendant, W.P.
- (4) 22-12-49. Summons having been served on defendant on 10-12-49 and the defendant having failed to appear within the prescribed time.
Proctor for plaintiff moves to enter decree as prayed for.
Allowed, enter decree against defendant as prayed for with costs.
- (Sgd.) N. S.,
A. D. J.
- 20 (5) Decree entered.
(Intd.) W. M. H. P.
- (6) 3-2-50. Proctor for plaintiff files application for execution of decree for the recovery of Rs. 981-89 with legal interest thereon. Copy decree (6a) filed.
Allowed.
- (Sgd.) N. S.,
A. D. J.
- (7) 9-2-50. Writ issued on defendant, W.P., returnable 7-2-51.
- (8) 16-3-50. The Deputy Fiscal, Colombo, reports that the immovable property seized under the writ in this case has been valued at Rs. 32,000/-.
(Intd.) Illegible.
16/3.
- 30 (9) 4-4-50. The Fiscal, Western Province, Colombo, having seized the immovable property of the defendant under the writ issued in this case and the same being advertised for sale the proctor for plaintiff moves that the Court be pleased to allow the plaintiff or his agent to bid for and purchase

Exhibits
 —
 D 14.
 Journal
 Entries,
 Affidavit of
 Fiscal's
 Officer, and
 Sale Report
 in D.C.
 Colombo
 Case
 No. 11066.
 1949 to 1951
 —continued

the property to the extent of his claim and costs and that the plaintiff be allowed credit to the extent of his claim.

1. Allowed.
2. Instruct Fiscal, Western Province, accordingly.

(Sgd.) K. D. DE S.,
 A. D. J.

- (10) 27-4-50. The Deputy Fiscal, Colombo, forwards a sale report dated 26th April, 1950, that the property was seized on the 10 9th March, 1950, and sold at the premises on the 18th April, 1950, and the balance deposited in the Colombo Kachcheri on the 19th April, 1950, is Rs. 225/-.
- (10a) A sum of Rs. 10.80 was recovered as poundage and credited to revenue at the Colombo Kachcheri as per K.R. No. 1469 of 19-4-50 annexed.

(Intd.) Illegible.
 27/4.

- (11) 22-5-50. The Fiscal, Western Province, Colombo, with reference to his sale report dated 26-4-50 under the writ issued to 20 him in the above case informs the Court that the purchaser through his proctor has sent a cheque for Rs. 675 today in payment of the balance purchase money. As payment fell due on the 18-5-50 he requests early instructions as to whether the amount may be deposited to the credit of the case.

Inform Fiscal that he may accept with consent of proctor for plaintiff and report to Court for further orders.

(Sgd.) N. S., 80
 A. D. J.

- (12) Fiscal, Western Province, informed *vide* letter filed.

(Intd.) Illegible.
 A. D. J.
 23/5.

- (13) 29-5-50. The Deputy Fiscal, Colombo, reports with reference to return to writ in this case dated 26th April, 1950, the balance purchase money, Rs. 675/- has been recovered,

and was deposited in the Colombo Kachcheri on 26th May, 1950. A letter of consent from the proctor for plaintiff dated 25-5-50 is forwarded herewith as per order of consent dated 23-5-50.

(Intd.) Illegible.
29/5.

Exhibits
134.
Journal
Entries,
Affidavit of
Fiscal's
Officer, and
Sale Report
in D.C.
Colombo
Case
No. 11066,
1949 to 1951
—continued

ORIGINAL

U/7, No. 1365/32161.

Date : 25-5-50.

Received from Mr. S. A. Villavarayan the sum of Rupees Six hundred and Seventy-five only being balance $\frac{3}{4}$ purchase amount in D.C. Case No. 11066/S.

Rs. 675/-.

(Sgd.) Illegible,
Signature and Designation.
Shroff, Fiscal Office.

- (14) 9-6-50. Thirty days having elapsed since date of sale proctor for plaintiff move that the Court be pleased to :
- (1) Confirm sale of the immovable property sold under the writ.
 - (2) Direct Fiscal, Western Province, to convey the said property to the purchaser, and
 - (3) Allow an order of payment be issued in favour of the plaintiff in a sum of Rs. 900/- being amount realised in execution.
 1. Balance proceeds of sale deposited out of time.
 2. Move with consent of defendant or notice him for 31-7-50.

(Sgd.) N. S.,
A. D. J.

- (15) 13-6-50. Proctor for plaintiff files minute of consent from the defendant and moves that the plaintiff's application be allowed.
Stamps to the value of Rs. 1.80 tendered.

(Intd.) Illegible.

1. Sale is confirmed and the Fiscal is authorised to execute conveyance in favour of the purchaser.
2. Issue P.O. for Rs. 900/- in favour of the plaintiff.

(Sgd.) N. S.,
A. D. J.

- Exhibits (16) 16-6-50. *Vide* (15) above para 2 a payment order for Rs. 900/- is issued in favour of the plaintiff P. R. P. L. Palaniappa Chettiar of No. 267, Sea Street, Colombo.
- D 14.
Journal Entries, Affidavit of Fiscal's Officer, and Sale Report in D.C. Colombo Case No. 11066. 1949 to 1951
—continued
- (17) 13-10-50. Order confirming sale entered. (Sgd.) Illegible.
Administrative Secretary.
- (18) 8-2-51. Deputy Fiscal, Colombo, returns writ and requires reference to his sale report dated 26-4-50. (Sgd.) Illegible. 10
8/2.
- (19) 17-5-51. Payment Order No. A. 70203 for Rs. 100/- in favour of plaintiff issued *vide* J.E. of 17-5-51 (27) in Case No. 9041/S. (Intd.) Illegible.

AFFIDAVIT OF FISCAL'S OFFICER EXECUTING WRIT

AFFIDAVIT " B " REFERRED TO

(To be attached to Fiscal's Sale Report)

I, H. D. Deonis, Fiscal's Officer, solemnly, sincerely and truly affirm and declare that on the 14th day of February, 1950, I repaired to the dwelling house of B. J. Perera, defendant-judgment debtor under Writ of Execution No. 11066/S of the District Court of Colombo, at Wall's Lane, Mutwal, but he was not found to demand payment, and I seized on 9th March, 1950, the property described in my Seizure Report dated 10th March, 1950 (a copy of which is hereto annexed) which said property was pointed out by the proctor for plaintiff by letter as belonging to the debtor for seizure and sale.

(Sgd.) H. D. DEONIS,
Fiscal's Officer.

The foregoing affidavit was duly read over and truly interpreted to the declarant in Sinhalese, his own language, and he appearing to understand the contents thereof, wrote his signature thereto at Colombo, this 26th day of April, 1950,

(Sgd.) Illegible.
Deputy Fiscal, Colombo,

AFFIDAVIT " C " REFERRED TO

Exhibits

I, A. H. H. de Silva, Fiscal's Auctioneer, solemnly, sincerely and truly declare and affirm that on the 18th day of April, 1950, I duly sold the property described in the Fiscal's Sale Report dated 26th April, 1950, under the Writ of Execution No. 11066/S of the District Court of Colombo.

(Sgd.) A. H. H. DE SILVA,
Fiscal's Auctioneer.

D 14.
Journal
Entries,
Affidavit of
Fiscal's
Officer, and
Sale Report
in D.C.
Colombo
Case
No. 11066,
1049 to 1051
—continued

Affirmed to before me at Colombo this 26th day of April, 1950.

(Sgd.) Illegible.
Deputy Fiscal.

10

SALE REPORT

No. 11061/S.

By virtue of the Writ of Execution No. 11061/S from the District Court of Colombo I have caused to be seized, on the 9th day of March, 1950, and sold after due publication, at the premises on the 18th day of April, 1950, the property enumerated in the annexed list, as will appear from the hereto annexed affidavits of my officers marked B and C dated 26th April, 1950.

Proceeds were applied as follows :—

				Rs.	cts.
20	Total realised	...	...	900	00
	Credit to plaintiff	...	...	—
	Recovered	...	...	272	39
	Amount of Fiscal's fees	...	Rs. 18.00		
	Amount of advertising charges	...	„ 20.39		
	Amount of other expenses	...	„ —		
	Amount of tom tom hire	...	„ 9.00		
				47	39
			Balance	225	00

Balance deposited in the Colombo Kachcheri on the 19th day of 30 April, 1950,

Exhibits
 D 14.
 Journal
 Entries,
 Affidavit of
 Fiscal's
 Officer, and
 Sale Report
 in D.C.
 Colombo
 Case
 No. 11066.
 1949 to 1951
 —continued

A sum of Rs. 10·80 was recovered as poundage and credited to revenue at the Colombo Kachcheri as per Kachcheri Receipt No. 1469 of 19-4-50.

Fiscal's Office,
 Colombo, 26th April, 1950.

(Sgd.) Illegible.
 for *Fiscal, W.P.*

2

SALE REPORT

Description of Property	Name of Purchaser	Amount Realised		One-fourth Recovered	Remarks
		Rs.	cts.		
The right, title and interest of the defendant in the following property, viz. :—					10
All that north-western portion of the garden together with the buildings standing thereon, bearing formerly assessment No. 2 and subsequently No. 23 1-4 and 23 (19-25), situated at Aluthmawatte, now called Wall's Lane, within the Municipality and District of Colombo, Western Province; bounded on the north-east by the portion of this land belonging to Tikiridura Lawrenti Silva, on the south-east by part of the same garden, on the south-west by the road (Wall's Lane) and on the north-west by the other part of the same garden; containing in extent according to Survey Plan dated December 12, 1900 made by T. H. Krichbeck, Licensed Surveyor, 1 rood 18 20/100 square perches; and registered under reference A. 308/187.					20
					80
	Murugappa Muttiah of 113, Sea Street, Colombo	900	00	225	00
					40

True copy of journal entries, affidavit of Fiscal's Officer and Sale Report in D.C. Colombo Summary Case No. 11066.

(Sgd.) Illegible.
Assistant Secretary, D.C.

Certified this 6th day of March, 1953, at Colombo.

Typed by : C. Redlich.
 Compared by : Jayakodi,

Class :

IN THE DISTRICT COURT OF COLOMBO

No. 11066/S.

P. R. P. L. PALANIAPPA CHETTIAR of No. 267, Sea Street in
Colombo Plaintiff.

against

B. J. PERERA of Wall's Lane, Mutwal in Colombo.....Defendant.

This action coming on for final disposal before N. Sinnathamby,
10 Esquire, Additional District Judge, Colombo, on the 22nd day of December,
1949, in the presence of proctor on the part of the plaintiff and the defend-
ant not appearing although he was served with summons, it is ordered
and decreed that the defendant do pay to the plaintiff the sum of Rs.
981.39 with legal interest thereon at 5% per annum from 22-11-49 till
payment in full and costs of suit.

(Sgd.) N. SINNATHAMBY,
District Judge.

22nd December, 1949.

This is a true copy of the decree in D.C. Colombo No. 11066/S.
District Court, (Sgd.) Illegible.
20 Colombo, 7th May, 1951. Assistant Secretary.

D 10.

Counterfoils of Rent Receipts

D 10.
Counterfoils
of Rent
Receipts.
1050-51

HOUSE RENT RECEIPT

No. 1. 10-5-1950.

Received from Mr. W. Carolis the sum of Rupees Four being
advance of the House No. 23/18, situated in Wall's Lane.

Rs. 4/-. (Sgd.) L. DON LEWIS PERERA.

HOUSE RENT RECEIPT

No. 2. 2-5-1950

30 Received from Silva the sum of Rupees Thirty being advance of the
House No. 23/24 situated in Wall's Lane.

Rs. 30/-. (Sgd.) L. DON LEWIS PERERA.

Exhibits
 D 10.
 Counterfoils
 of Rent
 Receipts.
 1950-51
 —continued

HOUSE RENT RECEIPT

No. 3.

10-5-1950.

Received from Mr. S. K. S. Rodrigo the sum of Rupees Fifteen being advance of the House No. 23/20 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) L. DON LEWIS PERERA.

HOUSE RENT RECEIPT

No. 4.

10-5-1950

Received from Mr. F. L. Pieries the sum of Rupees Eight being advance of the House No. 23/23 situated in Wall's Lane.

Rs. 8/-.

(Sgd.) L. DON LEWIS PERERA. 10

HOUSE RENT RECEIPT

No. 5.

10-5-1950

Received from Mr. C. Candiah the sum of Rupees Fifteen being advance of the House No. 23/22 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) L. DON LEWIS PERERA.

HOUSE RENT RECEIPT

No. 6.

10-5-1950.

Received from Mr. Benjamin Fernando the sum of Rupees Fifteen being advance of the House No. 23/23 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) L. DON LEWIS PERERA. 20

HOUSE RENT RECEIPT

No. 7.

10-5-1950

Received from Mr. G. I. Fernandez the sum of Rupees Fifteen being advance of the House No. 23/20 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) L. DON LEWIS PERERA.

HOUSE RENT RECEIPT

No. 8.

21-5-1950

Received from Mr. C. Gomez the sum of Rupees Six being advance
1950 of the House No. 23/3 situated in Wall's Lane.

Exhibits
D 10.
Counterfoils
of Rent
Receipts.
1950-51
—continued

Rs. 0/-.

(Sgd.) L. DON LEWIS PERERA.

HOUSE RENT RECEIPT

No. 9.

4-6-1950

Received from Mr. H. H. Silva the sum of Rupees Fifteen being
advance of the House No. 23/38 situated in Wall's Lane.

10 Rs. 15/-.

(Sgd.) L. DON LEWIS PERERA.

HOUSE RENT RECEIPT

No. 10.

4-6-1950

Received from Mr. H. H. Silva the sum of Rupees Fifteen being the
House Rent for the month of May, 1950, of the House No. 23/48 situated
in Wall's Lane.

Rs. 15/-.

(Sgd.) L. DON LEWIS PERERA.

HOUSE RENT RECEIPT

No. 11.

4-6-1950

Received from Mr. C. Wijesekere the sum of Rupees Seven being
20 advance of the House No. 23/4 situated in Wall's Lane.

Rs. 4/-.

(Sgd.) L. DON LEWIS PERERA.

HOUSE RENT RECEIPT

No. 13.

10-6-1950

Received from Mr. W. Carolis the sum of Rupees Four being the
House Rent for the month of May, 1950, of the House No. 23/2 situated
in Wall's Lane.

Rs. 4/-.

(Sgd.) L. DON LEWIS PERERA.

Exhibits
 D 10.
 Counterfoils
 of Rent
 Receipts.
 1950-51
 —continued

HOUSE RENT RECEIPT

No. 14.

10-6-1950

Received from Mr. C. Gomez the sum of Rupees Six being the House Rent for the month of May, 1950, of the House No. 23/3 situated in Wall's Lane.

Rs. 6/-.

(Sgd.) L. DON LEWIS PERERA.

HOUSE RENT RECEIPT

No. 15.

11-4-1950

Received from Mr. Benjamin Fernando the sum of Rupees Fifteen being the House Rent for the month of June, 1950, of the House No. 23/23¹⁰ situated in Wall's Lane.

Rs. 15/-.

(Sgd.) B. S. PERERA.

HOUSE RENT RECEIPT

No. 16.

11-4-1950

Received from Mr. Benjamin Fernando the sum of Rupees Fifteen being the House Rent for the month of May, 1950, of the House No. 23/21 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No. 17.

15-7-1950 20

Received from Mr. G. J. Fernandez the sum of Rupees Fifteen being the House Rent for the month of June, 1950, of the House No. 23/20 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No. 18.

15-7-1950

Received from Mr. C. Candiah the sum of Rupees Fifteen being the House Rent for the month of May, 1950, of the House No. 23/22 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No. 19.

15-7-1950

Exhibits
D 10,
Counterfoils
of Rent
Receipts,
1950-51
—continued

Received from Mr. C. Candiah the sum of Rupees Fifteen being the House Rent for the month of June, 1950, of the House No. 23/22 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No. 20.

15-7-1950

Received from Mr. S. K. S. Rodrigo the sum of Rupees Fifteen being the House Rent for the month of May, 1950, of the House No. 23/10 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No. 21.

15-7-1950

Received from Mr. S. K. S. Rodrigo the sum of Rupees Fifteen being the House Rent for the month of June, 1950, of the House No. 23/19 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

20 No. 22.

5-9-1950

Received from Mr. C. Candiah the sum of Rupees Fifteen only being the House Rent for the month of July, 1950, of the House No. 23/22 situated in Wall's Lane.

Rs. 15/-.

Sign. of Occup.—

(Sgd.) C. CANDIAH.

(Sgd.) MRS. FLORA PERERA.

Exhibits
 D 10.
 Counterfoils
 of Rent
 Receipts.
 1950-51
 —continued

HOUSE RENT RECEIPT

No. 23.

5-9-1950

Received from Mr. C. Candiah the sum of Rupees Fifteen only being the House Rent for the month of August, 1950, of the House No. 23/22 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) MRS. FLORA PERERA.

Sign. of Occup.— (Sgd.) C. CANDIAH.

HOUSE RENT RECEIPT

No. 24.

12-9-1950

Received from Mr. H. H. Silva the sum of Rupees Fifteen only being the House Rent for the month of July, 1950, of the House No. 23/18 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) MRS. FLORA PERERA.

Sign. of Occup.— (Sgd.) H. H. SILVA.

HOUSE RENT RECEIPT

No. 25.

12-9-1950

Received from Mr. H. H. Silva the sum of Rupees Fifteen only being the House Rent for the month of August, 1950, of the House No. 23/18 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) MRS. FLORA PERERA. 20

Sign. of Occup.— (Sgd.) H. H. SILVA.

HOUSE RENT RECEIPT

No. 26.

12-9-1950

Received from Mrs. F. L. Peries the sum of Rupees Eight being the House Rent for the month of August, 1950, of the House No. 23/23 situated in Wall's Lane.

Rs. 8/-.

Sign. of Occup.— MRS. F. L. PERIES.

HOUSE RENT RECEIPT

No. 27.

12-9-1950

Received from Mr. S. K. S. Rodrigo the sum of Rupees Fifteen only being the House Rent for the month of July, 1950, of the House No. 23/19 situated in Wall's Lane.

Rs. 15/-.
Sign. of Occup.—

CANCELLED

Exhibits
D 10.
Counterfolios
of Rent
Receipts.
1050-51
—continued

HOUSE RENT RECEIPT

No. 28.

12-9-1950

10 Received from Mr. S. K. S. Rodrigo the sum of Rupees Fifteen only being the House Rent for the month of August, 1950, of the House No. 23/19 situated in Wall's Lane.

Rs. 15/-.
Sign. of Occup.—

(Sgd.) S. K. S. RODRIGO. (Sgd.) MRS. FLORA PERERA.

HOUSE RENT RECEIPT

No. 29.

12-9-1950

Received from Mr. S. C. Gomez the sum of Rupees Six per month only being the House Rent for the month of June and July, 1950, of the House No. 23/3 situated in Wall's Lane.

20 Rs. 12/-.
Sign. of Occup.— (Sgd.) In Tamil.

HOUSE RENT RECEIPT

No. 30.

12-9-1950

Received from Mr. S. C. Gomez the sum of Rupees Six only being the House Rent for the month of August, 1950, of the House No. 23/3 situated in Wall's Lane.

Rs. 6/-.
Sign. of Occup.— (Sgd.) In Tamil,

Exhibits

D 10.
Counterfoils
of Rent
Receipts.
1950-51
—continued

HOUSE RENT RECEIPT

No. 31.

12-9-1950

Received from Mr. M. A. B. Fernando the sum of Rupees Fifteen only being the House Rent for the month of July, 1950, of the House No. 23/21 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) MRS. FLORA PERERA.

Sign. of Occup.—

(Sgd.) M. A. B. FERNANDO.

HOUSE RENT RECEIPT

No. 32.

12-9-1950

Received from Mr. M. A. B. Fernando the sum of Rupees Fifteen being the House Rent for the month of August, 1950, of the House No. 23/21 situated in Wall's Lane.

Rs. 15/-.

Sign. of Occup.—

(Sgd.) M. A. B. FERNANDO.

HOUSE RENT RECEIPT

No. 33.

11-12-1950

Received from Mr. H. J. Fernandez the sum of Rupees Fifteen only being the House Rent for the month of September, October and November, 1950, of the House No. 23/18 situated in Wall's Lane.

Rs. 45/-.

(Sgd.) MRS. FLORA PERERA. 20

Sign. of Occup.—

(Sgd.) Illegibly.

HOUSE RENT RECEIPT

No. 34.

15-9-1950

Received from Mr. C. Wijesekere the sum of Rupees Seven only being the House Rent for the month of July, 1950, of the House No. 23/4 situated in Wall's Lane.

Rs. 7/-.

Sign. of Occup.—

(Sgd.) MRS. FLORA PERERA.

HOUSE RENT RECEIPT

No. 35.

11-9-1950

Exhibits
D 16.
Counterfoils
of Rent
Receipts.
1950-51
—continued

Received from Mr. W. Carolis the sum of Rupees Three being the House Rent for the month of August, 1950, of the House No. 23 situated in Wall's Lane.

Rs. 3/-.

(Sgd.) MRS. FLORA PERERA.

Sign. of Occup.— (Sgd.) Illegibly.

HOUSE RENT RECEIPT

No. 36.

11-11-1950

18 Received from Mr. S. K. S. Rodrigo the sum of Rupees Fifteen being the House Rent for the month of September, 1950, of the House No. 23/19 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) MRS. FLORA PERERA.

Sign. of Occup.— (Sgd.) In Sinhalese.

HOUSE RENT RECEIPT

No. 37.

11-11-1950

Received from Mr. S. K. S. Rodrigo the sum of Rupees Fifteen only being the House Rent for the month of October, 1950, of the House No. 23/19 situated in Wall's Lane.

20 Rs. 15/-.

(Sgd.) MRS. FLORA PERERA.

Sign. of Occup.— (Sgd.) In Sinhalese.

HOUSE RENT RECEIPT

No. 38.

11-11-1950

Received from Mr. M. A. B. Fernando the sum of Rupees Fifteen only being the House Rent for the month of October, 1950, of the House No. 23/21 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) M. A. J. FERNANDO.

(Sgd.) MRS. FLORA PERERA.

Exhibits

D 10.
Counterfoils
of Rent
Receipts.
1950-51
—continued

HOUSE RENT RECEIPT

No. 39.

11-12-1950

Received from Mr. F. L. Peiries the sum of Rupees Eight per month being the House Rent for the month of September and October, 1950, of the House No. 23/23 situated in Wall's Lane.

Rs. 16/-.

(Sgd.) MRS. FLORA PERERA.
(Sgd.) MRS. F. L. PEIRIES.

HOUSE RENT RECEIPT

No. 40.

11-12-1950

Received from Mr. T. Kandiah the sum of Rupees Fifteen per month¹⁰ being the House Rent for the month of September, October, November, 1950, of the House No. 23/22 situated in Wall's Lane.

Rs. 45/-.

(Sgd.) MRS. FLORA PERERA.
(Sgd.) T. KANDIAH.

HOUSE RENT RECEIPT

No. 41.

11-12-1950

Received from Mr. M. A. Fernando the sum of Rupees Fifteen only being the House Rent for the month of November, 1950, of the House No. 23/21 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) MRS. FLORA PERERA. 20

HOUSE RENT RECEIPT

No. 42.

11-12-1950

Received from Mr. S. K. S. Rodrigo the sum of Rupees Fifteen only being the House Rent for the month of November, 1950, of the House No. 23/19 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) MRS. FLORA PERERA.
(Sgd.) S. K. S. RODRIGO.

HOUSE RENT RECEIPT

No. 43.

11-12-1950

Exhibits
D 10.
Counterfoils
of Rent
Receipts
1950-51.
—continued

Received from Mr. C. Wijesekera the sum of Rupees Seven only being the House Rent for the month of August, September, October, November, 1950, of the House No. 23/4 situated in Wall's Lane.

Rs. 28/-.

(Sgd.) MRS. FLORA PERERA.

HOUSE RENT RECEIPT

No. 44.

11-12-1950

Received from Mr. H. H. SILVA the sum of Rupees Fifteen per month being the House Rent for the month of September and October, 1950, of the House No. 23/18 situated in Wall's Lane.

Rs. 30/-.

(Sgd.) MRS. FLORA PERERA.
(Sgd.) H. H. SILVA.

HOUSE RENT RECEIPT

No. 45.

11-1-1951

Received from Mrs. F. L. Peiries the sum of Rupees Eight only being the House Rent for the month of November, 1950, of the House No. 23/23 situated in Wall's Lane.

Rs. 8/-.
20 Sign. of Occup.—(Sgd.) MRS. FLORA PERERA.
(Sgd.) MRS. G. PEIRIES.

HOUSE RENT RECEIPT

No. 46.

15-1-1951

Received from Mr. T. Kandiah the sum of Rupees Fifteen (Rs. 15/-) being the House Rent for the month of December, 1950, of the House No. 23/22 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) MRS. FLORA PERERA.

Exhibits

D 10.
Counterfoils
of Rent
Receipts.
1950-51
—continued

HOUSE RENT RECEIPT

No. 47.

15-1-1951

Received from Mrs. F. L. Peiries the sum of Rupees Eight only being the House Rent for the month of December, 1950, of the House No. 23/23 situated in Wall's Lane.

Rs. 8/-.

HOUSE RENT RECEIPT

No. 48.

20-1-1950

Received from Mr. G. J. Fernandez the sum of Rupees Fifteen being the House Rent for the month of December, 1950 of the House No. 23/20 10 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) J. Fernandez.

HOUSE RENT RECEIPT

No.....

20-1-1951

Received from Mr. C. Gomez the sum of Rupees Seven being the House Rent for the month of December, 1950, of the House No. 23/3 situated in Wall's Lane.

Rs. 7/-.

(Sgd.) In Tamil.

HOUSE RENT RECEIPT

No.....

12-10-1950 20

Received from Mr. H. H. Silva the sum of Rupees Fifteen only being the House Rent for the month of November, of the House No. 23/18 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) MRS. FLORA PERERA.
(Sgd.) In Sinhalese.

HOUSE RENT RECEIPT

No.....

1-2-1951

Exhibits
 D 10.
 Counterfoils
 of Rent
 Receipts.
 1950-51
 —continued

Received from Mr. H. H. Silva the sum of Rupees Thirty only being the House Rent for the month of December and January, of the House No. 23/18 situated in Wall's Lane.

Rs. 30/-.

(Sgd.) MRS. FLORA PERERA.
 (Sgd.) In Sinhalese.

HOUSE RENT RECEIPT

No.....

10-2-1951

10 Received from Mr. M. A. B. Fernando the sum of Rupees Fifteen only being the House Rent for the month of January, 1951, of the House No. 23/21 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No.....

11-2-1951

Received from Mr. W. Carolis the sum of Rupees Four only being the House Rent for the month of January, 1951, of the House No. 23/1 situated in Wall's Lane.

Rs. 4/-.

HOUSE RENT RECEIPT

20

No.....

11-2-1951

Received from Mr. S. K. S. Rodrigo the sum of Rupees Fifteen only being the House Rent for the month of February, 1951, of the House No. 23/19 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) S. K. S. RODRIGO,

Exhibits
 D 10.
 Counterfoils
 of Rent
 Receipts.
 1950-51
 —continued

HOUSE RENT RECEIPT

No.....

11-2-1951

Received from Mr. T. Candiah the sum of Rupees Fifteen only being the House Rent for the month of January, 1951, of the House No. 23/27 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No.....

11-2-1951

Received from Mr. G. J. Fernandez the sum of Rupees Fifteen only being the House Rent for the month of January, 1951, of the House No. 23/20 situated in Wall's Lane.

10

Rs. 15/-.

HOUSE RENT RECEIPT

No.....

15-2-1951

Received from Mrs. F. L. Peiries the sum of Rupees Eight only being the House Rent for the month of January, 1951, of the House No. 28/28 situated in Wall's Lane.

Rs. 8/-.

(Sgd.) ELWIN PEIRIES.

HOUSE RENT RECEIPT

No.....

20-2-1951

Received from Mrs. C. Wijesekera the sum of Rupees Fourteen only being the House Rent for the month of December January of the House No. 23/4 situated in Wall's Lane.

Rs. 14/-.

HOUSE RENT RECEIPT

No.....

15-3-1951

Received from Mrs. F. L. Peiries the sum of Rupees Eight only being the House Rent for the month of February, 1951, of the House No. 23/23 situated in Wall's Lane.

Rs. 8/-.

HOUSE RENT RECEIPT

No.....

10-3-1951

Exhibits
D 10.
Counterfoils
of Rent
Receipts.
1950-51
—continued

Received from Mr. C. Candiah the sum of Rupees Fifteen only being the House Rent for the month of February, 1951, of the House No. 23/21 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No.....

11-3-1951

Received from Mr. M. A. Fernando the sum of Rupees Fifteen only being the House Rent for the month of February, 1951, of the House No. 23/21 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) M. A. FERNANDO.

HOUSE RENT RECEIPT

No.....

10-8-1951

Received from Mr. S. K. S. Rodrigo the sum of Rupees Fifteen being the House Rent for the month of February, 1951, of the House No. 23/19 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

20 No.....

March, 1951

Received from Mr. G. J. Fernandez the sum of Rupees Fifteen being the House Rent for the month of February, 1951, of the House No. 23/20 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No.....

10-3-1951

Received from Mr. H. H. Silva the sum of Rupees Fifteen being the House Rent for the month of February, 1951, of the House No. 23/18 situated in Wall's Lane.

80 Rs. 15/-.

(Sgd.) H. H. SILVA.

Exhibits

D 10.
Counterfoils
of Rent
Receipts.
1950-51
--continued

HOUSE RENT RECEIPT

No.....

12-3-1951

Received from Mr. C. Gomez the sum of Rupees Seven only being the House Rent for the month of February, 1951, of the House No. 23/3 situated in Wall's Lane.

Rs. 7/-.

(Sgd.) In Tamil.

HOUSE RENT RECEIPT

No.....

March, 1951

Received from Mrs. C. Wijsekere the sum of Rupees Seven being the House Rent for the month of February, 1951, of the House No. 23/4 10 situated in Wall's Lane.

Rs. 7/-.

HOUSE RENT RECEIPT

No.....

13-3-1951

Received from Mr. W. Carolis the sum of Rupees Four only being the House Rent for the month of February, 1951, of the House No. 23 situated in Wall's Lane.

Rs. 4/-.

HOUSE RENT RECEIPT

No.....

17-4-1951 20

Received from Mr. C. Carolis the sum of Rupees Four only being the House Rent for the month of February, 1951, of the House No. 23 situated in Wall's Lane.

Rs. 4/-.

HOUSE RENT RECEIPT

No.....

2-4-1951

Exhibits
D 10.
Counterfoils
of Rent
Receipts.
1950-51
—continued

Received from Mr. H. H. Silva the sum of Rupees Fifteen only being the House Rent for the month of March, 1951, of the House No. 23/18 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) In Sinhalese.

HOUSE RENT RECEIPT

No.....

10-4-1951

Received from Mr. S. K. Rodrigo the sum of Rupees Fifteen only being the House Rent for the month of March, 1951, of the House No. 23/19 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No.....

April, 1951

Received from Mr. M. A. Fernando the sum of Rupees Fifteen only being the House Rent for the month of March, 1951, of the House No. 23/21 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

20 No.....

April, 1951

Received from Mr. C. Candiah the sum of Rupees Fifteen only being the House Rent for the month of March, 1951, of the House No. 23/22 situated in Wall's Lane.

Rs. 15/-.

Initialed C.K.

HOUSE RENT RECEIPT

No.....

20-4-1951

Received from Mrs. C. Wijesekere the sum of Rupees Seven only being the House Rent for the month of March, 1951, of the House No. 23/4 situated in Wall's Lane.

30Rs. 7/-.

Exhibits

D 10.
Counterfoils
of Rent
Receipts.
1950-51
—continued

HOUSE RENT RECEIPT

No.....

15-4-1951

Received from Mr. F. L. Peiries the sum of Rupees Eight being the House Rent for the month of March, 1951, of the House No. 23/27 situated in Wall's Lane.

Rs. 8/-.

(Sgd.) ELWIN PEIRIES.

HOUSE RENT RECEIPT

No.....

11-5-1951

Received from Mr. M. A. Fernando the sum of Rupees Fifteen only being the House Rent for the month of April, 1951, of the House No. 10 23/21 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No.....

15-5-1951

Received from Mr. S. K. S. Rodrigo the sum of Rupees Fifteen only being the House Rent for the month of April, 1951, of the House No. 23/19 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) In Sinhalese.

HOUSE RENT RECEIPT

No.....

14-5-1951 20

Received from Mr. C. Candiah the sum of Rupees Fifteen only being the House Rent for the month of April, 1951, of the House No. 23/22 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) J. KANDIAH.

HOUSE RENT RECEIPT

No.....

16-5-1951.

Received from Mr. C. Carolis the sum of Rupees Four only being the House Rent for the month of April, 1951, of the House No. 23 situated in Wall's Lane.

Rs. 4/-.

80

HOUSE RENT RECEIPT

No.....

20-5-1951

Exhibits
D 10.
Counterfoils
of Rent
Receipts.
1950-51—
continued

Received from Mr. C. Wijesekere the sum of Rupees Seven only being the House Rent for the month of April, 1951, of the House No. 23/4 situated in Wall's Lane.

Rs. 7/-.

HOUSE RENT RECEIPT

No.....

28-5-1951

Received from Mr. F. L. Peiries the sum of Rupees Ten only being the House Rent for the month of April, 1951, of the House No. 23/23 situated in Wall's Lane.

Rs. 10/-.

(Sgd.) ELWIN PEIRIES.

HOUSE RENT RECEIPT

No.....

June, 1951

Received from Mr. T. Candiah the sum of Rupees Fifteen only being the House Rent for the month of May, 1951, of the House No. 23/22 situated in Wall's Lane.

Rs. 15/-.

Initialed.....

HOUSE RENT RECEIPT

20 No.....

21-7-1951

Received from Mr. M. A. Fernando the sum of Rupees Fifteen only being the House Rent for the month of June, 1951, of the House No. 23/21 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No.....

12-6-1951

Received from Mr. S. K. S. Rodrigo the sum of Rupees Fifteen only being the House Rent for the month of May, 1951, of the House No. 23/19 situated in Wall's Lane.

80 Rs. 15/-.

Exhibits

HOUSE RENT RECEIPT

D 10.
Counterfoils
of Rent
Receipts.
1950-51—
continued

No.....

15-6-1951

Received from Mr. F. L. Peiries the sum of Rupees Ten only being the House Rent for the month of May, 1951, of the House No. 23/23 situated in Wall's Lane.

Rs. 10/-.

HOUSE RENT RECEIPT

No.....

20-6-1951

Received from Mr. C. Wijesekera the sum of Rupees Seven only being the House Rent for the month of May, 1951, of the House No. 10 23/4 situated in Wall's Lane.

Rs. 7/-.

HOUSE RENT RECEIPT

No.....

15-6-1951

Received from Mr. C. Carolis the sum of Rupees Four only being the House Rent for the month of May, 1951, of the House No. 23 situated in Wall's Lane.

Rs. 4/-.

HOUSE RENT RECEIPT

No.....

29-6-1951 20

Received from Mr. H. H. Silva the sum of Rupees Thirty only being the House Rent for the month of April and May of the House No. 23/18 situated in Wall's Lane.

Rs. 30/-.

(Sgd.) H. H. SILVA.

HOUSE RENT RECEIPT

No.....

13-6-1951

Received from Mr. C. Candiah the sum of Rupees Fifteen only being the House Rent for the month of July, 1951, of the House No. 23/22 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No.....

15-7-1951

Exhibits
D 10.
Counterfoils
of Rent
Receipts.
1950-51—
continued

Received from Mrs. F. L. Peiries the sum of Rupees Ten only being the House Rent for the month of June, 1951, of the House No. 23/23 situated in Wall's Lane.

Rs. 10/-.

HOUSE RENT RECEIPT

No.....

15-7-1951

Received from Mr. S. K. S. Rodrigo the sum of Rupees Fifteen only being the House Rent for the month of June, 1951, of the House No. 23/19 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No.....

15-7-1951

Received from Mrs. C. Wijesekera the sum of Rupees Seven only being the House Rent for the month of May, 1951, of the House No. 23/4 situated in Wall's Lane.

Rs. 7/-.

HOUSE RENT RECEIPT

20 No.....

15-7-1951

Received from Mr. C. Carolis the sum of Rupees Four only being the House Rent for the month of June, 1951, of the House No. 23 situated in Wall's Lane.

Rs. 4/-.

HOUSE RENT RECEIPT

No.....

20-7-1951

Received from Mrs. Wijesekere the sum of Rupees Seven only being the House Rent for the month of June, 1951, of the House No. 23/4 situated in Wall's Lane.

30 Rs. 7/-.

Exhibits
 D 10.
 Counterfoils
 of Rent
 Receipts.
 1950-51—
 continued

HOUSE RENT RECEIPT

No.....

11-8-1951

Received from Mr. H. H. Silva the sum of Rupees Thirty only being the House Rent for the month of June, July, 1951, of the House No. 23/18 situated in Wall's Lane.

Rs. 30/-.

(Sgd.) H. H. SILVA.

HOUSE RENT RECEIPT

No.....

11-8-1951

Received from Mr. M. A. B. Fernando the sum of Rupees Fifteen only being the House Rent for the month of July, 1951, of the House No. 10 23/21 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No.....

1-8-1951

Received from Mr. D. Peter Mel the sum of Rupees Forty-Five only being the House Rent for the month Advance of the House No. 23/1 situated in Wall's Lane, Mutwal.

Rs. 45/-.

HOUSE RENT RECEIPT

No.....

12-8-1951 20

Received from Mrs. Peiries the sum of Rupees Ten only being the House Rent for the month of July, 1951, of the House No. 23/23 situated in Wall's Lane.

Rs. 10/-.

HOUSE RENT RECEIPT

No. 51.

7-8-1951

Exhibits

D 10.
Counterfoils
of Rent
Receipts.
1950-51
—continued

Received from Mr. T. Candiah the sum of Rupees Fifteen only being the House Rent for the month of July, 1951, of the House No. 23/22 situated in Wall's Lane.

Rs. 15/-.

HOUSE RENT RECEIPT

No.

6-9-1951

Received from Mr. T. Candiah the sum of Rupees Fifteen only being House Rent for the month of August, 1951, of the House No. 23/22 situated in Wall's Lane.

Rs. 15/-.

(Sgd.) T. CANDIAH.